FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 2984

DATE FILMED 7/31/95 CAMERA NO. 1

CAMERAMAN JMH

9504367000007

MUR 2593

THE JOKALA, INC.

POST OFFICE BOX 306
ATKINS, ARKANSAS 72823

JOHN R. LAIR, PRESIDENT
KAREN J. LAIR, VICE-PRESIDENT
PHONE: 501-641-2899

March 15, 1988

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM
88 MAR 21 AM 9:59

Office of General Council
Federal Election Commission
Washington, D.C. 20463

Re: Federal Election Law Complaint

Complainant: John R. Lair P.O. Box 306 Atkins, AR 72823

Pursuant to instructions from "Filing a Complaint, Federal Election Commission 1986" which was forwarded to me at my request to your office, I enclose the complaint.

This document consists of ten pages inclusive of this cover letter; the notarization of the document will appear on this cover sheet.

1. This cover letter, 1 sheet
2. The complaint, 2 sheets
3. Letter promting complaint, 3 sheets (original letter copy, envelope copy, and solicitation copy)
4. Complaintants reply to original letter, 1 sheet (copy)
5. Respondents reply to #4, 2 sheets (copy)
6. Exhibit supporting statement in complaint, 1 sheet(copy)

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
88 MAR 21 PM 3:16

There will be three notarized documents in this mailing.

On this 15 Day of March 1988 personally appeared John R. Lair, who is known by me, of 303 S. Shore Road, Atkins, AR 72823. This document, consisting of ten pages, was signed and sworn to by the said John R. Lair on the date shown above.

John R. Lair
John R. Lair

Dorothy Wilson (Notary)
Comm Exp 12-21-91

SEAL

9504367000 8

Complainant: John R. Lair P.O. Box 306 Atlins, AR 72823

Respondent: E. Kenneth Twichell, Managing Director
National Ass'n Real Estate Appraisers
8715 Via De Commercio
Scottsdale, AZ 85258

and

National Ass'n of Real Estate Appraisers
8715 Via De Commercio
Scottsdale, AZ 85258

Complaint: Letter dated Feb. 4, 1988, postmarked Feb. 16, 1988 on letterhead and in envelope of National Ass'n of Real Estate Appraisers and written and signed by E. Kenneth Twichell, Managing Director. Letter does state that the writer personally paid for the stationery, mailing costs, etc.

Concern 1. The 1987 directory of the National Ass'n of Real Estate Appraisers, copy of which I have in my file, lists approximately 7,000 association members and the 1988 Issue 23 of the assoication newsletter, Real Estate Appraisal Newsletter, states the association now has "over 14,000 designated members".

My personal phone conversation with Mr. Twichell on Feb. 26, 1988 pointed out to him that first class mailing,which was used on the letter I received, would only allow for the mailing of 4,545 letters via first class for the total postage to not exceed the $1,000.00 personal donation limit to a campaign. His reply, "How do you know how many letters I mailed?".

Thus Concern 1., based on information and beleif, is that the respondent had total expenditures in excess of the $1,000.00 limit. Considering the stationery, the postage, the assumed use of a mailing list, the assumed use of a word processor to handle the volume of letters, and the assumed use of labor to complete the mailing all gives rise to a total concern of excess expenditures which the writer stated in the letter that he "personally paid".

Concern 2. The writer, Mr. Twichell, having access to the membership/mailing list of the National Ass'n of Real Estate Appraisers; or, The National Association of Real Estate Appraisers making the membership/mailing list of the association assessable to Mr. Twichell.

My personal phone conversation with the Federal Election Commission of Feb. 26, 1988 revolved around the relationship of the writer,as an employee of the National Ass'n of Real Estate Appraisers, and the assocation, as a corporation and the owner of the membership/mailing list.

Thus Concern 2., based on information and beleif, is that the membershi/mailing list, which has a monetary value, was used by a corporations executive officer,with easy access to it, thus placing both the executive officer and the corporation, in this case the National Ass'n of Real Estate Appraisers, in violation.

95043670009

Complaint: (continued)

Concern 3. The direct solicitation, on behalf of a presidential candidate, wherein the solicitation is made by an employee of a corporation, as indicated by the salutation and signiture to the letter, and wherein an enclosure was provided for the solicitation to go directly to the candidate's election fund.

My personal phone conversation with the Federal Election Commission on Feb. 26, 1988 gave rise to the need for the act of "direct solicitation" needing full review.

Thus Concern 3., based on information and beleif, is that the writer, an employee of the National Association of Real Estate Appraisers, and the corporation, the National Ass'n of Real Estate Appraisers are in violation. My personal phone conversation with Mr. Twichell on Feb. 26, 1988 provided me with his statement "it was the Board's idea" to pursue this solicitation which resulted in Mr. Twichell's letter of Feb. 4, 1988.

95043670010

NATIONAL ASSOCIATION OF REAL ESTATE APPRAISERS

8715 Via De Commercio Scottsdale, Arizona 85258 U.S.A.

E. Kenneth Twichell
Managing Director

(602) 948-8000

February 4, 1988

Mr. John R. Lair, CREA
Appraiser
The Jokala, Inc.
P.o. Box 306
Atkins, Arkansas 72823

Read 3/14/88 JRL

Dear John:

This is the most important letter I may ever write. It concerns a unique opportunity that you and I have to help the National Association of Real Estate Appraisers obtain a great deal of influence with the person who will most probably be the next President of the United States.

Vice President George Bush is a close friend of one of our Directors. Through him, I have personally gotten to know the Vice President. Most political forecasters agree he will be the next President. We need to show the Vice President and his staff that we can muster large and immediate support and nothing will be more visible or have more impact right now than financial support. Your contribution, added together with every member's contribution will create the impact that we have the power required to influence important political (Real Estate) decisions.

I have personally paid for this stationery, all the mailing costs, etc., so as not to violate any Federal Election laws or place any financial burdens on the Association.

You only vote for a President a few times during your life, and only once will you have this unique opportunity to support someone who will support us. Your contribution of $100.00 is needed right now. Yours, together with a united membership effort could create the biggest financial support of his entire campaign. Please join me, today, by making your contribution. If not for $100.00, send something. The total impact of this effort will be very meaningful to the Association.

A special card and envelope for your use are enclosed. Your contribution will be officially registered. This <u>one time</u> effort is all that is needed to put us on the map. Don't hesitate, please respond today.

Sincerely,

E. Kenneth Twichell
Managing Director

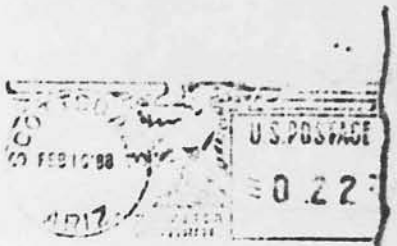
P.S. For those who give $500.00 or more, the Vice President will write you personally. I will be provided with a list of all contributors from the Vice President's Campaign Director so I can also respond and have this most important document.

9504367001 I

9504367 0012

NATIONAL ASSOCIATION
OF
REAL ESTATE APPRAISERS

8715 Via De Commercio • Scottsdale, Arizona 85258



Mr. John R. Lair, CREA
Appraiser
The Jokela, Inc.
P.O. Box 306
Atkins, Arkansas 72823

BUSINESS REPLY MAIL
FIRST CLASS PERMIT NO. 16429 WASHINGTON, D.C.

POSTAGE WILL BE PAID BY ADDRESSEE

Attn: Lucy Cole

George Bush for President

733 15th Street, N.W., Suite 800
Washington, D.C. 20077-1844

9504367001 3

George Bush for President

733 15th Street, N.W. Suite 800 Washington, D.C. 20005 AZ 04

Here is my contribution to "George Bush for President" in the amount of $ _____.

Name: _____

Address: _____

City/State/Zip: _____

Home Phone: _____ **Business Phone:** _____

Office Address: _____

City/State/Zip: _____

Employer/Company Name: _____

Occupation: _____ ☐ **Please check if self-employed**

*** **Please read reverse side for important information that will double your contribution at no cost to you.**

Paid for by George Bush for President

The first $250 of your personal contribution will be matched by the Presidential Primary Matching Payment Account if you comply with the following guidelines:

1. Please make checks payable to George Bush for President
2. Federal law limits contributions to $1,000 per person or $5,000 per PAC
3. Do not send corporate checks
4. Do not send cash contributions over $100
5. PLEASE INDICATE THE TYPE OF CHECKING ACCOUNT USED FOR THIS CONTRIBUTION AND SIGN BELOW

☐ Individual Checking Account

This is to verify that this contribution is drawn on an account that contains only my personal funds. The account is not funded for my use by a corporation or company.

Your signature _____

☐ Joint Account

This is to verify that this contribution should be attributed to each of us equally. This account contains only our personal funds.

Wife's signature _____ Husband's signature _____

☐ PAC Account

AZ 04

THE JOKALA, INC.

POST OFFICE BOX 306
ATKINS, ARKANSAS 72823

JOHN R. LAIR, PRESIDENT
KAREN J. LAIR, VICE-PRESIDENT
PHONE; 501-641-2899

Feb. 18, 1988

Mr. Kenneth Twichell
8715 Via De Commercio
Scottsdale, AZ 85258

Dear Mr. Twichell;
I have your letter of February 4, 1988 and noted your request in the contents; I respect your right to such action which is prompted by your opinion. In paragraph three you made your explanation as to the monitary nature.

However, even with paragraph three, the letter was under the association stationary, carried via mail under association envelopes, and was signed by you as "Managing Director". As an association member I take extreme exception to these three acts. YOU FAILED TO DIVORCE YOURSELF FROM THE ASSOCIATION FOR POLITICAL ACTIVITY.

It matters not whether I agree with your position but it does matter, as a matter of ethics, as to your actions. Your own position, your request, and your occupational position all could (and should) have been embodied in your letter on your own personalized stationary.

Number two under the CODE OF PROFESSIONAL ETHICS read "Members must respect the professional reputation of other association members"; personal conduct carries over into professional reputation. I shall expect a response; thank you!

Sincerely,

John R. Lair

John R. Lair
cc: John Steensland,CREA

SERVING ALL YOUR REAL ESTATE NEEDS

Rainey Realty II

JOHN R. LAIR
BROKER - SALESMAN

803 N. CHURCH ST.
ATKINS, ARKANSAS 72823

PHONE 641-7730
RES. 641-2899

9504367001 4

NATIONAL ASSOCIATION OF REAL ESTATE APPRAISERS

8715 Via De Commercio Scottsdale, Arizona 85258 U.S.A.

E. Kenneth Twichell
Managing Director

(602) 948-8000

Reed 2/25/87 JRL

February 23, 1988

Mr. John R. Lair, CREA
Appraiser
The Jokala, Inc.
P.O. Box 306
Atkins, Arkansas 72823

Dear Mr. Lair:

I received your letter of February 18th, and I am sorry that you felt so strongly about the "Vice President Bush letter". I thought a response to your letter was warranted. One of the primary duties of an Association is to be in touch politically so no laws get passed that are damaging to our organization and the Appraisal Profession.

As an example, there is legislation currently in Washington to legislate Real Estate Appraisers. Members of the National Association of Real Estate Appraisers, including myself and the President of our Association, John E. Steensland, CREA, have been to Washington, visited with Senators and Congressmen, and have changed the bill from it's original draft to something that, should it pass, we could live with. These things are truly "political" in nature, and if they were not, all that we would have to do would be to send a letter with a 22 cent stamp on it, and the problem would be handled.

As we all know, and as any Congressman will tell you, if you want to be effective in getting things accomplished, particularly things in a direction that you want to see them go, a personal appearance is necessary.

Our support of Vice President George Bush comes only after evaluating all of the political candidates, and he is the only candidate that has a good grasp of real estate problems here in the United States. Our's is not an endorsement of a Democrat or Republican, but of a person who we do have a relationship with, and one which will surely recognize our organization should he be elected to the Presidency. After all, one of the Association's purposes is to create, another of the Association's purposes is to be as influential as we can throughout the United States and the world, so that people will have a greater understanding of who we are and what we do. We believe because of our close relationship to Vice President Bush that, should he be elected President, the support that we have given him will come back to us in terms of additional creditability and recognition.

9504367015

The National Association of Real Estate Appraisers will continue to monitor the situation very carefully. I appreciate your letter, and hope that you understand that this is not a Democrat or Republican issue, but one in which we are enhancing the credibility and standing of the Association.

Sincerely yours,

NATIONAL ASSOCIATION OF REAL ESTATE APPRAISERS

E. K[illegible]

E. Kenneth Twichell
Managing Director

9504367100016

3/26/97 9:00 AM CST

Called Twichell — only satisfaction was they felt they were in compliance. Acknowledged the 97 Directory lists approximately 7,000 names + that the 95 newsletter stated current membership was 14,000.

It was reiterated what is in the context of this letter; was told that with the actions of the association that maybe this wasn't the ass'n for TRh

Confirmed the whole idea stemmed from the Board via the board member acquainted with the candidate

of Real Estate Appraisers

Appraisal Newsletter

Issue 23

NAREA INVOLVED IN FEDERAL ISSUES AFFECTING APPRAISERS

The National Association of Real Estate Appraisers has made its presence felt in the halls of Congress and has voiced opposition to any Federal intervention within the real estate industry.

Both Managing Director E. Kenneth Twichell and President John E. Steensland have made several trips to Washington, D.C. to discuss the effect Federal legislation can have on the appraiser. They have personally met with over forty Congressmen, including Representative Doug Barnard, Jr. (GA) who is responsible for the "Real Estate Appraisal Reform Act of 1987" (HR 3675).

Despite the fact that Congressman Barnard, Jr. did introduce such legislation, NAREA's lobbying efforts helped change the original bill so that it no longer requires a college degree for certification.

NAREA continues to express opposition to HR 3675 with a letter writing campaign by members in those Districts of Congressmen who are on the House Government Operations Committee to which the bill was referred. NAREA has also established contact with major banking and mortgage associations in an effort to get them to also oppose such legislation.

Recently NAREA was contacted for input into a Concurrent Resolution scheduled to be introduced in late January by Congressman Larry Craig (ID), the Ranking Minority Member on Government Operations. It will express the sense of the Congress that such regulation should occur on the State level and not the Federal level. NAREA supports this and is informing other Federal legislators of Representative Craig's efforts.

NAREA's other reason for opposing HR 3675 is that it creates a two-tier system with one set of standards for Federal appraisals and absolutely none for other appraisals. This would only cause more confusion as to who should handle the appraisal. The end result would be additional costs for all involved.

It is our opinion based on the responses of many Senators and Congressmen that no such legislation will pass during this Second Session of the 100th Congress.

NAREA now has a full-time staff person to monitor both Federal and State legislation affecting the appraiser and will continue to keep you informed on this issue.

Pictured above (right) NAREA Managing Director E. Kenneth Twichell shakes hands with Congressman Doug Barnard, Jr., during a recent meeting at his office in Washington, D.C. Congressman Barnard, Jr. was responsible for the recent introduction of the Federal bill for certifying appraisers on a Federal basis.

FHLBB REFUSES TO ENDORSE UNIFORM STANDARDS

The Federal Home Loan Bank Board recently refused to endorse the Uniform Standards of Professional Practice as promoted by a group of eight appraisal associations known as the "Appraisal Foundation". This action reinforces the stand taken by the National Association of Real Estate Appraisers not to participate in this "special-interest" group within the industry. Because of such foresight in this matter, NAREA now appears to have an edge with lenders and our Association's credibility has been greatly increased.

FHLBB, acting as a result of the 1987 Competitive Equality Banking Act, (CEBA), has withdrawn its controversial appraisal standard (R41-C) and in its stead has proposed making appraisal standards the responsibility of management and the board of each insured thrift institution. The final ruling, effective January 7th, will be published in the Federal Register.

As a result, each financial institution must develop and implement appraisal policies and procedures and establish sufficient controls to assure compliance with this new policy.

NAREA has always supported professional standards for appraisers; supports the licensing of appraisers and is now the largest appraisal association with over 14,000 Designated Members.

2nd Annual
1988 NATIONAL APPRAISAL CONFERENCE
OCTOBER 2-5, 1988
Las Vegas Hilton • Las Vegas, Nevada

Register now for NAREA's 2nd Annual Conference packed with dynamic speakers, informative sessions, industry networking and all in the entertaining city of Las Vegas.

DETAILS INSIDE!

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 23, 1988

Mr. John R. Lair
PO Box 306
Atkins, AR 72823

RE: MUR 2593

Dear Mr. Lair:

This letter acknowledges receipt of your complaint, received on March 21, 1988, alleging possible violations of the Federal Election Campaign Act of 1971, as amended (the "Act"), by the National Association of Real Estate Appraisers, Mr. E. Kenneth Twichell, George Bush For President, Inc. and Stan Huckaby as treasurer, and Vice President George Bush. The respondents will be notified of this complaint within five days.

You will be notified as soon as the Federal Election Commission takes final action on your complaint. Should you receive any additional information in this matter, please forward it to the Office of the General Counsel. Such information must be sworn to in the same manner as the original complaint. We have numbered this matter MUR 2593. Please refer to this number in all future correspondence. For your information, we have attached a brief description of the Commission's procedures for handling complaints. If you have any questions, please contact Retha Dixon, Docket Chief, at (202) 376-3110.

Sincerely,

Lawrence M. Noble
General Counsel

By: Lois G. Lerner
Associate General Counsel

Enclosure
Procedures

9504367001 8

9504367700019

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 23, 1988

Vice President George Bush
George Bush For President, Inc.
733 15th Street, NW
Washington, DC 20005

RE: MUR 2593
Vice President George Bush

Dear Mr. Vice President:

The Federal Election Commission received a complaint which alleges that you may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 2593. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

This matter will remain confidential in accordance with Section 437g(a)(4)(B) and Section 437g(a)(12)(A) of Title 2 U.S.C. unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

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

Sincerely,

Lawrence M. Noble
General Counsel

By: Lois G. Lerner
Associate General Counsel

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

95043670020

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 23, 1988

Stan Huckaby, Treasurer
George Bush For President, Inc.
733 15th Street, NW
Washington, DC 20005

RE: MUR 2593
George Bush For President, Inc. and Stan Huckaby, as treasurer

Dear Mr. Huckaby:

The Federal Election Commission received a complaint which alleges that George Bush For President, Inc. and you, as treasurer, may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 2593. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you and George Bush For President, Inc. in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

This matter will remain confidential in accordance with Section 437g(a)(4)(B) and Section 437g(a)(12)(A) of Title 2 U.S.C. unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

9504387021

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

Sincerely,

Lawrence M. Noble
General Counsel

By: Lois G. Lerner
Associate General Counsel

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

95043670022

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 23, 1988

National Association of Real
Estate Appraisers
8715 Via De Commercio
Scottsdale, AZ 85258

RE: MUR 2593
National Association of
Real Estate Appraisers

Gentlemen:

The Federal Election Commission received a complaint which alleges that the National Association of Real Estate Appraisers may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 2593. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against the National Association of Real Estate Appraisers in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

This matter will remain confidential in accordance with Section 437g(a)(4)(B) and Section 437g(a)(12)(A) of Title 2 U.S.C. unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

9504367002 3

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

Sincerely,

Lawrence M. Noble
General Counsel

By: Lois G. Lerner
Associate General Counsel

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

95043367000024

9504367002S

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 23, 1988

E. Kenneth Twichell
Managing Director
National Association of Real
Estate Appraisers
8715 Via De Commercio
Scottsdale, AZ 85258

RE: MUR 2593
E. Kenneth Twitchell

Dear Mr. Twitchell:

The Federal Election Commission received a complaint which alleges that you may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 2593. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

This matter will remain confidential in accordance with Section 437g(a)(4)(B) and Section 437g(a)(12)(A) of Title 2 U.S.C. unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

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

Sincerely,

Lawrence M. Noble
General Counsel

By: Lois G. Lerner
Associate General Counsel

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

95043870026

GCC # 8989

HAND DELIVERED

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

88 APR -5 AM 10: 19

NATIONAL ASSOCIATION OF REAL ESTATE APPRAISERS

8715 Via De Commercio • Scottsdale, Arizona 85258 • (602) 948-8000

Robert G. Johnson, CREA, RREA
Executive Director

RECEIVED
FEDERAL ELECTION COMMISSION
88 APR -5 PM 3: 11

Attn: Federal Elections Commission
Robert Raich, Attorney
Washington, D.C. 20463

Re: MUR 2593

April 4, 1988

Dear Mr. Raich:

Please be advised that the National Association of Real Estate Appraisers has not provided any financial support to any candidate for any office.

Mr. E. Kenneth Twichell did get printed, at his own expense, our letterhead and envelopes. Further, he rented our mailing list at market rates and paid for all expenses associated with the above referenced project. He also reimbursed NAREA for the use of the equipment. NAREA paid for nothing.

It is a sad day for America when I must now use corporate money, time and efforts to respond to a false charge or implication that corporate funds were used in a campaign.

I look forward to your response and to removal of our name on any complaint.

Sincerely,

NATIONAL ASSOCIATION OF REAL ESTATE APPRAISERS

Robert G. Johnson
Executive Director

Enclosures

STATE OF ARIZONA
COUNTY OF MARICOPA

This instrument was aknowledged before me
April 4th, 1988
signed and sworn before me E. K
Notary Public
6/30/89

CREA - Certified Real Estate Appraiser
RREA - Registered Real Estate Appraiser
Professional Association of Real Estate Appraisers

9504367002 7

Federal Elections Commission
Attn: Robert Raich
Washington, D.C.
Regarding: MUR2593

April 4, 1988

Dear Mr. Raich:

Your letter to me of March 23, 1988, regarding alleged violations of the Federal Election Campaign Act has been received.

First,
Let me call your attention to the complainant statement that acknowledges that I said I paid for all of the expenses. I did.

Second,
I have attached a copy of the bill and my check for the expenses. While I can't say I am totally familiar with all Federal Election Laws, I understand a few and I took extreme efforts so as not to violate any laws.

Third,
In my conversation with the complainant, I tried to tell him I was aware of the Election laws and that I only mailed to a select few. He was selected because in addition to his Real Estate Activities he was on th Board of the Association of Pork Producers.

Fourth,
I called and talked to a person by the name of Janet Hess at the Federal Elections Commission Office who told me as long as I paid for the stationery and envelopes (along with expenses) I could use the corporate letterhead.

Fifth,
After getting the opinion that it was alright to use corporate letterhead, I received the corporation's approval to do so and that is what I told Mr Lair in regard to his third concern.

Comments,
After sending out the "Bush Letters" I received a number of calls. Some were positive and some calls were negative. Because of the negative calls, I would not have proceeded with the rest of the membership even if it were ok to do so.

I hope this will clear up the situation and I look forward to your early dismissal of this issue.

Sincerely,

E. Kenneth Twichell

STATE OF ARIZONA }
COUNTY OF MARICOPA } ss.
This instrument was acknowledged before me this 4 day of April, 1988, E. Kenneth Twichell
In witness whereof I hereunto set my hand and official seal.
Shirley Stevens, NOTARY PUBLIC
My Commission Expires June 11, 1988

P.S. I typed this myself on white paper so I wouldn't use corporate funds.

9504367 00028

STATEMENT

NATIONAL ASSOCIATION OF REAL ESTATE APPRAISERS

National Office • 8715 Via De Commercio • Scottsdale, Arizona 85258 USA

E. Kenneth Twichell
3867 East Everett
Phoenix, AZ 85032

CREA - Certified Real Estate Appraiser

DATE	DESCRIPTION	TOTAL
March 3, 1988	Services/Products furnished to E. Kenneth Twichell	
	Mailing List Rental Charge 2500 Names (NAREA Members) @ $50.00 per 1000	$125.00
	Letter Processing Charge 2500 Letters and Envelopes	$ 60.00
	Mailing Charge 2500 Pieces @ .22 each	$550.00
	Machine Time	$ 25.00
	Total Due	$760.00

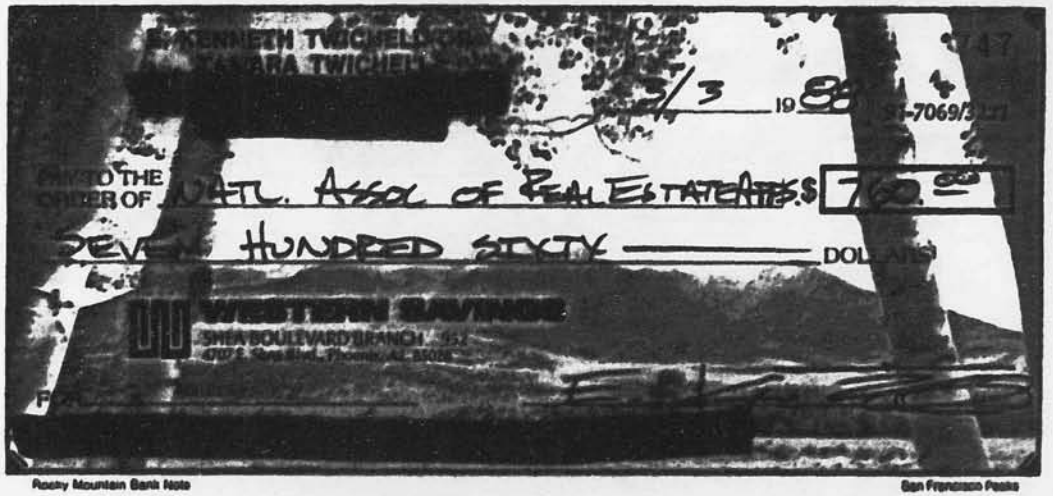
Paid

NATIONAL ASSOCIATION OF REAL ESTATE APPRAISERS

PLEASE RETURN WHITE COPY WITH REMITTANCE

9504367002.9

9504367003 0



Rocky Mountain Bank Note

San Francisco Forms

Statement of Expenses

Printing of Letterhead and Envelopes by Printer:

Dean DuChene
DuChene Printing Company
Scottsdale, Arizona

Letterheads.....	$90.00
Envelopes.....	$96.00
Total.....	$186.00
Costs as Per Attached Invoice....	$760.00
Total Costs.....	$946.00

I stuffed the envelopes myself and no Corporate Employees time was used.

9504367003 1

HAND DELIVERED

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

88 APR -7 AM 10:20

MCC# 8999

NATIONAL ASSOCIATION OF REAL ESTATE APPRAISERS

8715 Via De Commercio • Scottsdale, Arizona 85258 • (602) 948-8000

Robert G. Johnson, CREA, RREA
Executive Director

RECEIVED
FEDERAL ELECTION COMMISSION
88 APR -7 AM 11:23

Attn: Federal Elections Commission
Robert Raich, Attorney
Washington, D.C. 20463

Re: MUR 2593

April 6, 1988

Dear Mr. Raich:

After reviewing my response to you regarding the above referenced MUR 2593, I thought of another item that perhaps should be mentioned. As my business has frequently taken me to Washington, I have dropped by the Bush National Election Headquarters. There, from time to time I pick up a number of contribution cards. I have also acquired a few cards from some other chairmen and affixed the AZ04 number as well as the "Attn: Lucy Cole" indication on the envelopes.

I bring this to your attention only because I do not want any unanswered questions, nor do I want to leave any room for misunderstanding.

Sincerely,

NATIONAL ASSOCIATION OF REAL ESTATE APPRAISERS

Robert G. Johnson
Executive Director

P.S. Again, none of the campaign efforts were done at corporate expense or on corporate time.

9504367003 2

CREA - Certified Real Estate Appraiser
RREA - Registered Real Estate Appraiser
Professional Association of Real Estate Appraisers

MCC # 9046

FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

88 APR 13 PM 2:41

WILEY, REIN & FIELDING

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

JAN W. BARAN
(202) 429-7330

April 13, 1988

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

Attn: Robert Raich, Esq.

Re: MUR 2593 (George Bush for President, Inc.)

Dear Mr. Noble:

This letter and the enclosed Affidavit of Margaret Alexander, Finance Director of George Bush for President, Inc. ("GBP" or the "campaign"), (collectively referred to as the "Response") are submitted on behalf of GBP and Stan Huckaby, as Treasurer, in response to a Complaint filed with the Federal Election Commission ("FEC") by John R. Lair and denominated Matter Under Review ("MUR") 2593. Also enclosed is the Designation of Counsel, signed by Stan Huckaby, Treasurer, designating the undersigned as Counsel for Respondent in this MUR.

9504367003 3

The Complaint

Complainant states that he received a letter on the letterhead and in an envelope of the National Association of Real Estate Appraisers, ("the Association") written and

signed by E. Kenneth Twichell, Managing Director. This letter urged the recipient to contribute to the Presidential campaign of Vice President George Bush and enclosed a reply card and envelope for that purpose. Complainant alleges that Mr. Twichell may have spent personal funds in excess of the legal limits in mailing this letter, and that he may have used the Association's mailing list without reimbursement.

Response

Respondent George Bush for President, Inc. did not authorize Mr. Twichell's letter of February 4, 1988, and had no knowledge of it whatsoever until receiving a copy of the solicitation several weeks later. Affidavit of Margaret Alexander, Finance Director of George Bush for President, Inc., (hereinafter "Alexander Aff."), attached hereto, at ¶ 5. Immediately upon learning of the existence of this letter, Ms. Alexander called the head of the National Association of Real Estate Appraisers to request that he ensure that no further such letters were sent. Id. at ¶ 4. The GBP reply cards which were apparently enclosed in the letter were not used for this purpose with GBP's permission or knowledge. Id. at ¶ 6 & 7.

Accordingly, Mr. Twichell's letter constitutes an expenditure made without either the knowledge or authorization of George Bush for President, Inc.

9504367034

Furthermore, Ms. Alexander's Affidavit states the campaign never provided any reply cards or envelopes to Mr. Twichell, and did not know he had obtained them. Id. at ¶ 6. To the extent that Mr. Johnson's limited supply of reply cards, and his GBP fundraising identification number, were used in the Twichell mailing, such actions were not authorized by the campaign and were in fact directly contrary to the instructions given to him and to all fundraising volunteers. Id. at ¶ 7. For these reasons, the FEC should find no reason to believe that George Bush for President, Inc. and Stan Huckaby, as Treasurer, violated the Federal Election Campaign Act of 1971, as amended.

Sincerely yours,

Jan W. Baran

Trevor Potter

Counsel for George Bush for President, Inc.

Enclosures

9504367035

BEFORE THE FEDERAL ELECTION COMMISSION

City of Washington)
) MUR 2593
District of Columbia)

AFFIDAVIT OF MARGARET C. ALEXANDER

MARGARET C. ALEXANDER, being first duly sworn, deposes and says:

1. I am Margaret C. Alexander, Finance Director of George Bush for President, Inc. ("GBP").

2. In that position, I am responsible for coordinating all national fundraising efforts for the campaign, as well as managing the finance office at national headquarters.

3. I first became aware of the letter which is the subject of the complaint in MUR 2593 in early March of 1988. At that time I was informed by Fred Bush, the Deputy Finance Chairman of GBP, that the campaign had received a copy of an unauthorized letter soliciting funds. I was asked by Fred Bush to attempt to ensure that no further such letters were sent.

4. I immediately telephoned Robert G. Johnson, the Executive Director of the National Association of Real Estate Appraisers, and a co-chairman for the State of Arizona of GBP's fundraising efforts. I told Mr. Johnson that I was holding a copy of a fundraising letter sent out on his Association's letterhead, and that this letter had never been seen or approved by any person at GBP headquarters prior to its being sent. I therefore asked him if he would please

9504367 0036

speak to his Association's Managing Director, Mr. Twichell, and asked him to cease and desist in sending the communication immediately.

5. To the best of my knowledge and belief, no one in the GBP campaign headquarters at any time saw or approved the Twichell letter before it was mailed. Further, no such person had any knowledge that such a letter, or any letter by Mr. Twichell, was to be mailed, or had been mailed, until we were informed that the Vice President's Office had received a copy from a supporter who objected to the letter. Further, to the best of my knowledge and belief no one in the campaign at any time offered, promised, or supplied to Mr. Twichell the names of persons who gave money in response to his appeal.

6. The letter included what appears to be an official GBP reply envelope, with certain alterations. Our envelopes do not state "Attn: Lucy Cole," nor do they contain the code "AZ04." Lucy Cole is an event coordinator in the campaign's finance office and "AZ04" is the code given to Mr. Robert Johnson by GBP for the purpose of allowing us to know for which contributions he was responsible. Persons who volunteer to assist GBP with fundraising, such as Mr. Johnson, are given as a matter of course approximately 200-250 reply cards (without their code stamped thereon and without any particular person's name on the cover). I have no knowledge where Mr. Twichell obtained the envelopes used in the mailing and, if they were Mr. Johnson's, where the

9504367 0037

envelopes beyond Mr. Johnson's original allotment were obtained, or how they were altered.

7. Mr. Johnson, as a volunteer fundraiser with the title of Co-Chairman of the Arizona Fundraising Committee, had no authority to send, or approve the sending of, mass mailings without prior review and approval from the campaign headquarters. All volunteer fundraisers, including Mr. Johnson, were explicitly informed of this fact when they agreed to assist the GBP fundraising efforts.

Margaret C. Alexander
MARGARET C. ALEXANDER

Signed and sworn to before me this 12th day of April, 1988.

Leslie J. Morris
Notary Public

My Commission Expires: 1/1/93

9504336700338

STATEMENT OF DESIGNATION OF COUNSEL

MUR 2593

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.

4/8/88
Date

J. Stanley Huckaby, Treasurer
Signature

RESPONDENT'S NAME: J. Stanley Huckaby, Treasurer

ADDRESS: George Bush for President, Inc.
733 15th St. N.W. Suite 800
Washington, D.C. 20005

HOME PHONE:

BUSINESS PHONE:

9504367000 39

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
88 APR 25 AM 9:22

MCC#9125

WILEY, REIN & FIELDING

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

JAN W. BARAN
(202) 429-7330

April 22, 1988

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

Attn: Robert Raich, Esq.

Re: MUR 2593 (George Bush for President, Inc.)

Dear Mr. Noble:

Enclosed please find an Affidavit of Lucy P. Cole, an employee of George Bush for President, Inc. This Affidavit is submitted as a supplement to the Response of George Bush for President, Inc. in Matter Under Review 2593, and follows a conversation with Robert Raich of your office. Mr. Raich indicated that he had several questions concerning this matter: these issues are addressed by Ms. Cole in her Affidavit.

Please let me know if we can be of any additional assistance in this matter.

Sincerely,

Jan W. Baran

Trevor Potter

Counsel for George Bush for President, Inc.

Enclosure

9504367 0040

BEFORE THE FEDERAL ELECTION COMMISSION

CITY OF WASHINGTON)
) MUR 2593
DISTRICT OF COLUMBIA)

AFFIDAVIT OF LUCY P. COLE

LUCY P. COLE, being first duly sworn, deposes and says:

1. I am Lucy P. Cole. From February, 1987 to the present I have been employed by the Finance Division of George Bush for President, Inc. (the "campaign"), and for the last several months I have served as an Event Coordinator in the Finance Division. My responsibilities in that capacity have included serving as a contact person for state fundraising officials, and coordinating fundraising activities.

2. I am now familiar with the letter signed by Mr. E. Kenneth Twichell which is the subject of MUR 2593. However, neither I, nor to my knowledge anyone else on the campaign staff, saw, reviewed or approved the letter before it was sent.

3. It is not the policy of the campaign to automatically or regularly provide state fundraisers with information concerning contributions received by the campaign which include their fundraising code. However, the campaign does upon specific request provide fundraisers with such information, and many of our fundraisers have called to learn who has responded to their solicitations. Mr. Robert G.

9504367004 1

Johnson, co-chairman of the campaign's Arizona fundraising committee (who was one of the fundraisers whom I had met when he visited the campaign headquarters), called me on several occasions this past Winter to ask for information on contributions received containing his code, which was "AZ04," In response, I gave him the names of contributors using the code, and the amount of their contributions. I had no knowledge that Mr. Johnson was asking for this information in connection with Mr. Twichell's letter, or that Mr. Johnson might share this information with any person outside of the campaign, or with any organization.

Lucy P. Cole

Lucy P. Cole

Signed and sworn to before me
this 22nd day of April, 1988

Leslie J. Thomas
Notary Public

My Commission Expires: 1/1/93

95043670042

6CC#9870

RECEIVED
FEDERAL ELECTION COMMISSION

THE JOKALA, INC.

POST OFFICE BOX 306
ATKINS, ARKANSAS 72823

88 JUL 20 AM 10: 11

JOHN R. LAIR, PRESIDENT
KAREN J. LAIR, VICE-PRESIDENT
PHONE: 501-641-2899

July, 18, 1988

Office Of General Council
Federal Election Commission
Washington, D.C. 20463

Re: MUR 2593

Under yours of March 23, 1988 I sought the advice of Retha Dixon, Docket Chief via phone this date. She instructed me to direct my concern to General Council.

My concern: As a member of the professional association, against whom I filled the complaint assigned MUR2593, I am concered with the actions/reactions of the respondants since the claim was filed. Are their actions/reactions towards me, the complainant, relative to MUR 2593 relavent to the case?

88 JUL 20 PM 12: 20
FEDERAL ELECTION COMMISSION
RECEIVED

My case: I was a fully paid association (NAREA) member for the membership year June 1, 1987 through May 31, 1988. As a member I hold the membership certificate and pocket card; this entiled me to listing in the 1988 Directory of Designated Members which each member is to receive in the months of April or May. I have not received my 1988 Directory to this date; upon inspection of said directory (which I borrowed) I found my name listed in the Alphabetical Listing but ommitted in "an alphabetical listing of names and addresses of the Association's Designated Members who have been awarded the CREA-Certified Real Estate Appraiser Professional Designation. I am CREA 13680.

By mid-May of 1988 I had not received my dues statement for the year June 1, 1988 through May 31, 1989; therefore, on May 23, 1988 I wrote the NAREA informing them I had not received my dues statement and was thusly enclosing my check for $65.00 for the 1988/89 membership of John R. Lair, Member No. 13680. On May 27, 1988 at 12:05 CDST I received a call from Mr. Twichell, Managing Director of the NAREA, telling me he had my correspodence and my check but that he could find no record of my membership on their computer. I informed him I held the Dessignation Certicate and pocket card 13680 and he said "you mean the blue and grey card", to which I replied "yes". He said he would look into it and let me know. The only thing I know is that my check was deposited by NAREA and paid at my bank on May 31, 1988.

My 1988-89 membership has been accepted and I have received no action against me to terminate my membership but, I am not receiving the benefits of membership. I do not get the news letters nor has any correspondence arrived since filing the clain except that which was in the mail and crossed during the filing of the claim.

9504336700043

My file holds a complete "trail" record of my association with the NAREA; I feel the benefits of membership have been terminated by NAREA for me, CREA 13680.

I have worked long and hard to achieve my Certified Real Estate Appraiser status; I met the standards and qualifications for certification and I now find the possible jeopardy of my professional recognition.

I have expressed my concerns; I do not know if they are relavant to MUR 2593.

Thank you for your courtesy!

Sincerely,

John R. Lair

John R. Lair
P.O. Box 306
Atkins, AR 72823

95043670044

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 27, 1988

Mr. John R. Lair
P. O. Box 306
Atkins, Arkansas 72823

RE: MUR 2593

Dear Mr. Lair:

This letter acknowledges receipt on July 20, 1988, of the supplement to the complaint you filed on March 21, 1988, against National Association of Real Estate Appraisers; E. Kenneth Twichell; George Bush for President, Inc. and Stan Huckaby, as treasurer; and Vice President George Bush. The respondents will be sent copies of the supplement. You will be notified as soon as the Federal Election Commission takes final action on your complaint.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

9504336700045

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 27, 1988

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

RE: MUR 2593
George Bush for
President, Inc. and
Stan Huckaby, as
treasurer

Dear Mr. Baran:

On March 23, 1988, the above-referenced respondents were notified that the Federal Election Commission received a complaint from John R. Lair alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. At that time your clients were given a copy of the complaint and informed that a response to the complaint should be submitted within 15 days of receipt of the notification.

On July 20, 1988, the Commission received additional information from the complainant pertaining to the allegations in the complaint. Enclosed is a copy of this additional information.

If you have any questions, please contact Robert Raich, the attorney handling this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

9504367 0046

FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

July 27, 1988

Vice President George Bush
George Bush for President, Inc.
733 15th Street, N.W.
Washington, D.C. 20005

RE: MUR 2593
Vice President
George Bush

Dear Mr. Vice President:

On March 23, 1988, you were notified that the Federal Election Commission received a complaint from John R. Lair alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. At that time you were given a copy of the complaint and informed that a response to the complaint should be submitted within 15 days of receipt of the notification.

On July 20, 1988, the Commission received additional information from the complainant pertaining to the allegations in the complaint. Enclosed is a copy of this additional information.

If you have any questions, please contact Robert Raich, the attorney handling this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

95043670047

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 27, 1988

Robert G. Johnson, Executive Director
National Association of Real Estate Appraisers
8715 Via De Commercio
Scottsdale, Arizona 85258

RE: MUR 2593
National Association of
Real Estate Appraisers

Dear Mr. Johnson:

On March 23, 1988, you were notified that the Federal Election Commission received a complaint from John R. Lair alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. At that time you were given a copy of the complaint and informed that a response to the complaint should be submitted within 15 days of receipt of the notification.

On July 20, 1988, the Commission received additional information from the complainant pertaining to the allegations in the complaint. Enclosed is a copy of this additional information.

If you have any questions, please contact Robert Raich, the attorney handling this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

9504367700048

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 27, 1988

Mr. E. Kenneth Twichell
8715 Via De Commercio
Scottsdale, Arizona 85258

RE: MUR 2593
E. Kenneth Twichell

Dear Mr. Twichell:

On March 23, 1988, you were notified that the Federal Election Commission received a complaint from John R. Lair alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. At that time you were given a copy of the complaint and informed that a response to the complaint should be submitted within 15 days of receipt of the notification.

On July 20, 1988, the Commission received additional information from the complainant pertaining to the allegations in the complaint. Enclosed is a copy of this additional information.

If you have any questions, please contact Robert Raich, the attorney handling this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

9504367 0049

RECEIVED
FEDERAL ELECTION COMMISSION
SECRETARIAT
88 AUG -4 AM 11:21

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

FIRST GENERAL COUNSEL'S REPORT

SENSITIVE

MUR # 2593
DATE COMPLAINT RECEIVED
BY OGC March 21, 1988
DATE OF NOTIFICATION
TO RESPONDENTS March 23, 1988
STAFF MEMBER Robert Raich

EXECUTIVE SESSION
AUG 30 1988

COMPLAINANT: John R. Lair

RESPONDENTS: National Association of Real Estate Appraisers
E. Kenneth Twichell, Managing Director, National Association of Real Estate Appraisers
George Bush for President, Inc. and Stan Huckaby, as treasurer
Vice President George Bush

RELEVANT STATUTES:
2 U.S.C. § 441d(a)
11 C.F.R. § 114.9(c)
2 U.S.C. § 441b(a)
2 U.S.C. § 441b(b)(2)
11 C.F.R. § 114.3(a)(2)
11 C.F.R. § 114.3(c)(1)
2 U.S.C. § 441a(a)(1)(A)
2 U.S.C. § 441a(f)

INTERNAL REPORTS CHECKED:
Advisory Opinion 1987-29
Advisory Opinion 1982-2
Advisory Opinion 1980-17
Committee-Sponsor Report
Communication Cost Index By Communication Filers
MUR 1826
MUR 1690

FEDERAL AGENCIES CHECKED: None

I. GENERATION OF MATTER

This matter arises from a complaint filed with the Commission by John R. Lair. The complaint (Attachment I) stems from a letter sent to Mr. Lair by E. Kenneth Twichell, Managing Director of National Association of Real Estate Appraisers (the

9504367000550

"Association"). Mr. Twichell and the Association, through Robert Johnson, its Executive Director, have responded to the complaint (Attachment II). The Association also filed a supplemental response (Attachment III). George Bush for President, Inc. (the "Committee") and Stan Huckaby, as treasurer, have twice responded through counsel, enclosing affidavits from the Committee's Finance Director and an Event Coordinator in the Finance Division (Attachment IV). As of this writing, the Commission has received no response from Vice President George Bush. The complainant has now submitted supplemental material (Attachment I, pp. 11-12), to which no respondent has replied.

II. FACTUAL AND LEGAL ANALYSIS

A. The Facts

At the root of this matter is a letter Mr. Twichell mailed, with the Association's approval, to 2500 Association members. The Association is apparently a corporation. The letter, in the Association's envelope and on its letterhead, asked readers to contribute to the George Bush for President Committee, and enclosed a George Bush for President contribution card and postage-paid reply envelope. The letter stated that one of the Association's directors is a close friend of George Bush, and that the Vice President would write personally to those who contribute $500 or more. In addition, the letter stated that the Vice President's Campaign Director would provide Mr. Twichell with a list of all contributors, apparently so Mr. Twichell could himself thank those who contributed in response to the solicitation.

The letter, dated February 4, 1988, stated that Mr. Twichell

9504367005 1

personally had paid for the solicitation, but it failed to state whether it was authorized by a candidate or authorized committee of a candidate. In his response to the complaint, Mr. Twichell indicates that he personally paid $946 for the solicitation. The Association billed Mr. Twichell $760 for certain costs associated with the solicitation, and Mr. Twichell reimbursed the Association for that amount on March 3, 1988, nearly a month after the date of the solicitation. The items for which Mr. Twichell reimbursed the Association were rental of the mailing list, "letter processing charge," postage, and "machine time." With the exception of postage, this Office cannot determine the basis upon which the Association calculated the costs of those services. Mr. Twichell also paid $186 directly to a printing company for letterhead and envelopes. Mr. Twichell states he received the corporation's approval to use the letterhead. Moreover, according to the complaint, Mr. Twichell stated that the entire solicitation was "the Board's idea."

According to the Committee's response to the complaint, no person at the Committee's headquarters saw or approved the solicitation before it was mailed. In fact, the response states that no person at campaign headquarters had any knowledge that the solicitation would be mailed, or had been mailed, until a recipient of the letter brought it to their attention. The Committee's Finance Director states that immediately upon learning about the solicitation's existence, she telephoned Mr. Johnson, the Association's Executive Director, and asked him to "cease and desist" in sending the solicitation. (Attachment IV).

9504367 0052

The George Bush for President contribution cards and postage-paid envelopes were obtained by Mr. Johnson, who serves as a volunteer fundraiser with the title of Co-Chairman of the Arizona Fundraising Committee. As such, he was assigned the code "AZ04" to put on contribution cards to identify those contributions as having been solicited by him. Like all volunteer fundraisers, Mr. Johnson was informed that he had no authority to approve or send mass mailings. According to Mr. Johnson, he personally put the "AZ04" notations on the contribution cards and the "Attn: Lucy Cole" indication on the envelopes that were enclosed with Mr. Twichell's solicitation. Lucy Cole, an Event Coordinator in the Committee's Finance Division, states that in response to requests from Mr. Johnson, she gave him the names of contributors using his code, but she had no knowledge that he was using the information in connection with Mr. Twichell's letter.

B. Application Of The Law

1. Failure to Include Disclaimer

Whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate, or solicits any contribution through any direct mailing, such communication: a) if authorized by a candidate or his agents but paid for by other persons, shall clearly state who paid for it and that it is authorized by such authorized committee; or b) if not authorized by a candidate or his agents, shall clearly state the name of the person who paid for it and that it is not authorized by any candidate or candidate's committee. 2 U.S.C. § 441d(a).

9504367005 3

As previously mentioned, the solicitation at issue in this matter stated that it had been paid for by Mr. Twichell, but failed to state whether it was authorized by a candidate or authorized committee. Indeed, on the basis of the facts presently before the Commission, it appears that the Committee did not authorize the solicitation, but it still cannot be determined whether the solicitation may have been authorized by the Vice President or his agents.

Because the solitication failed to state whether it was authorized by a candidate or an authorized committee, it appears that Mr. Twichell, as the person who ultimately paid for some of the costs of the solicitation, violated the provisions of the Act concerning disclaimers on solicitations. 1/ Accordingly, this Office recommends that the Commission find reason to believe E. Kenneth Twichell violated 2 U.S.C. § 441d(a).

2. Corporate Contribution

It is unlawful for any corporation to make a contribution or expenditure in connection with a federal election. 2 U.S.C. § 441b(a). "Contribution or expenditure" includes any direct or indirect payment, distribution, loan, or advance of money, or any services, or anything of value to any candidate or campaign committee, in connection with a federal election. 2 U.S.C. § 441b(b)(2).

It appears that the Association made a corporate contribution as a result of the solicitation, because actions undertaken by corporate executives with the imprimatur of the corporation may, under certain circumstances, take on the

1/ Although it appears that the Association helped pay for the solicitation, the Association's potential Section 441d(a) violation is subsumed within the Section 441b(a) recommendation.

9504367005 4

character of corporate actions. See MUR 1690. In the instant MUR, the facts before the Commission suggest that Mr. Twichell prepared the solicitation on behalf of the Association itself, during the course of his employment. Mr. Twichell allegedly said the whole idea for the solicitation stemmed from the Association's board of directors via a board member who is a close friend of Vice President George Bush. Moreover, Mr. Twichell states in his response that he received the corporation's approval to use corporate letterhead for the solicitations. Corporate letterhead is something of value, based on the goodwill or credibility it lent to the solicitation. Additionally, the solicitation speaks of "a unique opportunity" for the Association to "obtain a great deal of influence with the person who will most probably be the next President." Finally, the solicitation was sent only to those whom the Association considered members, and Mr. Twichell signed the solicitation as "Managing Director." All of these facts suggest that the solicitation was corporate activity undertaken by a corporate officer subject to the prohibition of Section 441b, not "individual volunteer activity" within the 11 C.F.R. § 114.9(a) exemption. 2/

Though Mr. Twichell eventually reimbursed the Association for some of the direct costs of the solicitation, it was nevertheless apparently a communication on behalf of the Association itself. Moreover, the evidence suggests that Mr.

2/ Under 11 C.F.R. § 114.9(a)(1), an employee of a corporation need only reimburse the corporation to the extent that overhead or operating costs are increased, if, inter alia, the employee makes use of corporate facilities for individual volunteer activity. Mr. Twichell does not appear to be eligible for that reimbursement standard because it appears he prepared the solicitation as part of his employment, at the behest of the Association's board of directors.

9504367005 5

Twichell did not adequately reimburse the Association according to the Commission's regulations, even if the solicitation had not been on behalf of the Association and was thereby exempt pursuant to 11 C.F.R. § 114.9(c). 3/

As a corporate communication, the solicitation could have been legal if it was sent only to persons within the Association's restricted class. The Act exempts from the definition of "contribution or expenditure" communications by a corporation to its restricted class. 2 U.S.C. § 441b(b)(2)(A). The Commission's Regulations expressly permit an incorporated membership organization, incorporated trade association, or corporation without capital stock to make partisan communications to its members and executive or administrative personnel and their families. 11 C.F.R. § 114.3(a)(2). Such communication costs, however, must be reported to the Commission on FEC Form 7

9504367056

3/ Any person who uses the facilities of a corporation to produce materials in connection with a federal election must reimburse the corporation within a commercially reasonable time for the normal and usual charge for producing such materials in the commercial market. 11 C.F.R. § 114.9(c). "Usual and normal charge" means the charge for services at a commercially reasonable rate prevailing at the time the services are rendered. 11 C.F.R. § 100.7(a)(1)(iii)(B).

The available evidence indicates that Mr. Twichell reimbursed the Association at a rate considerably lower than the normal and usual charge in the commercial market. For example, Mr. Twichell paid a commercial printer $90.00 for the blank letterhead used for the solicitations. But Mr. Twichell paid the Association only $85.00 for the combination of "letter processing charge" and "machine time," although those amounts should include not only printing the solicitations on the letterhead, but also typing, folding, stuffing, sealing, addressing, and affixing postage with a postage meter.

Thus, even if the Section 114.9(c) exemption was available to the respondents, the difference between what Mr. Twichell paid the Association and the normal and usual charge for the services would be the amount of a corporate contribution made in violation of 2 U.S.C. § 441b(a).

if such costs exceed $2,000 for any election. 11 C.F.R. SS 104.6(a) and 100.8(b)(4). This Office notes that the Association has disclosed no such communication costs to the Commission.

To determine whether the communication costs exemption applies, it is necessary to inquire whether the Association mailed the solicitations only to persons within its restricted class: i.e., its members, and executive and administrative personnel and their families. On the basis of facts presently before the Commission, it cannot be determined whether the Association solicited only such persons. The Association's March 3, 1988, statement to Mr. Twichell indicates he rented a mailing list for names of 2500 "NAREA members," but we have no evidence on whether the persons solicited qualify as "members" under the Supreme Court's standard in FEC v. National Right to Work Committee ("NRWC"), 459 U.S. 197 (1982).

In NRWC the Supreme Court stated that some relatively enduring and independently significant financial or organizational attachment is required to be a "member." The Court held the recipients of solicitations at issue in that case did not qualify as "members" because, among other things, the solicitation letters did not mention membership, the organization's articles of incorporation disclaimed the existence of members, and members played no part in the operations or administration of the organization. Sufficient facts are not available in this matter to apply the NRWC standard because there is presently no evidence before the Commission concerning the Association's membership requirements. This Office, therefore,

9504367 0057

recommends the Commission find reason to believe the Association violated 2 U.S.C. § 441b and inquire, inter alia, about the membership question.

Even if the February 4, 1988, solicitations were mailed only to persons within the Association's restricted class, and it was corporate activity, the Association may, nevertheless, have violated the Act by utilizing an unacceptable means of making partisan communications. Specifically, by enclosing contribution cards and postage-paid envelopes printed by the Committee, it appears that the Association crossed the line between merely communicating with members and facilitating contributions.

The Commission's Regulations provide that a corporation may use only certain means for communicating with its restricted class. With regard to publications, the Regulations state,

> Printed material of a partisan nature may be distributed by a corporation . . . provided that:
> (i) The material is produced at the expense of the corporation . . . and
> (ii) The material constitutes a communication of the views of the corporation . . . and is not the republication in whole or in part, of any . . . form of campaign materials prepared by the candidate, his or her campaign committees, or their authorized agents.

11 C.F.R. § 114.3(c)(1). Although the solicitation appears to have constituted the views of the Association, the solicitation does not appear to comply with other elements of the provision. Specifically, the contribution cards and postage-paid reply envelopes supplied by Mr. Johnson were produced at the expense of the Bush Committee, not the Association. Furthermore, the

9504367005 8

solicitation consisted, in part, of campaign materials prepared directly by a candidate's authorized committee.

Moreover, the Association's solicitation, taken as a whole, appears to fall outside the realm of acceptable communications contemplated by Section 114.3. As the Commission explained when transmitting the original Section 114.3 to Congress:

> [T]his provision extends to the corporation or labor organization's distribution of its views as, for example, to why a particular candidate will best serve the interest of the corporation or labor organization and is not intended to be simply a means for distributing campaign materials produced by the candidate, his or her campaign committee, or authorized agents. [Emphasis in original.]
>
> * * *
>
> The corporation or labor organization may suggest in a communication sent to stockholders, executive or administrative personnel or members that they contribute to a particular candidate or political committee and provide the candidate's address. The corporation or labor organization may not, however, facilitate the making of contributions to a particular candidate or political committee, other than its separate segregated fund, as by providing envelopes addressed to the candidate or committee . . . ." [Emphasis added.]

Explanation and Justification of Regulations, H. Doc. No. 95-44, 95th Cong., 1st Sess., at 104-105. See also AO 1982-2 and AO 1987-29. By providing contribution forms and pre-addressed postage-paid envelopes, the Association appears to have gone beyond merely communicating its views, but rather facilitated contributions by assisting recipients of the solicitation in

9504367005 9

making contributions to a candidate. Accordingly, this Office recommends that the Commission find reason to believe the Association violated 2 U.S.C. § 441b(a).

3. Potential Excessive Contribution

No person may contribute more than $1,000 per election to any candidate and his authorized political committees. 2 U.S.C. § 441a(a)(1)(A). E. Kenneth Twichell's disbursements in connection with the solicitation constitute in-kind contributions to the George Bush campaign. As such, they are limited to a maximum amount of $1,000 per election.

In his response to the complaint, Mr. Twichell said his total costs for the solicitation were $946. Those costs constitute an in-kind contribution. Therefore, Mr. Twichell could contribute no more than an additional $54 to the Committee and stay with the $1,000 limit. The Committee reported receiving a $1,000 direct contribution from Mr. Twichell on January 28, 1988. (The Committee also reported receiving a $1,000 contribution from Mrs. Tamara Twichell, of the same address, on the same date.) Accordingly, it appears that Mr. Twichell made an excessive contribution through his direct contribution combined with his payments for the Association's solicitation. Moreover, in the solicitation, Mr. Twichell seemed to indicate that he would respond to all those who contributed as a result of the solicitation. The costs for any such thank-you letters would also constitute contributions, and could cause Mr. Twichell to further exceed his $1,000 per election limit.

A finding of reason to believe will permit investigation

9543700060

into these issues. Accordingly, this Office recommends that the Commission find reason to believe E. Kenneth Twichell violated 2 U.S.C. § 441a(a)(1)(A).

4. The Committee and Candidate

No candidate or political committee may knowingly accept any contribution in excess of the limitations provided in Section 441a. 2 U.S.C. § 441a(f). It is unlawful for any candidate or political committee knowingly to accept or receive any contribution from a source prohibited under Section 441b. 2 U.S.C. § 441b(a).

The Committee's response to the complaint states that no one at the campaign headquarters had prior knowledge of the solicitation. The Vice President has not responded to the complaint. The proposed questions to the Association will permit the Commission to ascertain the extent to which the Committee and the Vice President were involved. Therefore, this Office makes no recommendations at this time concerning Vice President George Bush or the Committee and its treasurer.

III. RECOMMENDATIONS

1. Find reason to believe National Association of Real Estate Appraisers violated 2 U.S.C. § 441b(a).

2. Find reason to believe E. Kenneth Twichell violated 2 U.S.C. §§ 441d(a) and 441a(a)(1)(A).

9504367006 1

3. Approve the attached Questions and Document Requests.

4. Approve and send the attached letters and Factual and Legal Analyses.

Lawrence M. Noble
General Counsel

8/14/88
Date

By: LG Lerner
Lois G. Lerner
Associate General Counsel

Attachments
I. Complaint
II. Association's and Twichell's responses to the complaint
III. Association's supplemental response to the complaint
IV. The Committee and its treasurer's responses to the complaint
V. Questions and Document Requests
VI. Letters and Factual and Legal Analyses

95043670062

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/JOSHUA MCFADDEN

DATE: AUGUST 8, 1988

SUBJECT: OBJECTIONS TO MUR 2593 - FIRST G.C. REPORT
SIGNED AUGUST 4, 1988

The above-captioned document was circulated to the Commission on Thursday, August 4, 1988 at 4:00 P.M.

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

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

This matter will be placed on the Executive Session agenda for August 30, 1988.

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

9504367000 63

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
National Association of Real Estate Appraisers	)	
	)	
E. Kenneth Twichell, Managing Director, National Association of Real Estate Appraisers	)	MUR 2593
	)	
George Bush for President, Inc. and Stan Huckaby, as treasurer	)	
	)	
Vice President George Bush	)	

9504367 0064

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of August 30, 1988, do hereby certify that the Commission decided by a vote of vote of 4-2 to take the following actions in MUR 2593:

1. Find reason to believe National Association of Real Estate Appraisers violated 2 U.S.C. § 441b(a).

2. Find reason to believe E. Kenneth Twichell violated 2 U.S.C. §§ 441d(a) and 441a(a)(1)(A).

3. Approve the Questions and Document Requests as recommended in the General Counsel's report dated August 4, 1988.

(continued)

4. Approve and send the letters and Factual and Legal Analyses as recommended in the General Counsel's report dated August 4, 1988.

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

Attest:

8/31/88
Date

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

9504367000 65

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 7, 1988

Robert G. Johnson, Executive Director
National Association of Real Estate Appraisers
8715 Via De Commercio
Scottsdale, Arizona 85258

RE: MUR 2593
National Association of
Real Estate Appraisers

Dear Mr. Johnson:

On March 23, 1988, the Federal Election Commission notified National Association of Real Estate Appraisers (the "Association") of a complaint alleging violations of the Federal Election Campaign Act of 1971, as amended (the "Act"). A copy of the complaint was forwarded to the Association at that time.

Upon further review of the allegations contained in the complaint, and information supplied by you and other persons, the Commission on August 30, 1988, found that there is reason to believe the Association violated 2 U.S.C. § 441b(a), a provision of the Act. Specifically, it appears that the Association may have made contributions in connection with a federal election with regard to a solicitation signed by E. Kenneth Twichell, the Association's Managing Director. For example, it appears that the Association approved the solicitation, permitted the use of its logo and letterhead, absorbed certain costs of the solicitation despite Mr. Twichell's partial reimbursement, made partisan communications to persons outside its restricted class, and facilitated making contributions by distributing contribution cards and postage-paid envelopes produced by a political committee.

Under the Act you have an opportunity to demonstrate that no further action should be taken against the Association. You may submit any factual or legal materials that you believe are

9504367000666

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 and Document Requests within 15 days of 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 the Association, 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.

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 matter to be made public.

9504367006 7

If you have any questions, please contact Robert Raich, the attorney handling this matter, at (202) 376-8200.

Sincerely,

Thomas J. Josefiak
Chairman

Enclosures
Questions and Document Requests
Factual and Legal Analysis
Designation of Counsel Statement

95043670068

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 2593

QUESTIONS AND DOCUMENT REQUESTS

TO: National Association of Real Estate Appraisers
8715 Via De Commercio
Scottsdale, Arizona 85258

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, 999 E Street, N.W., Washington, D.C. 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.

9504367 0069

INSTRUCTIONS

In answering these Questions and Document Requests, 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 question 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 questions in full after exercising due diligence to secure the full information to do so, answer to the extent possible and indicate your inability to answer the remainder, stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.

Should you claim a privilege with respect to any documents, communications, or other items about which information is requested by any of the following Questions and Document Requests, 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.

These Questions and Document Requests shall refer to the time period from November 1, 1987, to the present time.

The following Questions and Document Requests 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.

9504367007O

DEFINITIONS

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

"You" shall mean National Association of Real Estate Appraisers, 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 natural person shall mean state the full name, the most recent business and residence addresses and telephone numbers, and the present occupation or position of such person. 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 discovery requests any information, documents, or materials which may otherwise be construed to be out of their scope.

"The solicitation" shall mean a letter on your letterhead dated February 4, 1988, signed by E. Kenneth Twichell, and all envelopes and enclosures accompanying the same.

9504367007 1

9504367007 2

INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS

1. Produce all of your Certificates of Incorporation, Articles of Incorporation, and Bylaws.

2. Identify all of your officers.

3. Identify all of your directors.

4. Identify the director referred to as a "close friend" of Vice President George Bush in paragraph two of the solicitation.

5. State whether you authorized the solicitation.

6. Identify all of your officers and directors who consented to the solicitation.

7. Produce complete minutes of all meetings of your directors or officers at which the solicitation was discussed, mentioned, or referred to.

8. State whether E. Kenneth Twichell was paid or reimbursed in any way for expenses he incurred in connection with the solicitation. If your answer is in the affirmative, state the dates, amounts, and methods of each such payment or reimbursement.

9. State the total number of persons to whom the solicitation was sent.

10. State whether the solicitation was sent to any persons who were not your members. If your answer is in the affirmative, state the total number of non-members to whom the solicitation was sent.

11. State the criteria for membership in National Association of Real Estate Appraisers. Your answer should include, but should not be limited to, stating whether:

a. there are any requirements that a person pay a set amount of dues to become a member;

b. there are any requirements that a person affirmatively state his or her intent to become a member before being considered a member;

c. there are any requirements concerning renewal of membership;

d. there any conditions under which a person can lose his or her membership;

e. members play an active part in the operation or administration of the corporation;

f. members elect corporate officials or have any voting rights;

g. members have an opportunity to attend membership meetings;

h. members have any control over your financial disbursements; and

i. there are any other requirements for, or rights of, membership.

12. For each requirement or condition mentioned in your answer to Question 11, state whether the requirement or condition has been approved by your board of directors, and whether the requirement or condition is written.

13. Produce all documents stating the requirements for membership.

14. For each requirement or condition mentioned in your answer to Question 11, state whether members and potential members are notified of the requirement or condition, and, if so, the manner in which they are notified.

15. State whether E. Kenneth Twichell, you, or any person affiliated with you, were provided with a list of contributors from the Vice President's Campaign Director or any person affiliated with the George Bush for President committee. If your answer is in the affirmative, identify the persons who received the information, identify the persons who provided the information, and state each date on which such information was provided.

16. The solicitation stated that E. Kenneth Twichell would be provided with a list of contributors so that he could respond. State whether E. Kenneth Twichell, you, or any person affiliated with you, responded as a result of being provided with a list of contributors. If your answer is in the affirmative, identify each person who responded; state the manners, dates, and costs of such responses; and state who paid for such responses and whether the persons who paid were in any way reimbursed for such payments, and, if so, the date, amount, and method of each such reimbursement.

17. The solitication states that the Vice President will write personally to those who contribute $500 or more. Identify all persons who gave such assurances to E. Kenneth Twichell, and identify all persons who made such assurances on behalf of the Vice President. State the substance and the date of each such assurance.

9504367007 3

18. Identify all persons to whom you have rented your mailing list from January 1, 1987, through the present. State the rate you charged each such person for rental of the mailing list.

19. State whether Robert G. Johnson had any title in connection with the George Bush for President fundraising effort. If your answer is in the affirmative, state each of Mr. Johnson's titles.

20. State whether Robert G. Johnson had any responsibilities or duties in connection with the George Bush for President fundraising effort. If your answer is in the affirmative, describe all such responsibilities and duties.

21. State all instructions and information Robert G. Johnson received with regard to sending or approving mailings on behalf of the George Bush for President campaign.

22. With regard to each question above, identify the natural person responding, and identify all persons who provided any information used in the preparation of the response.

9504367007 4

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: National Association of Real Estate Appraisers MUR: 2593

This matter arises from a complaint filed with the Commission by John R. Lair. The complaint stems from a letter sent to Mr. Lair by E. Kenneth Twichell, Managing Director of National Association of Real Estate Appraisers (the "Association"). The Association, through Robert Johnson, its Executive Director, has responded to the complaint.

A. The Facts

At the root of this matter is a letter Mr. Twichell mailed, with the Association's approval, to 2500 Association members. The Association is apparently a corporation. The letter, in the Association's envelope and on its letterhead, asked readers to contribute to the George Bush for President Committee (the "Committee"), and enclosed a George Bush for President contribution card and postage-paid reply envelope. The letter stated that one of the Association's directors is a close friend of George Bush, and that the Vice President would write personally to those who contribute $500 or more. In addition, the letter stated that the Vice President's Campaign Director would provide Mr. Twichell with a list of all contributors, apparently so Mr. Twichell could himself thank those who contributed in response to the solicitation.

The letter, dated February 4, 1988, stated that Mr. Twichell

9504367007 5

personally had paid for the solicitation, but it failed to state whether it was authorized by a candidate or authorized committee of a candidate. Mr. Twichell indicates that he personally paid $946 for the solicitation. The Association billed Mr. Twichell $760 for certain costs associated with the solicitation, and Mr. Twichell reimbursed the Association for that amount on March 3, 1988, nearly a month after the date of the solicitation. The items for which Mr. Twichell reimbursed the Association were rental of the mailing list, "letter processing charge," postage, and "machine time." With the exception of postage, this Office cannot determine the basis upon which the Association calculated the costs of those services. Mr. Twichell also paid directly a printing company $186 for letterhead and envelopes. Mr. Twichell states he received the corporation's approval to use the letterhead. Moreover, according to the complaint, Mr. Twichell stated that the entire solicitation was "the Board's idea."

The George Bush for President contribution cards and postage-paid envelopes were obtained by Mr. Johnson, who serves as a volunteer fundraiser with the title of Co-Chairman of the Arizona Fundraising Committee. As such, he was assigned the code "AZ04" to put on contribution cards to identify those contributions as having been solicited by him. According to Mr. Johnson, he personally put the "AZ04" notations on the contribution cards and the "Attn: Lucy Cole" indication on the envelopes that were enclosed with Mr. Twichell's solicitation. Lucy Cole, an Event Coordinator in the Committee's Finance Division, in response to requests from Mr. Johnson, gave him the names of contributors using his code.

9504367007 6

B. Application Of The Law

It is unlawful for any corporation to make a contribution or expenditure in connection with a federal election. 2 U.S.C. § 441b(a). "Contribution or expenditure" includes any direct or indirect payment, distribution, loan, or advance of money, or any services, or anything of value to any candidate or campaign committee, in connection with a federal election. 2 U.S.C. § 441b(b)(2).

It appears that the Association made a corporate contribution as a result of the solicitation, because actions undertaken by corporate executives with the imprimatur of the corporation may, under certain circumstances, take on the character of corporate actions. See MUR 1690. In the instant MUR, the facts before the Commission suggest that Mr. Twichell prepared the solicitation on behalf of the Association itself, during the course of his employment. Mr. Twichell allegedly said the whole idea for the solicitation stemmed from the Association's board of directors via a board member who is a close friend of Vice President George Bush. Moreover, Mr. Twichell states that he received the corporation's approval to use corporate letterhead for the solicitations. Corporate letterhead is something of value, based on the goodwill or credibility it lent to the solicitation. Additionally, the solicitation speaks of "a unique opportunity" for the Association to "obtain a great deal of influence with the person who will most probably be the next President." Finally, the solicitation was sent only to those whom the Association considered members, and Mr. Twichell signed the solicitation as "Managing Director." All of these facts suggest that the solicitation was corporate

9504367007 7

activity undertaken by a corporate officer subject to the prohibition of Section 441b, not "individual volunteer activity" within the 11 C.F.R. § 114.9(a) exemption. 1/

Though Mr. Twichell eventually reimbursed the Association for some of the direct costs of the solicitation, it was nevertheless apparently a communication on behalf of the Association itself. Moreover, the evidence suggests that Mr. Twichell did not adequately reimburse the Association according to the Commission's regulations, even if the solicitation had not been on behalf of the Association and was thereby exempt pursuant to 11 C.F.R. § 114.9(c). 2/

1/ Under 11 C.F.R. § 114.9(a)(1), an employee of a corporation need only reimburse the corporation to the extent that overhead or operating costs are increased, if, inter alia, the employee makes use of corporate facilities for individual volunteer activity. Mr. Twichell does not appear to be eligible for that reimbursement standard because it appears he prepared the solicitation as part of his employment, at the behest of the Association's board of directors.

2/ Any person who uses the facilities of a corporation to produce materials in connection with a federal election must reimburse the corporation within a commercially reasonable time for the normal and usual charge for producing such materials in the commercial market. 11 C.F.R. § 114.9(c). "Usual and normal charge" means the charge for services at a commercially reasonable rate prevailing at the time the services are rendered. 11 C.F.R. § 100.7(a)(1)(iii)(B).

The available evidence indicates that Mr. Twichell reimbursed the Association at a rate considerably lower than the normal and usual charge in the commercial market. For example, Mr. Twichell paid a commercial printer $90.00 for the blank letterhead used for the solicitations. But Mr. Twichell paid the Association only $85.00 for the combination of "letter processing charge" and "machine time," although those amounts should include not only printing the solicitations on the letterhead, but also typing, folding, stuffing, sealing, addressing, and affixing postage with a postage meter.

Thus, even if the Section 114.9(c) exemption was available to the respondents, the difference between what Mr. Twichell paid the Association and the normal and usual charge for the services would be the amount of a corporate contribution made in violation of 2 U.S.C. § 441b(a).

9504367007 8

As a corporate communication, the solicitation could have been legal if it was sent only to persons within the Association's restricted class. The Act exempts from the definition of "contribution or expenditure" communications by a corporation to its restricted class. 2 U.S.C. § 441b(b)(2)(A). The Commission's Regulations expressly permit an incorporated membership organization, incorporated trade association, or corporation without capital stock to make partisan communications to its members and executive or administrative personnel and their families. 11 C.F.R. § 114.3(a)(2). Such communication costs, however, must be reported to the Commission on FEC Form 7 if such costs exceed $2,000 for any election. 11 C.F.R. §§ 104.6(a) and 100.8(b)(4). This Office notes that the Association has disclosed no such communication costs to the Commission.

To determine whether the communication costs exemption applies, it is necessary to inquire whether the Association mailed the solicitations only to persons within its restricted class: i.e., its members, and executive and administrative personnel and their families. On the basis of facts presently before the Commission, it cannot be determined whether the Association solicited only such persons. The Association's March 3, 1988, statement to Mr. Twichell indicates he rented a mailing list for names of 2500 "NAREA members," but we have no evidence on whether the persons solicited qualify as "members" under the Supreme Court's standard in FEC v. National Right to Work Committee ("NRWC"), 459 U.S. 197 (1982).

9504367007 9

In NRWC the Supreme Court stated that some relatively enduring and independently significant financial or organizational attachment is required to be a "member." The Court held the recipients of solicitations at issue in that case did not qualify as "members" because, among other things, the solicitation letters did not mention membership, the organization's articles of incorporation disclaimed the existence of members, and members played no part in the operations or administration of the organization. Sufficient facts are not available in this matter to apply the NRWC standard because there is presently no evidence before the Commission concerning the Association's membership requirements. This Office, therefore, recommends the Commission find reason to believe the Association violated 2 U.S.C. § 441b and inquire, inter alia, about the membership question.

Even if the February 4, 1988, solicitations were mailed only to persons within the Association's restricted class, and it was corporate activity, the Association may, nevertheless, have violated the Act by utilizing an unacceptable means of making partisan communications. Specifically, by enclosing contribution cards and postage-paid envelopes printed by the Committee, it appears that the Association crossed the line between merely communicating with members and facilitating contributions.

The Commission's Regulations provide that a corporation may use only certain means for communicating with its restricted

9504367080

class. With regard to publications, the Regulations state,

> Printed material of a partisan nature may be distributed by a corporation . . . provided that:
> (i) The material is produced at the expense of the corporation . . . and
> (ii) The material constitutes a communication of the views of the corporation . . . and is not the republication in whole or in part, of any . . . form of campaign materials prepared by the candidate, his or her campaign committees, or their authorized agents.

11 C.F.R. § 114.3(c)(1). Although the solicitation appears to have constituted the views of the Association, the solicitation does not appear to comply with other elements of the provision. Specifically, the contribution cards and postage-paid reply envelopes supplied by Mr. Johnson were produced at the expense of the Bush Committee, not the Association. Furthermore, the solicitation consisted, in part, of campaign materials prepared directly by a candidate's authorized committee.

Moreover, the Association's solicitation, taken as a whole, appears to fall outside the realm of acceptable communications contemplated by Section 114.3. As the Commission explained when transmitting the original Section 114.3 to Congress:

> [T]his provision extends to the corporation or labor organization's distribution of <u>its views</u> as, for example, to why a particular candidate will best serve the interest of the corporation or labor organization and is not intended to be simply a means for distributing campaign materials produced by the candidate, his or her campaign committee, or authorized agents. [Emphasis in original.]
>
> * * *
>
> The corporation or labor organization may suggest in a communication sent to stockholders, executive or administrative

9504367008 1

> personnel or members that they contribute to a particular candidate or political committee and provide the candidate's address. The corporation or labor organization may not, however, facilitate the making of contributions to a particular candidate or political committee, other than its separate segregated fund, as by providing envelopes addressed to the candidate or committee . . . ." [Emphasis added.]

Explanation and Justification of Regulations, H. Doc. No. 95-44, 95th Cong., 1st Sess., at 104-105. See also AO 1982-2 and AO 1987-29. By providing contribution forms and pre-addressed postage-paid envelopes, the Association appears to have gone beyond merely communicating its views, but rather facilitated contributions by assisting recipients of the solicitation in making contributions to a candidate. Accordingly, there is reason to believe the Association violated 2 U.S.C. § 441b(a).

9504367008 2

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 7, 1988

E. Kenneth Twichell
8715 Via De Commercio
Scottsdale, Arizona 85258

RE: MUR 2593
E. Kenneth Twichell

Dear Mr. Twichell:

On March 23, 1988, the Federal Election Commission notified you of a complaint alleging violations of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to you at that time.

Upon further review of the allegations contained in the complaint, and information supplied by you and other persons, the Commission on August 30, 1988, found that there is reason to believe you violated 2 U.S.C. §§ 441d(a) and 441a(a)(1)(A), provisions of the Act. Specifically, it appears that you failed to include a proper disclaimer on a solicitation, and that by paying for a solicitation and through other direct and in-kind contributions, you may have exceeded the $1,000 per election contribution limit with regard to the George Bush for President committee.

Under the Act you have an opportunity to demonstrate that no further 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 and Document Requests within 15 days of 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.

9504336700083

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.

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 matter to be made public.

If you have any questions, please contact Robert Raich, the attorney handling this matter, at (202) 376-8200.

Sincerely,

Thomas J. Josefiak
Chairman

Enclosures
Questions and Document Requests
Factual and Legal Analysis
Designation of Counsel Statement

9504367 0084

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: E. Kenneth Twichell MUR: 2593

This matter arises from a complaint filed with the Commission by John R. Lair. The complaint stems from a letter sent to Mr. Lair by E. Kenneth Twichell, Managing Director of National Association of Real Estate Appraisers (the "Association"). Mr. Twichell has responded to the complaint.

A. The Facts

At the root of this matter is a letter Mr. Twichell mailed, with the Association's approval, to 2500 Association members. The Association is apparently a corporation. The letter, in the Association's envelope and on its letterhead, asked readers to contribute to the George Bush for President Committee (the "Committee"), and enclosed a George Bush for President contribution card and postage-paid reply envelope. The letter stated that one of the Association's directors is a close friend of George Bush, and that the Vice President would write personally to those who contribute $500 or more. In addition, the letter stated that the Vice President's Campaign Director would provide Mr. Twichell with a list of all contributors, apparently so Mr. Twichell could himself thank those who contributed in response to the solicitation.

The letter, dated February 4, 1988, stated that Mr. Twichell

9504336700085

personally had paid for the solicitation, but it failed to state whether it was authorized by a candidate or authorized committee of a candidate. In his response to the complaint, Mr. Twichell indicates that he personally paid $946 for the solicitation. The Association billed Mr. Twichell $760 for certain costs associated with the solicitation, and Mr. Twichell reimbursed the Association for that amount on March 3, 1988, nearly a month after the date of the solicitation. The items for which Mr. Twichell reimbursed the Association were rental of the mailing list, "letter processing charge," postage, and "machine time." With the exception of postage, this Office cannot determine the basis upon which the Association calculated the costs of those services. Mr. Twichell also paid directly a printing company $186 for letterhead and envelopes. Mr. Twichell states he received the corporation's approval to use the letterhead. Moreover, according to the complaint, Mr. Twichell stated that the entire solicitation was "the Board's idea."

The George Bush for President contribution cards and postage-paid envelopes were obtained by Robert Johnson, the Association's Executive Director, who serves as a volunteer fundraiser with the title of Co-Chairman of the Arizona Fundraising Committee. As such, he was assigned the code "AZ04" to put on contribution cards to identify those contributions as having been solicited by him. Mr. Johnson personally put the "AZ04" notations on the contribution cards and the "Attn: Lucy Cole" indication on the envelopes that were enclosed with Mr. Twichell's solicitation. Lucy Cole, an Event Coordinator in the Committee's Finance Division, in response to requests from Mr. Johnson, gave him the names of contributors using his code.

9504367000886

B. Application Of The Law

1. Failure to Include Disclaimer

Whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate, or solicits any contribution through any direct mailing, such communication: a) if authorized by a candidate or his agents but paid for by other persons, shall clearly state who paid for it and that it is authorized by such authorized committee; or b) if not authorized by a candidate or his agents, shall clearly state the name of the person who paid for it and that it is not authorized by any candidate or candidate's committee. 2 U.S.C. § 441d(a).

As previously mentioned, the solicitation at issue in this matter stated that it had been paid for by Mr. Twichell, but failed to state whether it was authorized by a candidate or authorized committee. Indeed, on the basis of the facts presently before the Commission, it appears that the Committee did not authorize the solicitation, but it still cannot be determined whether the solicitation may have been authorized by the Vice President or his agents.

Because the solitication failed to state whether it was authorized by a candidate or an authorized committee, it appears that Mr. Twichell, as the person who ultimately paid for some of the costs of the solicitation, violated the provisions of the Act concerning disclaimers on solicitations. Accordingly, there is reason to believe E. Kenneth Twichell violated 2 U.S.C. § 441d(a).

9504367 00087

2. Potential Excessive Contribution

No person may contribute more than $1,000 per election to any candidate and his authorized political committees. 2 U.S.C. § 441a(a)(1)(A). E. Kenneth Twichell's disbursements in connection with the solicitation constitute in-kind contributions to the George Bush campaign. As such, they are limited to a maximum amount of $1,000 per election.

In his response to the complaint, Mr. Twichell said his total costs for the solicitation were $946. Those costs constitute an in-kind contribution. Therefore, Mr. Twichell could contribute no more than an additional $54 to the Committee and stay with the $1,000 limit. The Committee reported receiving a $1,000 direct contribution from Mr. Twichell on January 28, 1988. (The Committee also reported receiving a $1,000 contribution from Mrs. Tamara Twichell, of the same address, on the same date.) Accordingly, it appears that Mr. Twichell made an excessive contribution through his direct contribution combined with his payments for the Association's solicitation. Moreover, in the solicitation, Mr. Twichell seemed to indicate that he would respond to all those who contributed as a result of the solicitation. The costs for any such thank-you letters would also constitute contributions, and could cause Mr. Twichell to further exceed his $1,000 per election limit. Accordingly, there is reason to believe E. Kenneth Twichell violated 2 U.S.C. § 441a(a)(1)(A).

9504367008 8

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 2593

QUESTIONS AND DOCUMENT REQUESTS

TO: E. Kenneth Twichell
8715 Via De Commercio
Scottsdale, Arizona 85258

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, 999 E Street, N.W., Washington, D.C. 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.

9504367 00089

INSTRUCTIONS

In answering these Questions and Document Requests, 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 question 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 questions in full after exercising due diligence to secure the full information to do so, answer to the extent possible and indicate your inability to answer the remainder, stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.

Should you claim a privilege with respect to any documents, communications, or other items about which information is requested by any of the following Questions and Document Requests, 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.

These Questions and Document Requests shall refer to the time period from November 1, 1987, to the present time.

The following Questions and Document Requests 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.

9504367090

DEFINITIONS

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

"You" shall mean E. Kenneth Twichell, including all 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 natural person shall mean state the full name, the most recent business and residence addresses and telephone numbers, and the present occupation or position of such person. 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 discovery requests any information, documents, or materials which may otherwise be construed to be out of their scope.

"The Association" shall mean National Association of Real Estate Appraisers.

"The Solicitation" shall mean a letter on the Association's letterhead dated February 4, 1988, signed by you, and all envelopes and enclosures accompanying the same.

9504367009 1

INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS

1. State whether any person other than you paid any amount in connection with the solicitation. If your answer is in the affirmative, identify each such other person and state the amounts such persons paid.

2. State whether you were paid or reimbursed in any way for expenses you incurred in connection with the solicitation. If your answer is in the affirmative, state the dates, amounts, and methods of each such payment or reimbursement.

3. State the total amount of contributions you have made to the George Bush for President committee, and state the date of each contribution.

4. State the total number of persons to whom the solicitation was sent.

5. State whether the solicitation was sent to any persons who were not members of the Association. If your answer is in the affirmative, state the total number of non-members to whom the solicitation was sent.

6. State whether you were provided with a list of contributors from the Vice Prsident's Campaign Director or any person affiliated with the George Bush for President committee. If your answer is in the affirmative, identify the persons who received the information, identify the persons who provided the information, and state each date on which such information was provided.

7. In the solicitation you stated that you would be provided with a list of contributors so that you could respond. State whether you responded as a result of being provided with a list of contributors. If your answer is in the affirmative, state the manners, dates, and costs of such responses; and state who paid for such responses and whether the persons who paid were in any way reimbursed for such payments. If such reimbursements occurred, state the date, amount, and method of each such reimbursement.

8. In the solicitation you stated that the Vice President will write personally to those who contribute $500 or more. Identify all persons who gave you such assurances, and state the substance and the date of each such assurance.

9. With regard to each question above, identify the person responding, and identify all persons who provided any information used in the preparation of the response.

9504367009 2

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
88 SEP 28 AM 11:38

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM
88 SEP 22 AM 9:34

OGC 461

MERCHANT, GOULD, SMITH, EDELL, WELTER & SCHMIDT
PROFESSIONAL ASSOCIATION
PATENT, TRADEMARK & COPYRIGHT LAWYERS
SUITE ONE THOUSAND
NORWEST CENTER
SAINT PAUL, MINNESOTA 55101
(612) 298-1055

OFFICES IN MINNEAPOLIS AND ST. PAUL

FRANK D. MERCHANT (1869-1943)
RALPH F. MERCHANT (1907-1980)

TELEX 297470
TELECOPIER (612) 298-1160

JOHN D. GOULD
PHILLIP H. SMITH
ROBERT T. EDELL
PAUL A. WELTER
CECIL C. SCHMIDT
JOHN S. SUMNERS
ALAN G. CARLSON
MICHEAL L. SCHWEGMAN
EARL D. REILAND
CHARLES E. GOLLA
DOUGLAS J. WILLIAMS
DOUGLAS A. STRAWBRIDGE
ALBERT L. UNDERHILL
D. RANDALL KING
NORMAN P. FRIEDERICHS
MICHAEL B. LASKY
CURTIS B. HAMRE
MICHAEL D. SCHUMANN
MICHAEL L. MAU
JOHN R. BUNCH
JOHN A. CLIFFORD
MARK J. DIPIETRO

JANET R. WESTROM
STEVEN W. LUNDBERG
WARREN D. WOESSNER
DAVID G. JOHNSON
ALAN W. KOWALCHYK
MICHAEL S. SHERRILL
TIMOTHY R. CONRAD
DANIEL W. McDONALD
JANICE L. UMBEL
R. CARL MOY
ROBERT C. FREED
DANIEL J. KLUTH
WENDY McDONALD
LINDA M. BYRNE
MARK D. SCHUMAN
RANDALL A. HILLSON *
JOHN P. SUMNER
BRIAN H. BATZLI
DAVID A. TELLERSON
HALLIE A. FINUCANE
JOHN J. GRESENS *
D. RANDALL BOYER

* NOT ADMITTED IN MINNESOTA

SENT BY FEDERAL EXPRESS

September 21, 1988

Federal Election Commission
Attn: Robert A. Raich, Esq.
999 E Street N.W.
Washington, D.C. 20463

Re: National Association of Real Estate Appraisers, Inc. and E. Kenneth Twichell
Our Ref: M&G 3230.23-US-AA
Your Ref: MUR 2593

Dear Mr. Raich:

Confirming our phone conversation of September 20, 1988, enclosed herewith please find two Statement of Designation of Counsel forms in connection with the above-identified matter. We will be in further contact very shortly.

Sincerely,

D. Randall King

DRK/dmm
Enclosures
cc: Robert G. Johnson
E. Kenneth Twichell

9504336/0093

FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
88 SEP 26 AM 11:20
RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
88 SEP 26 AM 11:17

OGC 451

MERCHANT, GOULD, SMITH, EDELL, WELTER & SCHMIDT
A PROFESSIONAL ASSOCIATION
PATENT, TRADEMARK & COPYRIGHT LAWYERS
SUITE ONE THOUSAND
NORWEST CENTER
SAINT PAUL, MINNESOTA 55101
(612) 298-1055

OFFICES IN MINNEAPOLIS AND ST PAUL

FRANK D. MERCHANT (1869-1943)
RALPH F. MERCHANT (1907-1980)

TELEX 297470
TELECOPIER (612) 298-1160

JOHN D. GOULD
PHILLIP H. SMITH
ROBERT T. EDELL
PAUL A. WELTER
CECIL C. SCHMIDT
JOHN B. SUMNERS
ALAN G. CARLSON
MICHEAL L. SCHWEGMAN
EARL D. REILAND
CHARLES E. GOLLA
DOUGLAS J. WILLIAMS
DOUGLAS A. STRAWBRIDGE
ALBERT L. UNDERHILL
D. RANDALL RING
NORMAN P. FRIEDERICHS
MICHAEL B. LASKY
CURTIS B. HAMRE
MICHAEL D. SCHUMANN
MICHAEL L. MAU
JOHN W. BUNCH
JOHN A. CLIFFORD
MARK J. DIPIETRO

JANET R. WESTROM
STEVEN W. LUNDBERG
WARREN D. WOESSNER
DAVID G. JOHNSON
ALAN W. KOWALCHYK
MICHAEL S. SHERRILL
TIMOTHY R. CONRAD
DANIEL W. McDONALD
JANICE L. UMBEL
R. CARL MOY
ROBERT C. FREED
DANIEL J. KLUTH
WENDY McDONALD
LINDA M. BYRNE
MARK D. SCHUMAN
RANDALL A. HILLSON *
JOHN P. SUMNER
BRIAN H. BATZLI
DAVID R. TELLERSON
HALLIE A. FINUCANE
JOHN J. GRESENS *
D. RANDALL BOYER

* NOT ADMITTED IN MINNESOTA

SENT BY FEDERAL EXPRESS

September 23, 1988

Federal Election Commission
Attn: Robert A. Raich, Esq.
999 E Street N.W.
Washington, D.C. 20463

Re: National Association of Real Estate Appraisers, Inc. and E. Kenneth Twichell
Our Ref: M&G 3230.23-US-AA
Your Ref: MUR 2593

Dear Mr. Raich:

You should have received by now the two Statement of Designation of Counsel forms in connection with the above-identified matter. If you have not, please so advise.

As I indicated in our phone conversation on September 22, 1988, I am in the process of obtaining answers to the interrogatories enclosed with your September 7, 1988 letter. We believe your letter and its attachments were received by the National Association of Real Estate Appraisers and E. Kenneth Twichell on the 13th or 14th of September. Therefore, answers and responses to your interrogatories would appear to be due on or about September 28, 1988.

In view of the fact that I do not yet have the responses to the interrogatories completed coupled with the fact that it will take time to transmit the documents between Minnesota, Arizona and Washington, D.C., I request that we be given an extension of time in which to respond to the interrogatories enclosed with your September 7, 1988 letter.

95043670094

If the foregoing request poses any particular problem in bringing this matter to a resolution, please so advise.

Sincerely,

D. Randall King

DRK/dmm
cc: Robert G. Johnson
E. Kenneth Twichell

95043670095

Thm

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 29, 1988

D. Randall King, Esquire
Merchant, Gould, Smith, Edell, Welter & Schmidt
Suite One Thousand
Norwest Center
Saint Paul, Minnesota 55101

RE: MUR 2593
National Association of
Real Estate Appraisers,
Inc.
E. Kenneth Twichell

Dear Mr. King:

This is in response to your letter dated September 23, 1988, which we received on September 26, requesting an extension of time to respond to the Commission's reason to believe findings in this 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 October 18, 1988.

If you have any questions, please contact Robert Raich, the attorney handling this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

By: Lois G. Lerner
Associate General Counsel

9504367000 96

06C#648

MERCHANT, GOULD, SMITH, EDELL, WELTER & SCHMIDT
PROFESSIONAL ASSOCIATION
PATENT, TRADEMARK & COPYRIGHT LAWYERS
SUITE ONE THOUSAND
NORWEST CENTER
SAINT PAUL, MINNESOTA 55101
(612) 298-1055

OFFICES IN MINNEAPOLIS
AND ST PAUL

FRANK D. MERCHANT (1869-1943)
RALPH F. MERCHANT (1907-1980)

TELEX 297470
TELECOPIER (612) 298-1160

JOHN D. GOULD
PHILLIP H. SMITH
ROBERT T. EDELL
PAUL A. WELTER
CECIL C. SCHMIDT
JOHN S. SUMNERS
ALAN S. CARLSON
MICHAEL L. SCHWEGMAN
EARL D. REILAND
CHARLES E. GOLLA
DOUGLAS J. WILLIAMS
DOUGLAS A. STRAWBRIDGE
ALBERT L. UNDERHILL
D. RANDALL RING
NORMAN P. FRIEDERICHS
MICHAEL B. LASKY
CURTIS B. HAMRE
MICHAEL D. SCHUMANN
MICHAEL L. MAU
JOHN R. BUNCH
JOHN A. CLIFFORD
MARK J. DIPIETRO

JANET R. WESTROM
STEVEN W. LUNDBERG
WARREN D. WOESSNER
DAVID G. JOHNSON
ALAN W. KOWALCHYK
MICHAEL S. SHERRILL
TIMOTHY R. CONRAD
DANIEL B. McDONALD
JANICE L. UMBEL
R. CARL MOY
ROBERT C. FREED
DANIEL J. RUTH
WENDY McDONALD
LINDA M. BYRNE
MARK D. SCHUMAN
RANDALL A. HILLSON*
JOHN P. SUMNER
BRIAN H. BATZLI
DAVID K. TELLERSON
HALL E. A. FINUCANE
JOHN J. GRESENS*
D. RANDALL BOYER

*NOT ADMITTED IN MINNESOTA

SENT BY FEDERAL EXPRESS

October 11, 1988

88 OCT 12 PM 2:42

88 OCT 12 AM 10:56

HAND DELIVERED

Federal Election Commission
Attn: Robert A. Raich, Esq.
999 E Street N.W.
Washington, D.C. 20463

Re: National Association of Real Estate Appraisers, Inc. and E. Kenneth Twichell
Our Ref: M&G 3230.23-US-AA
Your Ref: MUR 2593

Dear Mr. Raich:

Enclosed herewith are responses to certain interrogatories and requests for documents served upon National Association of Real Estate Appraisers, Inc. Accompanying the responses are copies of the documents requested. Also enclosed herewith is E. Kenneth Twichell's responses to certain interrogatories and document requests.

After consultation with Robert G. Johnson of the National Association of Real Estate Appraisers, Inc. and E. Kenneth Twichell, it is believed that certain explanations may be helpful. These comments and explanations are directed to certain statements contained within the Commission's "Factual and Legal Analysis" accompanying the September 7, 1988 letter from the Federal Election Commission Chairman.

9504367009 7

FACTUAL AND LEGAL ANALYSIS RELATING TO RESPONDENT
NATIONAL ASSOCIATION OF REAL ESTATE APPRAISERS

The first sentence under Section A refers to the Association's approval of a certain letter mailed by Mr. Twichell. It should be understood that this approval was given by the Executive Committee of the Association to Mr. Twichell only after Mr. Twichell contacted the Federal Election Commission and was told that using the Association's letterhead was appropriate so long as Mr. Twichell reimbursed the Association for the cost. As the responses of the parties indicate, Mr. Twichell reimbursed the Association.

The third sentence of Section A refers to the Vice President writing personally to those who contribute $500.00 or more. This statement was not authorized by the Association.

On page two of the "Factual and Legal Analysis", the last sentence of the top paragraph refers to the solicitation being "the Board's idea". The Board of Directors of the Association was never consulted nor did it give approval for the solicitation.

On page three, second sentence of the second paragraph, it is stated that the solicitation was prepared "on behalf of the Association itself, during the course of his employment". The solicitation was not prepared on behalf of the Association and it was prepared by Mr. Twichell after regular business hours. The sentences following concerning the Board of Directors and receiving approval have already been addressed above.

On page four, first sentence of the first full paragraph, reference is made to the word "eventually". The Association objects to this word being used if the characterization is that there was considerable delay. The reimbursement took place less than one month after the expense was incurred. Moreover, use of the word "some" is incorrect in that all direct costs were paid. The next sentence refers to Mr. Twichell not adequately reimbursing the Association. This is incorrect in that all costs were reimbursed.

Footnote one refers to Mr. Twichell preparing the solicitation as part of his employment at the behest of the Association's Board of Directors. The solicitation was not prepared as a part of his employment and it was not at the behest of the Association's Board of Directors.

9504367098

Footnote two, page four, refers to a "commercially reasonable time". It is believed that one month is reasonable. Reference is also made in the first paragraph of footnote two to a "commercially reasonable rate". Unfortunately, no evidence can be found within the analysis of what constitutes a reasonable rate. This is also true with regard to the first sentence of the second paragraph of footnote two concerning what is a "normal and usual charge". It is believed that the figures discussed within paragraph two of footnote two are reasonable given the nature of the mailing to less than 2,500 persons. Moreover, the folding, stuffing, sealing and affixing of postage were performed by Mr. Twichell.

On page five, first paragraph, the Commission's regulations are discussed which permit membership organizations to send communications to its members. A statement is made that the Association disclosed no communication costs to the Commission. No such disclosure was made because the costs had been reimbursed and in any event, did not exceed $2,000.00. Therefore, there would have been no reason to disclose such costs.

As the foregoing demonstrates, there would appear to be no violation of 2 U.S.C. § 441(a) by the Association. Therefore, it appears clearly appropriate that no further action be taken against the Association and the Association respectfully requests the matter be closed.

FACTUAL AND LEGAL ANALYSIS RELATING TO
RESPONDENT E. KENNETH TWICHELL

The last sentence of the top paragraph on page two refers to the solicitation being "the Board's idea". Mr. Twichell never represented that the solicitation was the Board's idea.

The second paragraph on page three refers to the solicitation failing to state whether it was authorized by a candidate. Mr. Twichell admits that he did not say it was not authorized. Mr. Twichell simply did not know that such a statement was necessary. The second sentence of paragraph two on page three refers to the Commission being unable to determine whether the solicitation may have been authorized by the Vice President or his agents. Mr. Twichell admits that the solicitation was not authorized by the Vice President or his agents.

9504367009 9

The first paragraph of page four refers to "in-kind contributions". No definition has been given as to what constitutes "in-kind" contributions. It is therefore difficult to assess whether Mr. Twichell's activities constitute "in-kind" contributions.

The second paragraph on page four refers to Mr. Twichell making excessive contributions. It would appear that Mr. Twichell may have technically exceeded the $1,000.00 limit. Mr. Twichell, to the extent he exceeded the $1,000.00 limit, did so unknowingly and without any willful intent. Furthermore, the reference to any costs for "thank-you letters" are not relevant in that no follow up letters were sent.

Accordingly, Mr. Twichell requests the Commission's thoughtful consideration in reaching a fair and reasonable conciliation agreement.

Sincerely,

D. Randall King

DRK/dmm
Enclosures: NAREA's Responses to Interrogatories and Requests For Documents
Copies of Documents Requested
E. Kenneth Twichell's Responses to Interrogatories and Document Requests

9504367010 0

NATIONAL ASSOCIATION OF REAL ESTATE APPRAISERS, INC.'s RESPONSES TO INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS
MUR 2593

REQUEST 1:

Produce all of your Certificates of Incorporation, Articles of Incorporation, and Bylaws.

RESPONSE TO REQUEST 1:

The documents requested accompany this response.

REQUEST 2:

Identify all of your officers.

RESPONSE TO REQUEST 2:

John E. Steensland - President

E. Kenneth Twichell - Managing Director

Robert G. Johnson - Chairman of Nominations and Executive Committee

REQUEST 3:

Identify all of your directors.

RESPONSE TO REQUEST 3:

John E. Steensland

Dennis E. Theisen

Michael W. Ofsansky

Joseph J. Villa

Thomas T. Nakahara

David E. Stone

E. Kenneth Twichell

REQUEST 4:

Identify the director referred to as a "close friend" of Vice President George Bush in paragraph two of the solicitation.

9504367011

RESPONSE TO REQUEST 4:

It is believed that the person referred to is Robert G. Johnson. Mr. Johnson is not a director of National Association of Real Estate Appraisers, Inc.

REQUEST 5:

State whether you authorized the solicitation.

RESPONSE TO REQUEST 5:

No

REQUEST 6:

Identify all of your officers and directors who consented to the solicitation.

RESPONSE TO REQUEST 6:

John E. Steensland

E. Kenneth Twichell

Robert G. Johnson

REQUEST 7:

Produce complete minutes of all meetings of your directors or officers at which the solicitation was discussed, mentioned, or referred to.

RESPONSE TO REQUEST 7:

No such minutes exist.

REQUEST 8:

State whether E. Kenneth Twichell was paid or reimbursed in any way for expenses he incurred in connection with the solicitation. If your answer is in the affirmative, state the dates, amounts, and methods of each such payment or reimbursement.

9504367010 2

RESPONSE TO REQUEST 8:

No

REQUEST 9:

State the total number of persons to whom the solicitation was sent.

RESPONSE TO REQUEST 9:

The exact number is presently unknown but thought to be less than 2,500 persons.

REQUEST 10:

State whether the solicitation was sent to any persons who were not your members. If your answer is in the affirmative, state the total number of non-members to whom the solicitation was sent.

RESPONSE TO REQUEST 10:

No

REQUEST 11:

State the criteria for membership in National Association of Real Estate Appraisers. Your answer should include, but should not be limited to, stating whether:

a. there are any requirements that a person pay a set amount of dues to become a member;

b. there are any requirements that a person affirmatively state his or her intent to become a member before being considered a member;

c. there are any requirements concerning renewal of membership;

d. there any conditions under which a person can lose his or her membership;

e. members play an active part in the operation or administration of the corporation;

9504367010103

f. members elect corporate officials or have any voting rights;

g. members have an opportunity to attend membership meetings;

h. members have any control over your financial disbursements; and

i. there are any other requirements for, or rights of, membership.

RESPONSE TO REQUEST 11:

Generally the criteria for membership in National Association of Real Estate Appraisers is two years experience in the appraisal or real estate industry, passing of an exam administered by National Association of Real Estate Appraisers, Inc., and the submission of two examples of completed appraisals.

a. Yes, $95.00 per year.

b. A person must complete an application and submit it to National Association of Real Estate Appraisers.

c. Yes, payment of annual dues.

d. Yes; non-payment of annual dues, actions taken which are not in the best interest of the association or in derogation of its reputation, commission of acts detrimental to the profession.

e. No

f. No

g. Yes

h. No

i. Yes; membership confers upon the member the right to use certain collective membership marks.

9504367010 4

REQUEST 12:

For each requirement or condition mentioned in your answer to Question 11, state whether the requirement or condition has been approved by your board of directors, and whether the requirement or condition is written.

RESPONSE TO REQUEST 12:

The requirements have been approved by the Board of Directors and the best evidence of the requirements are the application form.

REQUEST 13:

Produce all documents stating the requirements for membership.

RESPONSE TO REQUEST 13:

Accompanying these responses is a copy of National Association of Real Estate Appraisers, Inc.'s application form.

REQUEST 14:

For each requirement or condition mentioned in your answer to question 11, state whether members and potential members are notified of the requirement or condition, and, if so, the manner in which they are notified.

RESPONSE TO REQUEST 14:

Yes; the members and potential members are notified of the requirements by reviewing the application for membership form.

REQUEST 15:

State whether E. Kenneth Twichell, you, or any person affiliated with you, were provided with a list of contributors from the Vice President's Campaign Director or any person

9504367010 5

affiliated with the George Bush for President committee. If your answer is in the affirmative, identify the persons who received the information, identify the persons who provided the information, and state each date on which such information was provided.

RESPONSE TO REQUEST 15:

Yes; Robert G. Johnson received the information, Lucy Cole provided the information, and the date that the information was provided is presently unknown.

REQUEST 16:

The solicitation stated that E. Kenneth Twichell would be provided with a list of contributors so that he could respond. State whether E. Kenneth Twichell, you, or any person affiliated with you, responded as a result of being provided with a list of contributors. If your answer is in the affirmative, identify each person who responded; state the manners, dates, and costs of such responses; and state who paid for such responses and whether the persons who paid were in any way reimbursed for such payments, and, if so, the date, amount, and method of each such reimbursement.

RESPONSE TO REQUEST 16:

No; no contributions were received as a result of the solicitation.

REQUEST 17:

The solicitation states that the Vice President will write personally to those who contribute $500 or more. Identify all persons who gave such assurances to E. Kenneth Twichell, and

9504367010 6

identify all persons who made such assurances on behalf of the Vice President. State the substance and the date of each such assurance.

RESPONSE TO REQUEST 17:

No such assurances were given to E. Kenneth Twichell.

REQUEST 18:

Identify all persons to whom you have rented your mailing list from January 1, 1987, through the present. State the rate you charged each such person for rental of the mailing list.

RESPONSE TO REQUEST 18:

The mailing lists were rented to two computer companies whose identity is presently unknown. The lists were also rented to Todd Publishing and International Real Estate Institute. The rates charged the latter two companies were $50.00 per 1,000.

REQUEST 19:

State whether Robert G. Johnson had any title in connection with the George Bush for President fundraising effort. If your answer is in the affirmative, state each of Mr. Johnson's titles.

RESPONSE TO REQUEST 19:

Yes; Co-Chairman of the Arizona Fundraising Committee.

REQUEST 20:

State whether Robert G. Johnson had any responsibilities or duties in connection with the George Bush for President fundraising effort. If your answer is in the affirmative, describe all such responsibilities and duties.

9504367010 7

RESPONSE TO REQUEST 20:

Yes; a manual was provided to Mr. Johnson by the George Bush National Committee detailing his duties and responsibilities. The George Bush National Committee ceased operating approximately two months ago and Mr. Johnson at that time disposed of the manual he had received from the committee.

REQUEST 21:

State all instructions and information Robert G. Johnson received with regard to sending or approving mailings on behalf of the George Bush for President campaign.

RESPONSE TO REQUEST 21:

The manual referred to in answer to interrogatory 20 provided the instructions and information with regard to sending or approving mailings on behalf of the George Bush for President campaign. However, with the cessation of activity by the George Bush National Committee, the manual was no longer needed and therefore, was disposed of.

9504367010 8

REQUEST 22:

With regard to each question above, identify the natural person responding, and identify all persons who provided any information used in the preparation of the response.

RESPONSE TO REQUEST 22:

Robert G. Johnson

NATIONAL ASSOCIATION OF REAL ESTATE APPRAISERS, INC.

10/6/88
Date

By _____
Robert G. Johnson
Executive Director

The foregoing instrument was acknowledged before me this 6th day of October, 1988.

Laura Margaret Laing
Notary Public EXPIRES NOV 28, 1988

9504367010 9

5P 578

3566

ARTICLES OF INCORPORATION

OF

NATIONAL ASSOCIATION OF REAL ESTATE APPRAISERS, INC.

The undersigned natural person, being eighteen (18) years of age or older, in order to form a corporate entity under Minnesota Statutes, Chapter 302A, adopts the following Articles of Incorporation.

I.

The name of this corporation shall be NATIONAL ASSOCIATION OF REAL ESTATE APPRAISERS, INC.

II.

The corporation shall have a perpetual existence.

III.

The corporation is organized for general business purposes.

IV.

The registered office of this corporation is located at: 408 Midwest Federal Building, Saint Paul, Ramsey County, Minnesota 55101. The registered agent for service of process is Mr. John E. Streensland.

V.

The total number of shares which the corporation shall have authority to issue is 150 shares of common stock each having no par value.

055119

9504367011 0

3567

VI.

The name and post office address of the incorporator is:

Robert G. Johnson — 8715 Via De Commercio, Scottsdale, Arizona 85268

IN WITNESS WHEREOF, the undersigned has hereunto set his hand on this 15th day of May, 1987.

Robert G. Johnson

STATE OF MINNESOTA)
) ss
COUNTY OF WASHINGTON)

On this 15th day of May, 1987, personally appeared before me Robert G. Johnson, known to me to be the person named in and who executed the foregoing Articles of Incorporation and acknowledged it to be his own free act and deed for the uses and purposes therein expressed.

Notary Public

D. RANDALL KING
NOTARY PUBLIC - MINNESOTA
WASHINGTON COUNTY
My Comm. Expires April 7, 1991

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
JUN 10 1987
Joan Anderson Growe
Secretary of State

9504367011

State of Minnesota

SECRETARY OF STATE

CERTIFICATE OF INCORPORATION

I, Joan Anderson Grove, Secretary of State of Minnesota, do certify that: Articles of Incorporation, duly signed and acknowledged under oath, have been filed on this date in the Office of the Secretary of State, for the incorporation of the following corporation, under and in accordance with the provisions of the chapter of Minnesota Statutes listed below.

This corporation is now legally organized under the laws of Minnesota.

Corporate Name: NATIONAL ASSOCIATION OF REAL ESTATE APPRAISERS, INC.

Corporate Charter Number: 5P-578

Chapter Formed Under: 302A

This certificate has been issued on 06/18/1987.

Joan Anderson Grove

Secretary of State.

9504367012

BY-LAWS

ARTICLE I. NAME AND LOCATION

SECTION 1. The name of this corporation shall be National Association of Real Estate Appraisers, Inc.

SECTION 2. Its principal office shall be located at 8715 Via De Commercio Scottsdale, Arizona 85258

SECTION 3. Other offices for the transaction of business shall be located at such places as the Board of Directors may from time to time determine.

ARTICLE II. SHAREHOLDERS' MEETING

SECTION 1. The annual meetings of the shareholders shall be held at o'clock on the day of , in each year at the registered office of the corporation or at such other place as may be designated by the Board of Directors; provided, however, that whenever such day shall fall upon a Sunday or a legal holiday, the meeting shall be held on the next succeeding business day. At such meeting the shareholders shall elect directors to serve for one year or until their successors are duly elected and qualified.

SECTION 2. A special meeting of the shareholders, to be held at the same place as the annual meeting may be called at any time by the president and chief executive officer and in his absence by the vice-president or by the directors. It shall be the duty of the directors, president and chief executive officer or vice-president, to call such a meeting whenever so requested by shareholders holding ten per cent or more of the voting power of the shareholders of the corporation.

SECTION 3. Notice of the time and place of all annual and special meetings shall be mailed by the secretary to each shareholder to the last known address of said shareholder as the same appears on the books of the corporation at least days before the date of all annual and special meetings.

SECTION 4. The president and chief executive officer. or in his absence, the vice-president shall preside at all such meetings.

SECTION 5. At every such meeting each shareholder shall be entitled to cast one vote for each share of voting stock held in his name, which vote may be cast by him either in person or by proxy. All proxies shall be in writing and shall be filed with the secretary and by him entered of record in the minutes of the meeting.

SECTION 6. Every shareholder shall have the right to vote in person or by proxy for the number of shares owned by him, for as many persons as there are directors to be elected; or upon written notice to the president and chief executive officer or secretary of the corporation not less than twenty-four hours before the time fixed for holding a meeting for the election of directors, a shareholder may cumulate said shares and give one candidate as many votes as the number of directors multiplied by the number of his shares shall equal, or to distribute them on the same principal among as many candidates as he shall think fit. If a notice of intention to cumulate shares has been received, it shall be the duty of the presiding officer, upon the convening of the meeting, to announce that such notice has been given.

SECTION 7. A quorum for the transaction of business at such meeting shall consist of a number of members representing a majority of the shares issued and outstanding; but the shareholders present at any meeting, though less than a quorum, may adjourn the meeting to a future time without notice other than an accouncement at the meeting.

ARTICLE III. BOARD OF DIRECTORS

SECTION 1. The business and property of the corporation shall be managed by a Board of Directors who shall be elected annually by the shareholders at the annual meeting and shall hold office for one year or until their successors are duly elected and qualified.

9504367011 3

SECTION 2. The annual meetings of the directors shall be held without notice immediately after the adjournment of each shareholders' meeting or at such time as may be provided by the Board of Directors.

SECTION 3. Special meetings of the Board of Directors may be called by the president and chief executive officer and in his absence by the vice-president, or by any member of the Board of Directors. By unanimous consent of the directors, special meetings of the Board may be held without notice at any time and place.

SECTION 4. Notice of all regular and special meetings, except those specified in the second sentence of Section 3 of this Article, shall be mailed or telegraphed to each director by any director at least days previous to the time fixed for the meeting. All notices of special meetings shall state the purpose thereof.

SECTION 5. A quorum for the transaction of business at any regular or special meeting of the directors shall consist of members of the Board.

SECTION 6. The directors shall elect the officers of the corporation and fix their salaries; such election to be held at the directors' meeting following each annual shareholders' meeting.

SECTION 7. Vacancies in the Board of Directors may be filled for the unexpired terms by the remaining directors at any regular or special directors' meeting.

SECTION 8. The directors may by resolution appoint two or more members of the Board as an executive committee to manage the business of the corporation during the interim between meetings of the Board.

SECTION 9. At each annual shareholders' meeting, the directors shall submit a statement of the business done during the preceding year together with a report of the general financial condition of the corporation and of the condition of its tangible property.

ARTICLE IV. OFFICERS

SECTION 1. The officers of this corporation shall be a president and chief executive officer, a secretary and a treasurer and chief financial officer, who shall be elected for the term of one year and shall hold office until their successors are duly elected and qualified. Any of the offices may be held by the same person.

SECTION 2. The president and chief executive officer shall preside at all directors' and shareholders' meetings and shall have general supervision over the affairs of the corporation and over the other officers. The president and chief executive officer shall execute all bonds, mortgages, and other contracts of the corporation, and shall perform all such other duties as are incident to his office. In case of the absence or disability of the president and chief executive officer, his duties shall be performed by the vice-president.

SECTION 3. The secretary shall issue notices of directors' and shareholders' meetings and shall attend and keep the minutes of the same; shall have charge of all corporate books, records and papers; shall be custodian of the corporate seal; shall attest with his signature and impress with the corporate seal all stock certificates and written contracts of the corporation, and shall perform all such other duties as are incident to his office.

SECTION 4. The treasurer and chief financial officer shall have the custody of all moneys and securities of the corporation and shall give bond in such sum and with such sureties as the directors may require, conditioned upon the faithful performance of the duties of his office. He shall sign all checks of the corporation, shall keep regular books of account, and shall submit them, together with all his vouchers, receipts, records, and other papers, to the directors for their examination and approval as often as they may require and shall perform all such other duties as are incident to his office.

9504367011 4

ARTICLE V. SHARES

SECTION 1. All certificates of shares shall be signed by the president and chief executive officer and secretary and shall be sealed with the corporate seal.

SECTION 2. Transfers of stock shall be made only on the books of the corporation and the old certificate properly endorsed shall be surrendered and cancelled before a new certificate is issued. The stock books of the corporation shall be closed against transfer for a period of days before the date of payment of a dividend and for days before each annual meeting of the shareholders.

SECTION 3. In case of loss or destruction of a certificate of stock, no new certificate shall be issued in lieu thereof except upon satisfactory proof to the Board of Directors of such loss or destruction and upon the giving of satisfactory security, by bond or otherwise, against loss to the corporation.

ARTICLE VI. DIVIDENDS AND FINANCE

SECTION 1. Dividends to be paid out of the earned surplus of the corporation may be declared from time to time by resolution of the Board of Directors.

SECTION 2. The funds of the corporation shall be deposited in such bank or trust company as the directors shall designate and shall be withdrawn only upon the check or order of the treasurer and chief financial officer and countersigned by the president and chief executive officer.

ARTICLE VII. AMENDMENTS

SECTION 1. Amendments to these By-Laws may be made by a vote of the Board of Directors at any annual or special meeting.

9504367011 5

NATIONAL ASSOCIATION OF REAL ESTATE APPRAISERS

8383 East Evans Road • Scottsdale, Arizona 85260-3614 • (602) 948-8000

APPLICATION FOR ADMISSION

Name _____ (Last) (First) (Middle Initial)

Business Affiliation _____ Title _____

Business Address _____ (Number-Street) (City) (State) (Zip)

Business Telephone ( ) _____ Residence Telephone ( ) _____

Residence Address _____ (Number-Street) (City) (State) (Zip)

Please indicate to which address you would like mail sent: ☐ *Business or* ☐ *Residence*

1. Employment Experience (for the last five years)

COMPANY NAME
COMPANY ADDRESS
RESPONSIBILITIES
EMPLOYMENT DATES
TELEPHONE ( )

COMPANY NAME
COMPANY ADDRESS
RESPONSIBILITIES
EMPLOYMENT DATES
TELEPHONE ( )

COMPANY NAME
COMPANY ADDRESS
RESPONSIBILITIES
EMPLOYMENT DATES
TELEPHONE ( )

2. Education (including Appraisal Courses and Seminars)

A. _____
B. _____
C. _____
D. _____

3. List other Professional Associations with which you are affiliated:

A. _____
B. _____
C. _____

9504367011 6

4. List below the names of two (2) character references

	Name	Business	Telephone
1.			( )
2.			( )

5. Indicate status for which you are applying (check only one)

☐ **Candidate Status**

Requirements:

A. Applicant must have an interest in Appraising and/or related fields.

B. Applicant must submit a completed "Application for Admission."

C. Applicant must submit a check for membership dues and a one time processing fee of $10.00. Annual membership dues of $65.00 are billed June 1. New membership dues may be prorated.

☐ **"CREA — Certified Real Estate Appraiser" Designation**

Requirements:

A. Applicant must possess at least two (2) years of real estate experience or its educational equivalent as determined by the Admissions Commitee of NAREA.

B. Should the state in which the applicant resides currently have an Appraiser Licensing Law, the applicant must be licensed within their state and submit a copy of their license.

C. Applicant must submit two (2) appraisal reports (URAR-FNMA 1004, etc. . . .) that are demonstrative of the type of appraisals performed.

D. Applicant must complete and pass the Association's "Appraiser's Certification Exam." (This exam will be sent to the applicant after the Association has received a completed application for admission and two (2) appraisal reports. The cost for the exam is $25.00).

E. Applicant must submit a completed "Application for Admission."

F. Applicant must submit a check for membership dues and a one time processing fee of $10.00. Annual membership dues of $95.00 are billed June 1. New membership dues may be prorated.

I do hereby apply for membership with the National Association of Real Estate Appraisers. I certify under oath, that all questions have been answered to the best of my knowledge and ability. If approved, I shall abide by the rules, regulations and code of ethics of the National Association of Real Estate Appraisers.

Signature _____ Date _____

With your application include:

Candidate Status

A. Application for Admission

B. Annual Membership dues and a one time processing fee of $10.00. Annual Membership dues of $65.00 are billed June 1. New membership dues may be prorated.

"CREA — Certified Real Estate Appraiser" Designation

A. Application for Admission

B. Two (2) Appraisal Reports (URAR-FNMA 1004, etc. . . .)

C. Annual Membership dues and a one-time processing fee of $10.00. Annual membership dues of $95.00 are billed June 1. New membership dues may be prorated.

Send your application to:

NATIONAL ASSOCIATION OF REAL ESTATE APPRAISERS
8383 East Evans Road
Scottsdale, Arizona 85260-3614 USA
(602) 948-8000

© 1988, National Association of Real Estate Appraisers, Inc.

9504367011 7

E. KENNETH TWICHELL's RESPONSES TO INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS
MUR 2593

REQUEST 1:

State whether any person other than you paid any amount in connection with the solicitation. If your answer is in the affirmative, identify each such other person and state the amounts such persons paid.

RESPONSE TO REQUEST 1:

No

REQUEST 2:

State whether you were paid or reimbursed in any way for expenses you incurred in connection with the solicitation. If your answer is in the affirmative, state the dates, amounts, and methods of each such payment or reimbursement.

RESPONSE TO REQUEST 2:

No

REQUEST 3:

State the total amount of contributions you have made to the George Bush for President committee, and state the date of each contribution.

RESPONSE TO REQUEST 3:

$1,000.00; the date of the contribution was January 28, 1988.

REQUEST 4:

State the total number of persons to whom the solicitation was sent.

9504367011 8

RESPONSE TO REQUEST 4:

The exact number is presently unknown but is believed to be less than 2,500.

REQUEST 5:

State whether the solicitation was sent to any persons who were not members of the Association. If your answer is in the affirmative, state the total number of non-members to whom the solicitation was sent.

RESPONSE TO REQUEST 5:

No

REQUEST 6:

State whether you were provided with a list of contributors from the Vice President's Campaign Director or any person affiliated with the George Bush for President committee. If your answer is in the affirmative, identify the persons who received the information, identify the persons who provided the information, and state each date on which such information was provided.

RESPONSE TO REQUEST 6:

No

REQUEST 7:

In the solicitation you stated that you would be provided with a list of contributors so that you could respond. State whether you responded as a result of being provided with a list of contributors. If your answer is in the affirmative, state the manners, dates, and costs of such responses; and state who paid for such responses and whether the persons who paid were in any

9504367011 9

way reimbursed for such payments. If such reimbursements occurred, state the date, amount, and method of each such reimbursement.

RESPONSE TO REQUEST 7:

No

REQUEST 8:

In the solicitation you stated that the Vice President will write personally to those who contribute $500 or more. Identify all persons who gave you such assurances, and state the substance and the date of each such assurance.

RESPONSE TO REQUEST 8:

When preparing the solicitation, I contacted the national headquarters for Bush and inquired as to whether a person giving $500.00 or more would receive a note of thanks from the Vice President. The person to whom I was speaking, whose identity is presently unknown, stated that the Vice President would personally write to those who contribute $500.00 or more. The date of this telephone conversation is presently unknown.

9504367 0120

REQUEST 9:

With regard to each question above, identify the person responding, and identify all persons who provided any information used in the preparation of the response.

RESPONSE TO REQUEST 9:

E. Kenneth Twichell

NATIONAL ASSOCIATION OF REAL ESTATE APPRAISERS, INC.

10/6/88
Date

By E. K
E. Kenneth Twichell

The foregoing instrument was acknowledged before me this 6th day of October, 1988.

Notary Public Commission Expires Nov 30, 1988

9504367001 21

STATEMENT OF DESIGNATION OF COUNSEL

MUR 2593

NAME OF COUNSEL: D. Randall King, Esq.

ADDRESS: Merchant, Gould, Smith, Edell,
Welter & Schmidt, P.A.
1000 Norwest Center
St. Paul, Minnesota 55101

TELEPHONE: (612) 298-1055

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.

September 20, 1988
Date

E. K[illegible]
Signature E. Kenneth Twichell
Managing Director

RESPONDENT'S NAME: E. Kenneth Twichell

ADDRESS: Managing Director
National Association of Real Estate Appraisers, Inc
8383 East Evans Road
Scottsdale, Arizona 85260-3614

HOME PHONE: (602) 971-0927

BUSINESS PHONE: (602) 948-8000

9504367001222

STATEMENT OF DESIGNATION OF COUNSEL

MUR 2593

NAME OF COUNSEL: D. Randall King, Esq.

ADDRESS: Merchant, Gould, Smith, Edell,
Welter & Schmidt, P.A.
1000 Norwest Center
St. Paul, Minnesota 55101

TELEPHONE: (612) 298-1055

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.

September 20, 1988
Date

Signature Robert G. Johnson
Executive Director

RESPONDENT'S NAME: Robert G. Johnson
Executive Director

ADDRESS: National Association of Real Estate Appraisers, Inc.
8383 East Evans Road
Scottsdale, Arizona 85260-3614

HOME PHONE: (602) 991-9719

BUSINESS PHONE: (602) 948-8000

9504367012 3

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

November 7, 1988

D. Randall King, Esquire
Merchant, Gould, Smith, Edell, Welter & Schmidt
Suite One Thousand
Norwest Center
Saint Paul, Minnesota 55101

RE: MUR 2593
E. Kenneth Twichell
National Association of Real Estate Appraisers, Inc.

Dear Mr. King:

This confirms the substance of your October 26, 1988 conversation with Robert Raich of this Office.

In the event the Commission finds reason to believe E. Kenneth Twichell violated 2 U.S.C. § 434(c) by failing to report an independent expenditure exceeding $250, Mr. Twichell's request for pre-probable cause conciliation will extend to that new reason to believe finding.

We look forward to receiving your additional response to the Commission's Interrogatories, as discussed in the conversation. If we can be of further assistance to you, please do not hesitate to contact us.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

9504367012 4

RECEIVED
FEDERAL ELECTION COMMISSION
SECRETARIAT
88 NOV -8 AM 11:53

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
National Association of Real Estate Appraisers, Inc.	)	MUR 2593
E. Kenneth Twichell	)	

SENSITIVE

COMPREHENSIVE INVESTIGATIVE REPORT #1

On September 7, 1988, the Commission mailed letters to the respondents notifying them of the Commission's reason to believe findings and enclosing Questions and Document Requests. The respondents have now responded to the notifications and discovery requests, but a few issues require additional clarification. In a telephone conversation with a Commission attorney, the respondents' counsel stated that he will submit clarifying information shortly. After receipt of the additional information, this Office will make further recommendations to the Commission.

Lawrence M. Noble
General Counsel

Date 11/8/88

BY: LGL
Lois G. Lerner
Associate General Counsel

Staff Member: Robert Raich

9504367012 5

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/JOSHUA MCFADDEN

DATE: NOVEMBER 10, 1988

SUBJECT: MUR 2593
COMPREHENSIVE INVESTIGATIVE REPORT #1
SIGNED NOVEMBER 8, 1988

The above-captioned report was received in the Secretariat at 11:53 a.m. on Tuesday, November 8, 1988 and circulated to the Commission on a 24-hour no-objection basis at 11:00 a.m. on Wednesday, November 9, 1988.

There were no objections to the report.

9504367012 6

06044613

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

88 NOV 14 AM 10:39

MERCHANT, GOULD, SMITH, EDELL, WELTER & SCHMIDT
PROFESSIONAL ASSOCIATION
PATENT, TRADEMARK & COPYRIGHT LAWYERS
SUITE ONE THOUSAND
NORWEST CENTER
SAINT PAUL, MINNESOTA 55101
(612) 298-1055

OFFICES IN MINNEAPOLIS
AND ST. PAUL

FRANK D. MERCHANT (1869-1943)
RALPH P. MERCHANT (1907-1980)

TELEX 297470
TELECOPIER (612) 298-1160

JOHN D. GOULD
PHILLIP N. SMITH
ROBERT T. EDELL
PAUL A. WELTER
CECIL C. SCHMIDT
JOHN S. SUMNERS
ALAN G. CARLSON
MICHAEL L. SCHWEGMAN
EARL D. REILAND
CHARLES E. GOLLA
DOUGLAS J. WILLIAMS
DOUGLAS A. STRAWBRIDGE
ALBERT L. UNDERHILL
D. RANDALL KING
NORMAN P. FRIEDERICHS
MICHAEL B. LASKY
CURTIS B. HAMRE
MICHAEL D. SCHUMANN
MICHAEL L. MAU
JOHN W. BUNCH
JOHN A. CLIFFORD
MARK J. DIPIETRO

JANET R. WESTROM
STEVEN W. LUNDBERG
WARREN D. WOESSNER
DAVID G. JOHNSON
ALAN W. KOWALCHYK
MICHAEL S. SHERRILL
TIMOTHY P. CONRAD
DANIEL W. McDONALD
JANICE L. UMBEL
R. CARL MOY
ROBERT C. FREED
DANIEL J. KLUTH
WENDY McDONALD
LINDA M. BYRNE
MARK D. SCHUMAN
RANDALL A. MILLSON *
JOHN P. SUMNER
BRIAN H. BATZLI
DAVID R. FELLERSON
HALLIE A. FINUCANE
JOHN J. GRESENS *
D. RANDALL BOYER

* NOT ADMITTED IN MINNESOTA

88 NOV 14 PM 12:56

November 11, 1988

Federal Election Commission
Attn: Robert A. Raich, Esq.
999 E Street N.W.
Washington, D.C. 20463

Re: National Association of Real Estate Appraisers, Inc. and E. Kenneth Twichell
Our Ref: M&G 3230.23-US-AA
Your Ref: MUR 2593

Dear Mr. Raich:

Further to my letter of October 11, 1988 and its enclosures, enclosed herewith as requested by you are supplemental responses to certain interrogatories on behalf of the National Association of Real Estate Appraisers, Inc.

This letter is also to advise you that the National Association of Real Estate Appraisers, Inc., in addition to E. Kenneth Twichell, requests the Commission's consideration in reaching settlement of this matter.

Sincerely,

D. Randall King

DRK/dmm
Enclosure

9504367012 7

NATIONAL ASSOCIATION OF REAL ESTATE APPRAISERS, INC.'S SUPPLEMENTAL RESPONSES TO INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS
MUR 2593

REQUEST 5:

State whether you authorized the solicitation.

SUPPLEMENTAL RESPONSE TO REQUEST 5:

No, the Board of Directors of the company did not authorize the solicitation. As indicated in other responses, Mr. Twichell was given approval to use the company's letterhead and mailing lists upon the understanding that any expenses in connection therewith would be reimbursed to the company by Mr. Twichell.

REQUEST 18:

Identify all persons to whom you have rented your mailing list from January 1, 1987, through the present. State the rate you charged each such person for rental of the mailing list.

SUPPLEMENTAL RESPONSE TO REQUEST 18:

The mailing lists were rented to two computer companies whose identity is presently unknown. Upon further checking of documents, including bank deposit receipts, it has been impossible to determine the identity of the computer companies. The lists were also rented to Todd Publishing and International Real Estate Institute. The rates charged the latter two companies were $50.00 per 1,000.

9504367012 8

REQUEST 20:

State whether Robert G. Johnson had any responsibilities or duties in connection with the George Bush for President fundraising effort. If your answer is in the affirmative, describe all such responsibilities and duties.

SUPPLEMENTAL RESPONSE TO REQUEST 20:

Yes; a manual was provided to Mr. Johnson by the George Bush National Committee detailing his duties and responsibilities. The George Bush National Committee ceased operating approximately some months ago and Mr. Johnson at that time disposed of the manual he had received from the committee. Mr. Johnson cannot at this time delineate each of the responsibilities or duties contained within the manual.

REQUEST 21:

State all instructions and information Robert G. Johnson received with regard to sending or approving mailings on behalf of the George Bush for President campaign.

2504367012 9

SUPPLEMENTAL RESPONSE REQUEST 21:

The manual referred to in answer to interrogatory 20 provided the instructions and information with regard to sending or approving mailings on behalf of the George Bush for President campaign. However, with the cessation of activity by the George Bush National Committee, the manual was no longer needed and therefore, was disposed of. Mr. Johnson cannot at this time delineate each of the responsibilities or duties contained within the manual.

NATIONAL ASSOCIATION OF REAL ESTATE APPRAISERS, INC.

Nov 9th, 1988
Date

By _____
Robert G. Johnson
Executive Director

Subscribed to and sworn
to before me this 9th
day of NOVEMBER, 1988

_____
Notary Public

9504367013O

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 23, 1989

D. Randall King, Esquire
Merchant, Gould, Smith, Edell,
Welter & Schmidt
Suite One Thousand
Norwest Center
Saint Paul, Minnesota 55101

RE: MUR 2593
E. Kenneth Twichell

Dear Mr. King:

This confirms the substance of your June 21, 1989 conversation with Robert Raich of this Office.

In the event the Commission finds reason to believe E. Kenneth Twichell violated 2 U.S.C. § 441b(a) by consenting to a corporate contribution or expenditure as an officer or director of the corporation, Mr. Twichell's request for pre-probable cause conciliation will extend to that new reason to believe finding.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

9504367013 1

OGC 3318

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

89 JUL -5 AM 10:30

MERCHANT & GOULD

Merchant, Gould, Smith, Edell, Welter & Schmidt
Professional Association
Patent, Trademark & Copyright Lawyers

1000 Norwest Center
55 East Fifth Street
Saint Paul, Minnesota
U.S.A. 55101
FAX 612/298 1160
Telex 297470 MANDG Stp
612/298 1055

Robert T. Edell
Paul A. Welter
Cecil C. Schmidt
John S. Sumners
Alan G. Carlson
Micheal L. Schwegman
Earl D. Reiland
Charles E. Golla
Douglas J. Williams
Douglas A. Strawbridge
Albert L. Underhill
D. Randall King
Norman P. Friederichs
Michael B. Lasky
Curtis B. Hamre
Michael D. Schumann
Michael L. Mau
John W. Bunch
John A. Clifford
Mark J. DiPietro
Steven W. Lundberg
Warren D. Woessner
Janet R. Westrom
David G. Johnson
Alan W. Kowalchyk
Michael S. Sherrill
Timothy R. Conrad
Daniel W. McDonald
R. Carl Moy
Robert C. Freed
Daniel J. Kluth
Wendy McDonald
Linda M. Byrne
Mark D. Schuman
Randall A. Hillson
John P. Sumner
Brian H. Batzli
David K. Tellekson
Hallie A. Finucane
John J. Gresens
Steven J. Keough
Paul E. Lacy
Michelle M. Michel
Philip P. Caspers
Gregory A. Sebald
Jane H. Arrett

July 3, 1989

Federal Election Commission
Attn: Lois G. Lerner
Associate General Counsel
Washington, D.C. 20463

Re: MUR 2593
E. Kenneth Twichell
Our Ref: M&G-3230.23-US-AA

Dear Ms. Lerner:

This is to acknowledge receipt of and respond to your letter of June 23, 1989. To the extent I can understand what you are saying, it would appear that you believe E. Kenneth Twichell to have violated 2 U.S.C. §441b(a). To the extent that we indicated that Mr. Twichell was an officer of the National Association of Real Estate Appraisers, we were in error. Mr. Twichell is not an officer of the company. He is, however, a member of the Board of Directors of the corporation.

Irrespective of the foregoing, Mr. Twichell would like to resolve this matter by settling it as soon as possible. If that is what you are requesting in your June 23, 1989 letter by referencing "pre-probable cause conciliation", Mr. Twichell requests settlement of the matter by that method.

Sincerely,

D. Randall King

DRK:tad

RECEIVED
FEDERAL ELECTION COMMISSION
ADMINISTRATIVE LAW DIVISION
89 JUL -5 AM 10:16

9504367013 2

MUR 3942

#866

U.S. Department of Labor

Employment Standards Administration
Wage & Hour Division
3221 N. 16th Street, #301
Phoenix, AZ 85016
(602) 241-2990

July 12, 1989

PREMUR 220

Director
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

re: Robert Johnson; International Association Managers, Inc.; National Association of Real Estate Appraisers; National Association of Review Appraisers and Mortgage Underwriters; International Real Estate Institute; Professional Womens Appraisal Association; Robert Johnson and Associates; Todd Publishing - 8383 E. Evans Road, Scottsdale, AZ 85260

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
89 JUL 18 AM 9:10

Dear Sir:

During an investigation conducted by this office to determine if the above referenced firms were operating in compliance with the Fair Labor Standards Act and other Federal labor laws, I came across evidence of possible violations of Federal laws enforced by your agency.

A former employee of the firms, when interviewed in connection with the investigation, offered the enclosed write up detailing what she thought were violations. I am forwarding it to your office for what ever use you can make of it. She is willing to discuss the matter with your investigators at any time if you should deem it appropriate. She may be reached at:

Barbara Hemmerick
19414 N. 7th Place
Phoenix, AZ 85024
[redacted]
WK - 371-2453

Sincerely,

William Whitfield
Compliance Officer

9504367013 3

II. Possibly Illegal Activity with Regard to Federal Election

Robert G. Johnson served as Chairman for the Republican Eagles, a fund-raising organization for the Bush campaign during the 1988 presidential election. It was told to me by two other employees of the Associations that Johnson used company funds to make contributions to the Bush campaign, as well as to solicit members of the Associations to contribute to the Bush campaign. The names of these employees who told me about this activity are:

Patricia Davidson Jean Johnson

A check in the amount of $10,000 was drawn from the company account and paid to the order of E. Kenneth Twichell, Managing Director for NAREA; a second check for $10,000 was drawn from this same account and paid to the order of Timothy Cloud, Manager of Computer Operations for the Associations. Twichell and Cloud were then instructed by Johnson to deposit the checks into their respective personal checking accounts and then, write personal checks in the amount of $10,000 each, paid to the order of the Bush Campaign.

* I don't know which Association the check was drawn from. Possibly "NARSA" or "NARA/MU" or "IAM, Inc."

Timothy Cloud did make a copy of the $10,000 check that he received from Robert Johnson and I believe that he still has it in his possession. I do not know if Ken Twichell made a copy of his check, but a personal bank statement could verify the checking deposit and withdrawal in both cases. Johnson also may have used this same procedure with another employee of the Associations, Mr. Stephen Schneck, Director of Publications, who happens to be his brother-in-law.

Johnson also used funds from the Associations to solicit members of NARA/MU and NAREA to make contributions to the Bush campaign. In doing so, he used company stationery, the non-profit postage meter from the Associations, and employee labor. A former employee, Kelly Rossi (Executive Assistant for Ken Twichell) can attest to the fact that she did envelope stuffing at her home and was paid for it with a check from NAREA. She may have a copy of the check that she received.

One of the members of NARA/MU who received a contribution solicitation letter has filed a lawsuit against Johnson and the Associations. Patricia Davidson has a copy of a letter which Ken Twichell sent to him, denying that the Associations had any part in the solicitation. This letter was notarized under diress by Ann Bourget, the receptionist for the Associations at that time. When she questioned the purpose of the letter, Mr. Johnson told her that she didn't need to understand its purpose, just to notarize it, and that his attorney was waiting. She did so, for fear of losing her job.

9504367013 4

After the election, I personally typed Johnson's resume and letters to President Bush and Fred Ziedler (an associate of Bush who serves on his administration in some way). The letters and resume described Johnson's accomplishments as Chairman of the Republican Eagles and his qualifications for a position in the Bush administration. I mailed the letters and resumes by Federal Express on December 3, 1988.

Below are names of persons who may require contact from you:

Kelly Rossi
18002 N 31st St.
Phoenix, AZ 85032
482-8289

Jean Johnson
2849 E. North Lane
Phoenix, AZ 85028
482-6098

Timothy Cloud
996-8062
*presently employed w/the Associations

*Patricia Davidson
(currently relocating to Texas,
will furnish address/phone later)

Ann Bourget
[redacted]
(W) 257-8333

Barbara J. Hemmerick
July 26, 1989

9504367013 5

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

July 28, 1989

William Whitfield
Compliance Officer
Employment Standards Administration
U.S. Department of Labor
3221 North 16th Street, #301
Phoenix, Arizona 95016

RE: Pre-MUR 220

Dear Mr. Whitfield:

This is to acknowledge receipt of your letter on July 18, 1989, advising us of the possibility of a violation of the Federal Election Campaign Act of 1971, as amended ("the Act"), by Robert Johnson; International Association Managers, Inc.; National Association of Real Estate Appraisers; National Association of Review Appraisers and Mortgage Underwriters; International Real Estate Institute; Professional Womens Appraisal Association; Robert Johnson and Associates; and Todd Publishing. We are currently reviewing the matter and will advise you of the Commission's determination.

If you have any questions or additional information, please call Robert Raich, the attorney assigned to this matter, at (202)376-5690. Our file number for this matter is Pre-MUR 220.

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 until the file has been closed.

Sincerely,

Lawrence M. Noble
General Counsel

By: Lois G. Lerner
Associate General Counsel

9504367013 6

RECEIVED
FEDERAL ELECTION COMMISSION
SECRETARIAT

89 SEP -8 AM 11:21

SENSITIVE

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

FIRST GENERAL COUNSEL'S REPORT

Pre-MUR 220/MUR 2593
STAFF MEMBER: R. Raich

SOURCE: I N T E R N A L L Y G E N E R A T E D

RESPONDENTS: E. Kenneth Twichell
Robert Johnson
National Association of Real Estate Appraisers, Inc.
National Association of Review Appraisers and Mortgage Underwriters, Inc.
International Association Managers, Inc.

RELEVANT STATUTES: 2 U.S.C. §§ 441b(a) and 441f

INTERNAL REPORTS CHECKED: MUR 2593 draft General Counsel's Report
Records from Bush Committee audit
Public Record

FEDERAL AGENCIES CHECKED: U.S. Department of Labor, Employment Standards Administration

I. GENERATION OF MATTER

MUR 2593 involves direct mail solicitations on behalf of the George Bush for President Committee sent by officials of the National Association of Real Estate Appraisers, Inc. ("NAREA").[1] The respondents requested pre-probable cause conciliation, and after analysis of the matter, this Office was prepared to circulate a report dealing with such request. We recently

1. The reason to believe finding named that respondent simply as "National Association of Real Estate Appraisers." Through the Investigation in MUR 2593, the General Counsel's Office has discovered that the respondent's complete name includes the suffix "Inc."

9504367013 7

received, however, a referral from the Department of Labor which contains further information and additional allegations of wrongdoing by NAREA and additional entities (Attachment 1). This report recommends that the Commission deny respondents' conciliation request, make new reason to believe findings, and investigate further in the matters.

II. FACTUAL AND LEGAL ANALYSIS

It is unlawful for any corporation to make a contribution or expenditure in connection with a federal election, or for any corporate officer or director to consent to any contribution or expenditure by the corporation. 2 U.S.C. § 441b(a). No person may make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution. 2 U.S.C. § 441f.

According to the referral, the Labor Department's Employment Standards Administration, responsible for enforcement of the Fair Labor Standards Act, interviewed employees of NAREA and other organizations apparently associated with Robert Johnson, a director of NAREA. These other organizations are National Association of Review Appraisers and Mortgage Underwriters, Inc. ("NARA/MU"); International Association Managers, Inc. ("IAM"); International Real Estate Institute; Professional Womens Appraisal Association; Robert Johnson and Associates; and Todd Publishing. According to a former employee, other employees of the firms related to her that "[Robert] Johnson used company funds to make contributions to the Bush campaign, as well as to solicit members of the Associations to contribute to the Bush campaign."

9504367013 8

Attachment 1, p. 2.

Specifically, the employee states that company checks of $10,000 each were used to reimburse Managing Director E. Kenneth Twichell, Manager of Computer Operations Timothy Cloud, and possibly Director of Publications Stephen Schneck for personal checks to the Bush campaign in the amount of $10,000 each. She notes that these checks may have come from NAREA, NARA/MU, or IAM. She also states that Robert Johnson used "company stationary, the non-profit postage meter from the Associations, and employee labor" to solicit contributions to the Bush campaign from members of two of the organizations: NAREA and NARA/MU. At its conclusion, the referral material lists names, addresses, and telephone numbers of individuals with personal knowledge of the transactions in question.

MUR 2593 so far involves a single mailing sent to NAREA members by E. Kenneth Twichell, Managing Director of NAREA. The attached referral alleges the involvement of additional incorporated entities, raises new questions of the possible corporate reimbursement of campaign contributions, and as well suggests that several direct mail solicitations were sent under the auspices of these related organizations.[2] Accordingly, this Office recommends the Commission open a MUR; find reason to

9504367013 9

2. Information provided by the Audit Division from computerized records of Bush Committee contributions corroborates the suggestion that more than a single direct mailing was sent. Contributions attributable to Mr. Johnson's fundraiser code came to the Bush campaign from around the country and in a continuous stream during the months February through May 1988, while the mailing sent by Mr. Twichell at issue in MUR 2593 was sent in February of that year.

believe E. Kenneth Twichell, Robert Johnson, NAREA, NARA/MU, and IAM violated 2 U.S.C. §§ 441b(a) and 441f; merge MUR 2593 with this matter; and deny counsel's outstanding request for pre-probable cause conciliation. This Office also proposes to contact the named witnesses to determine the value of their information, and requests the Commission to approve subpoenas for depositions of Barbara Hemmerick, Robert Johnson, E. Kenneth Twichell, Timothy Cloud, Stephen Schneck, Kelly Rossi, Patricia Davidson, and Jean Johnson.

As noted, the referral names six new organizations. This Office proposes, however, to limit the present findings to the three organizations specifically identified as involved, as well as to Messrs. Twichell and Johnson, who were allegedly the major actors in the scheme.

III. RECOMMENDATIONS

1. Open a MUR.

2. Find reason to believe E. Kenneth Twichell and Robert Johnson violated 2 U.S.C. §§ 441b(a) and 441f.

3. Find reason to believe National Association of Real Estate Appraisers, Inc.; National Association of Review Appraisers and Mortgage Underwriters, Inc.; and International Association Managers, Inc. violated 2 U.S.C. §§ 441b(a) and 441f.

4. Merge MUR 2593 into this matter.

5. Deny at this time the requests for conciliation prior to findings of probable cause to believe in MUR 2593.

6. Approve the attached Factual and Legal Analyses and Subpoenas.

9504387014O

7. Approve and send the attached letters.

Lawrence M. Noble
General Counsel

Date 9/7/89

BY: [signature]
Lois G. Lerner
Associate General Counsel

Attachments:
1. Referral Materials
2. Factual and Legal Analyses
3. Subpoenas
4. Letters

95043670141

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/DELORES R. HARRIS DRH
COMMISSION SECRETARY

DATE: SEPTEMBER 13, 1989

SUBJECT: PRE-MUR 220/MUR 2593
FIRST GENERAL COUNSEL'S REPORT
DATED SEPTEMBER 7, 1989

The above-captioned document was circulated to the Commission on Friday, September 8, 1989 at 2:00 p.m.

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

Commissioner Aikens	
Commissioner Elliott	XXXXX
Commissioner Josefiak	
Commissioner McDonald	
Commissioner McGarry	
Commissioner Thomas	

This matter will be placed on the meeting agenda for Tuesday, September 19, 1989 at 10:00 a.m.

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

9504367014 2

BEFORE THE FEDERAL ELECTION COMMISSION

(-MUR 2984)

In the Matter of	)	
	)	
E. Kenneth Twichell	)	
Robert Johnson	)	
National Association of Real Estate Appraisers, Inc.	)	Pre-MUR 220/MUR 2593
National Association of Review Appraisers and Mortgage Underwriters, Inc.	)	
International Association Managers, Inc.	)	

CERTIFICATION

I, Hilda Arnold, recording secretary for the Federal Election Commision executive session of September 19, 1989, do hereby certify that the Commission decided by a vote of 6-0 to take the following actions in Pre-MUR 220/MUR 2593:

1. Open a MUR.

2. Find reason to believe E. Kenneth Twichell and Robert Johnson violated 2 U.S.C. §§ 441b(a) and 441f.

3. Find reason to believe National Association of Real Estate Appraisers, Inc.; National Association of Review Appraisers and Mortgage Underwriters, Inc.; and International Association Managers, Inc. violated 2 U.S.C. §§ 441b(a) and 441f.

4. Merge MUR 2593 into this matter.

(continued)

9504336701143

5. Deny at this time the requests for conciliation prior to findings of probable cause to believe in MUR 2593.

6. Approve the Factual and Legal Analyses and Subpoenas, subject to the amendment of the Factual and Legal Analysis to Robert Johnson to state he is an officer of NREA.

7. Approve and send the letters attached to the General Counsel's Report dated September 7, 1989.

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

Attest:

9/20/89
Date

Hilda Arnold
Hilda Arnold
Administrative Assistant
Office of the Secretariat

9504367014 4'

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 3, 1989

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

D. Randall King, Esquire
Merchant, Gould, Smith,
Edell, Welter & Schmidt
Suite One Thousand
Norwest Center
Saint Paul, Minnesota 55101

RE: MUR 2984
E. Kenneth Twichell
National Association of Real
Estate Appraisers, Inc.

Dear Mr. King:

On September 19, 1989, the Federal Election Commission found that there is reason to believe E. Kenneth Twichell and National Association of Real Estate Appraisers, 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 findings, ia attached for your information.

In MUR 2593, the Commission previously found reason to believe that E. Kenneth Twichell violated 2 U.S.C. §§ 441d(a) and 441a(a)(1)(A), and that National Association of Real Estate Appraisers, Inc. violated 2 U.S.C. § 441b(a). On September 19, 1989 the Commission voted to merge MUR 2593 into this matter. On that date the Commission also denied your request to enter into conciliation negotiations at this time prior to findings of probable cause to believe.

Under the Act, you have an opportunity to demonstrate that no action should be taken against your clients. You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Statements should be submitted under oath.

The Commission has also issued the attached Subpoena which requires Mr. Twichell to produce certain documentation by October 30, 1989, and to appear and give sworn testimony on December 14, 1989 in Room 3449 of the Federal Building in Phoenix, Arizona.

9504367014 5

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.

If you have any questions, please contact Robert Raich, the attorney handling this matter, at (202) 376-8200.

Sincerely,

Danny L. McDonald

Danny L. McDonald
Chairman

Enclosures
Subpoena
Factual and Legal Analysis

9504367014 6

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 2974

SUBPOENA

TO: E. Kenneth Twichell

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 certain activities of National Association of Real Estate Appraisers and related organizations. Notice is hereby given that the deposition is to be taken on December 14 , 1989 in Room 3449 of the Federal Building, 230 North First Avenue, Phoenix, Arizona, beginning at 10:00 a.m. and continuing each day thereafter as necessary.

Further, pursuant to 2 U.S.C. § 437d(a)(3), you are hereby subpoenaed to produce the following documents:

a. All checks you received from any source for the purpose of benefitting any candidate for federal office or any political party in 1988.

b. All letters you authorized, sent, or distributed soliciting contributions to any candidate for federal office or to any political party in 1988.

Legible copies which, where applicable, show both sides of the documents, may be substituted for originals. The documents must be submitted to the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, by October 30 , 1989.

9504367014 7

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set his hand at Washington, D.C., this 29th day of September, 1989.

Danny L. McDonald, Chairman
Federal Election Commission

ATTEST:

Marjorie W. Emmons
Marjorie W. Emmons
Secretary to the Commission

95043670148

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: E. Kenneth Twichell
National Association of Real Estate Appraisers, Inc.

MUR: 2984

In the normal course of carrying out its supervisory responsibilities, the Commission obtained information from employees of National Association of Real Estate Appraisers, Inc. ("NAREA") and other organizations associated with Robert Johnson, a director of NAREA. These other organizations are National Association of Review Appraisers and Mortgage Underwriters ("NARA/MU"); International Association Managers, Inc. ("IAM"); International Real Estate Institute; Professional Womens Appraisal Association; Robert Johnson and Associates; and Todd Publishing.

Specifically, a former employee states that company checks of $10,000 each were used to reimburse Managing Director E. Kenneth Twichell and others for personal checks to the Bush for President Campaign. The employee notes that these checks may have come from NAREA, NARA/MU, or IAM.

MUR 2593 involves a single mailing sent to NAREA members by E. Kenneth Twichell. The new information alleges corporate reimbursement of campaign contributions, and suggests that several direct mail solicitations were sent under the auspices of these related organizations.

It is unlawful for any corporation to make a contribution or expenditure in connection with a federal election, or for any corporate officer or director to consent to any contribution or

9504367014 9.

expenditure by the corporation. 2 U.S.C. § 441b(a). No person may make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution. 2 U.S.C. § 441f.

In accordance with the foregoing discussion, there is reason to believe E. Kenneth Twichell and NAREA violated 2 U.S.C. §§ 441b(a) and 441f.

9504367015 0

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 3, 1989

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Robert Johnson
8715 Via De Commercio
Scottsdale, Arizona 85258

RE: MUR 2984
Robert Johnson

Dear Mr. Johnson:

On September 19, 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 after your receipt of this letter. Statements should be submitted under oath.

The Commission has also issued the attached Subpoena which requires you to produce certain documentation by October 30, 1989, and to appear and give sworn testimony on December 15, 1989 in Room 3449 of the Federal Building in Phoenix, Arizona.

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 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 or other communications from the Commission.

9504367015 1

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 entered after briefs on probable cause have been mailed to the respondent.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A), unless you notify the Commission in writing that you wish the 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 Robert Raich, the attorney handling this matter, at (202) 376-8200.

Sincerely,

Danny L. McDonald
Chairman

Enclosures
Subpoena
Factual and Legal Analysis
Procedures
Designation of Counsel Form

9504367015 2

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Robert Johnson MUR: 2984

It is unlawful for any corporation to make a contribution or expenditure in connection with a federal election, or for any corporate officer or director to consent to any contribution or expenditure by the corporation. 2 U.S.C. § 441b(a). No person may make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution. 2 U.S.C. § 441f.

In the normal course of carrying out its supervisory responsibilities, the Commission obtained information from employees of organizations associated with Robert Johnson. These organizations are National Association of Real Estate Appraisers, Inc. ("NAREA"); National Association of Review Appraisers and Mortgage Underwriters ("NARA/MU"); International Association Managers, Inc. ("IAM"); International Real Estate Institute; Professional Womens Appraisal Association; Robert Johnson and Associates; and Todd Publishing. Mr. Johnson is an officer of NAREA. According to a former employee, Robert Johnson used company funds to make contributions to the Bush for President Campaign, as well as to solicit members of the organizations to contribute to the Bush Campaign.

Specifically, the employee states that company checks of $10,000 each were used to reimburse employees for personal checks to the Bush campaign. The employee notes that these

9504367015 3

checks may have come from NAREA, NARA/MU, or IAM. The employee also states that Robert Johnson used company stationary, the non-profit postage meter from the Associations, and employee labor to solicit contributions to the Bush Campaign from members of two of the organizations: NAREA and NARA/MU.

Accordingly, there is reason to believe Robert Johnson violated 2 U.S.C. §§ 441b(a) and 441f.

95043670154

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 2984

SUBPOENA

TO: Mr. Robert Johnson
8715 Via De Commercio
Scottsdale, Arizona 85258

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 certain activities of National Association of Real Estate Appraisers and related organizations. Notice is hereby given that the deposition is to be taken on December 15 , 1989 in Room 3449 of the Federal Building, 230 North First Avenue, Phoenix, Arizona, beginning at 10:00 a.m. and continuing each day thereafter as necessary.

Further, pursuant to 2 U.S.C. § 437d(a)(3), you are hereby subpoenaed to produce the following documents:

a. All resumes and cover letters you sent to George Bush and associates of George Bush.

b. All checks you caused to be drawn on an account of any company or association for the purpose of directly or indirectly benefitting any candidate for federal office or any political party in 1988.

c. All letters you authorized, sent, or distributed soliciting contributions to any candidate for federal office or to any political party in 1988.

Legible copies which, where applicable, show both sides of the

9504367015 5

documents, may be substituted for originals. The documents must be submitted to the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, by October 30, 1989.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set his hand at Washington, D.C., this 29th day of September, 1989.

Danny L. McDonald, Chairman
Federal Election Commission

ATTEST:

Marjorie W. Emmons
Secretary to the Commission

9504367015 6

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 3, 1989

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

International Association Managers, Inc.
410 Midwest Federal Building
Saint Paul, Minnesota 55101

RE: MUR 2984
International Association
Managers, Inc.

Dear Sirs and Mesdames:

On September 19, 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 after 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.

9504367015 7

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 Robert Raich, the attorney handling this matter, at (202) 376-8200.

Sincerely,

Danny L. McDonald
Chairman

Enclosures
Factual and Legal Analysis
Procedures
Designation of Counsel Form

9504367015 8

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: International Association Managers, Inc. MUR: 2984

It is unlawful for any corporation to make a contribution or expenditure in connection with a federal election, or for any corporate officer or director to consent to any contribution or expenditure by the corporation. 2 U.S.C. § 441b(a). No person may make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution. 2 U.S.C. § 441f.

In the normal course of carrying out its supervisory responsibilities, the Commission obtained information from employees of organizations associated with Robert Johnson. These organizations include International Association Managers, Inc. ("IAM"). According to a former employee, Robert Johnson used company funds to make contributions to the Bush for President Campaign, as well as to solicit members of the organizations to contribute to the Bush Campaign.

Specifically, the employee states that company checks of $10,000 each were used to reimburse employees for personal checks to the Bush campaign. The employee notes that these checks may have come from IAM.

Accordingly, there is reason to believe IAM violated 2 U.S.C. §§ 441b(a) and 441f.

9504367015 9

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 3, 1989

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

National Association of Review Appraisers
and Mortgage Underwriters, Inc.
408 Midwest Federal Building
Saint Paul, Minnesota 55101

RE: MUR 2984
National Association of
Review Appraisers and
Mortgage Underwriters, Inc.

Dear Sirs and Mesdames:

On September 19, 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 after 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.

9504367016O

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 Robert Raich, the attorney handling this matter, at (202) 376-8200.

Sincerely,

Danny L. McDonald

Danny L. McDonald
Chairman

Enclosures
Factual and Legal Analysis
Procedures
Designation of Counsel Form

9504367016 1

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: National Association of Review Appraisers and Mortgage Underwriters, Inc. MUR: 2984

It is unlawful for any corporation to make a contribution or expenditure in connection with a federal election, or for any corporate officer or director to consent to any contribution or expenditure by the corporation. 2 U.S.C. § 441b(a). No person may make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution. 2 U.S.C. § 441f.

In the normal course of carrying out its supervisory responsibilities, the Commission obtained information from employees of organizations associated with Robert Johnson. These organizations include National Association of Review Appraisers and Mortgage Underwriters, Inc. ("NARA/MU"). According to a former employee, Robert Johnson used company funds to make contributions to the Bush for President Campaign, as well as to solicit members of the organizations to contribute to the Bush Campaign.

Specifically, the employee states that company checks of $10,000 each were used to reimburse employees for personal checks to the Bush campaign. The employee notes that these checks may have come from NARA/MU. The employee also states that Robert Johnson used company stationary, the non-profit postage meter from the Associations, and employee labor to

9504367016 2

solicit contributions to the Bush Campaign from members of NARA/MU.

Accordingly, there is reason to believe NARA/MU violated 2 U.S.C. §§ 441b(a) and 441f.

95043670163

OGC 4356

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

89 OCT 24 PM

MERCHANT & GOULD

Merchant, Gould, Smith, Edell, Welter & Schmidt
Professional Association
Patent, Trademark & Copyright Lawyers

1000 Norwest Center
55 East Fifth Street
Saint Paul, Minnesota
U.S.A. 55101
FAX 612/298-1160
Telex 297470 MANDG Stp
612/298-1055

John B. Gould
Philip H. Smith
Robert T. Edell
Paul A. Welter
Cecil C. Schmidt
John S. Sumners
Alan G. Carlson
Micheal L. Schwegman
Earl D. Reiland
Charles E. Golla
Douglas J. Williams
Douglas A. Strawbridge
Albert L. Underhill
D. Randall King
Norman P. Friederichs
Michael B. Lasky
Curtis B. Hamre
Michael D. Schumann
Michael L. Mau
John A. Clifford
Mark J. DiPietro
Steven W. Lundberg
Warren D. Woessner

Janet R. Westrom
David G. Johnson
Alan W. Kowalchyk
Michael S. Sherrill
Timothy R. Conrad
Daniel W. McDonald
R. Carl Moy
Robert C. Freed
Daniel J. Kluth
Wendy McDonald
Linda M. Byrne
Mark D. Schuman
Randall A. Hillson
John P. Sumner
Brian H. Batzli
David K. Tellekson
Hallie A. Finucane
John J. Gresens
Steven J. Keough
Paul E. Lacy
John L. Knoble
Michelle M. Michel
Philip P. Caspers
Gregory A. Sebald
Jane H. Arrett
Albin J. Nelson
Robert C. Beck
George H. Gates

SENT BY CERTIFIED MAIL

October 19, 1989

Federal Election Commission
Attn: Mr. Danny L. McDonald
Office of the General Counsel
Chairman, Federal Election Commission
99 E Street, N.W.
Washington, D.C. 20463

Re: MUR 2974
Subpoena, E. Kenneth Twichell
Our Ref: M&G 3230.23-US-AA

RECEIVED
FEDERAL ELECTION COMMISSION
SECRETARIAT
89 OCT 24 PM 2:53

Dear Mr. McDonald:

This is to acknowledge receipt of the subpoena dated September 29, 1989 for Mr. E. Kenneth Twichell and your letter of October 3, 1989, outlining the position of the Federal Election Commission.

The subpoena stipulates that, pursuant to 2 U.S.C. § 437d(a)(3), two categories of documents are to be produced:

a. All checks you received from any source for the purpose of benefitting any candidate for federal office or any political party in 1988.

b. All letters you authorized, sent, or distributed soliciting contributions to any candidate for federal office or to any political party in 1988.

In response to Production Request (a), there were no checks received by E. Kenneth Twichell from any source for the purpose of benefitting any candidate. (See affidavit of E. Kenneth Twichell, ¶¶ 3-6). Thus, there are no documents to be produced under (a).

9504367001 64

In response to request (b), one letter was distributed by E. Kenneth Twichell soliciting such contributions. Neither E. Kenneth Twichell nor the National Association of Real Estate Appraisers, Inc. (NAREA) presently has a copy of said letter. However, said letter has previously been provided to the FEC. The letter was sent out to less than 2,500 individuals, with all individuals receiving the same letter. This information was previously supplied in the responses to the FEC's interrogatories and document requests in MUR 2593. There were no other letters sent by E. Kenneth Twichell responsive to (b) of the subpoena and, thus, no documents can be produced for (b).

Although the deposition of Mr. Twichell will not result in any further useful information, Mr. Twichell will be present at the Federal Building, 230 North First Avenue, Phoenix, Arizona on December 14, 1989 at 10:00 a.m.

In your letter of October 3, 1989, you discussed the merger of MUR 2593 into MUR 2984. You also enclosed your new position in a factual and legal analysis.

Upon careful review of the factual and legal analysis, and considerable discussion with Robert G. Johnson and E. Kenneth Twichell of the National Association of Real Estate Appraisers, Inc., it appears that some facts upon which you rely on are erroneous. We will attempt to outline our position and clarify some of the facts of the present investigation.

FACTUAL AND LEGAL ANALYSIS RELATING TO RESPONDENT,
NATIONAL ASSOCIATION OF REAL ESTATE APPRAISERS, INC.

In the first paragraph of the above-identified factual and legal analysis, it is our position that the National Association of Review Appraisers and Mortgage Underwriters (NARA/MU); International Association Managers, Inc. (IAM); International Real Estate Institute; Professional Women's Appraisal Association; Robert Johnson & Associates; and Todd Publishing are all organizations in which Robert Johnson has had at some time varying degrees of affiliation. (Johnson Aff., ¶ 3). It is stated that Robert Johnson is a director of NAREA. This is false. As indicated in the Response in NAREA's Responses to Interrogatories in MUR 2593 of September 28, 1988, Response to Request No. 3 indicated that Robert Johnson is not a director of NAREA.

9504367016 5

In the second paragraph, you stated that a former employee has supplied you with information that company checks of $10,000 each were used to reimburse E. Kenneth Twichell for personal checks for the Bush For President campaign. You further state that the employee indicated that these checks may have come from NAREA, NARA/MU, or IAM. This statement is unequivocally false. Mr. Twichell has never received company checks of $10,000, or in any other amount for that matter, for reimbursement of personal checks to the Bush for President campaign. (Twichell Aff., ¶ 3, Johnson Aff., ¶ 4). Mr. Twichell has not received checks from NAREA, NARA/MU, IAM, or any of the other organizations you have listed above as reimbursement for personal checks to the Bush for President campaign. (Twichell Aff., ¶ 4, Johnson Aff., ¶ 5). You do not indicate the source of the information other than it came from a "former employee." Thus, we are not in a position to comment on why such false accusations arose. We respectfully request the identity of the source so we may respond to the accusations in a more comprehensive fashion.

In the third paragraph, it is alleged that new information indicates that a reimbursement of campaign contributions and several other direct mail solicitations were sent out under the "auspices" of the related organizations indicated above. Again, it is not indicated where this "new information" came from. However, the allegations are false. There was never any reimbursement of campaign contributions, nor were there other direct mail solicitations which were sent out under the guise of the above-identified organizations. (Twichell Aff., ¶ 5, Johnson Aff., ¶ 6). Our position from the beginning has not changed in that E. Kenneth Twichell reimbursed the National Association of Real Estate Appraisers for his direct mail solicitation and there was no reimbursement of any kind for campaign contributions.

In the remaining two paragraphs, it is alleged that E. Kenneth Twichell and NAREA violated U.S.C. §§ 441b(a), 441f. Upon careful review of these sections with the facts of the present situation, it is our contention there has been no violation of either of these sections by E. Kenneth Twichell or NAREA. More particularly, there was no contribution or expenditure from NAREA or from any corporate officer or director who consented to such contribution from NAREA. (Twichell Aff., ¶ 6). Thus, there is no factual support for any violation of 2 U.S.C. § 441b(a).

9504367016 6

Furthermore, there has been no violation of § 441f. There were no contributions made in the names of other persons involving either E. Kenneth Twichell nor any of the other organizations listed above. (Twichell Aff., ¶ 6, Johnson Aff., ¶ 7). Thus, there is no violation of § 441f.

Accordingly, Mr. Twichell and the National Association of Real Estate Appraisers, Inc., respectfully request the Commission's reconsideration of the allegations alleged in the factual and legal analysis of MUR 2984. If you have any questions regarding this matter, please do not hesitate to contact me. I am sure we can reach a fair and reasonable settlement of all issues before us. Thank you.

Sincerely,

D. Randall King

DRK/ADS/dmm
Enclosures: Affidavit of Robert G. Johnson
Affidavit of E. Kenneth Twichell

9504367001167

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 2984
E. Kenneth Twichell	)	
	)	

AFFIDAVIT OF E. KENNETH TWICHELL

STATE OF ARIZONA)
) ss
COUNTY OF MARICOPA)

Sir:

E. Kenneth Twichell, being duly sworn, deposes and says as follows:

1. I am the same E. Kenneth Twichell named in the above-identified investigation.

2. I have carefully read the factual and legal analysis of MUR 2984 dated October 3, 1989.

3. I have never received company checks of $10,000 as reimbursement for personal checks to the Bush for President Campaign.

4. I have never received any company checks in any amount from any of the organizations listed in the factual and legal analysis for personal checks I wrote for the Bush for President Campaign.

5. I have never been reimbursed for campaign contributions nor am I aware of direct mail solicitations that were sent under the auspices of the organizations listed in the factual and legal analysis.

9504367016 8

6. I have never made a contribution in my name knowing that the contribution was consented or contributed from an expenditure by a corporation or by any corporate officer or director of a corporation.

Further affiant sayeth not.

10/16/89
Date

[redacted]
E. Kenneth Twichell

Subscribed and sworn before me this 16th day of October, 1989.

Ann V. Ritch

My Commission Expires Feb. 28, 1993

9504367001169

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 2984
E. Kenneth Twichell	)	
	)	

AFFIDAVIT OF ROBERT G. JOHNSON

STATE OF ARIZONA)
) ss
COUNTY OF MARICOPA)

Sir:

Robert G. Johnson, being duly sworn, deposes and says as follows:

1. I am Robert G. Johnson, an officer of the National Association of Real Estate Appraisers.

2. I have carefully reviewed the factual and legal analysis of MUR 2984 dated October 3, 1989.

3. I have varying degrees of affiliation with the organizations listed in the first paragraph of the factual and legal analysis.

4. I am not aware of any checks for $10,000, nor for any other amount, from any of the listed organizations to reimburse E. Kenneth Twichell for personal checks to the Bush for President Campaign.

5. There were no company checks in any amount from any of the organizations listed in the factual and legal analysis to reimburse E. Kenneth Twichell for personal checks to the Bush for President Campaign.

9504367010

6. I am not aware of any corporate reimbursement of campaign contributions or direct mail solicitations that were sent out under the auspices of the organizations mentioned above.

7. I know of no corporate officer or director or any corporation of which I am affiliated with that has contributed money to a federal election in the name of another person.

Further affiant sayeth not.

10/15/89
Date

Robert G. Johnson

Subscribed and sworn before me
this 15th day of October,
1989.

E. H [redacted]

State of: Arizona
County of: Maricopa
Exp's: 6/30/93

95043670171

MERCHANT & GOULD

Merchant, Gould, Smith,
Edell, Welter & Schmidt
Professional Association
Patent, Trademark &
Copyright Lawyers

1000 Norwest Center
55 East Fifth Street
Saint Paul, Minnesota
U.S.A. 55101
FAX 612/298-1160
Telex 297470 MANDG Stp
612/298-1055

John D. Gould
Phillip H. Smith
Robert T. Edell
Paul A. Welter
Cecil C. Schmidt
John S. Sumners
Alan G. Carlson
Micheal L. Schwegman
Earl D. Reiland
Charles E. Golla
Douglas J. Williams
Douglas A. Strawbridge
Albert L. Underhill
D. Randall King
Norman P. Friederichs
Michael B. Lasky
Curtis B. Hamre
Michael D. Schumann
Michael L. Mau
John A. Clifford
Mark J. DiPietro
Steven W. Lundberg
Warren D. Woessner

Janet R. Westrom
David G. Johnson
Alan W. Kowalchyk
Michael S. Sherrill
Timothy R. Conrad
Daniel W. McDonald
R. Carl Moy
Robert C. Freed
Daniel J. Kluth
Wendy McDonald
Linda M. Byrne
Mark D. Schuman
Randall A. Hillson
John P. Sumner
Brian H. Batzli
David K. Tellekson
Hallie A. Finucane
John J. Gresens
Steven J. Keough
Paul F. Lacy
John L. Knoble
Michelle M. Michel
Philip P. Caspers
Gregory A. Sebald
Jane H. Arrett
Albin J. Nelson
Robert C. Beck
George H. Gates

FEDERAL EXPRESS

November 22, 1989

Federal Election Commission
Attn: Mr. Danny L. McDonald
Office of the General Counsel
Chairman, Federal Election Commission
99 E Street, N.W.
Washington, D.C. 20463

RE: MUR 2984
National Association of Review Appraisers
and Mortgage Underwriters, Inc.
Our Ref: M&G 3230.23-US-AA

Dear Mr. McDonald:

This is to acknowledge receipt of the letter and factual legal analysis dated October 3, 1989 outlining the position of the Federal Election Commission. There was a delay in receipt of the aforementioned letters, due to erroneous addresses being used for the National Association of Review Appraisers and Mortgage Underwriters (NARA/MU). Our client was in receipt of the October 3, 1989 documents on November 10, 1989.

In your letter of October 3, 1989, you indicate an option available to our client to pursue a pre-probable cause conciliation. At this time, we request a pre-probable cause conciliation with regard to the National Association of Review Appraisers and Mortgage Underwriters, Inc.

FACTUAL AND LEGAL ANALYSIS RELATING TO THE NATIONAL ASSOCIATION OF REVIEW APPRAISERS AND MORTGAGE UNDERWRITERS, INC.

In the second paragraph of the above-identified factual and legal analysis, it is alleged the Commission obtained information from a former employee that Robert Johnson used company funds to make contributions to the Bush for President campaign, as well as solicit members of the organizations to contribute to the Bush campaign. Mr. Johnson has never used company funds to make contributions to the Bush for President campaign, nor does he

9504367017 2

recall ever soliciting members of any of the organizations for the purpose to contribute to the Bush campaign (Johnson Aff. ¶ 3).

The third paragraph of the factual and legal analysis alleges that company checks of $10,000 were used to reimburse employees for personal checks to the Bush campaign. Allegedly, these checks may have come from NARA/MU. Further allegations state that Robert Johnson used company stationery, the non-profit postage meter from the Associations, and employee labor to solicit contributions to the Bush campaign from members of NARA/MU. Robert Johnson is not aware of any company checks for $10,000 used to reimburse employees for personal checks to the Bush campaign (Johnson Aff. ¶ 4). Further, Robert Johnson does not recall using company stationery, nor has he ever used non-profit postage or any employee labor to solicit contributions to the Bush campaign from members of NARA/MU (Johnson Aff. ¶ 5).

It is respectfully requested that the name of the former employee, and/or other employees that the Commission has obtained information from, be revealed to the Respondent. The Respondent cannot effectively respond to such accusations unless the source of the accusations is known.

Enclosed is an executed Statement of Designation of Counsel. Also enclosed is a facsimile copy of Mr. Johnson's signed Affidavit. We will submit the original as soon as possible.

If you have any questions regarding this matter, please do not hesitate to contact me.

Sincerely,

(D. Randall King)

D. Randall King

DRK/ADS/sjd

Enclosures: Statement of Designation of Counsel
Facsimile Copy of Robert G. Johnson Affidavit

9504367017 3

office or any political party in 1988 (Johnson Aff., ¶ 6). Thus, there are no documents to be produced under request (a), (b), or (c).

Also in your letter of October 3, 1989, you included a "Factual and Legal Analysis" for MUR 2984. Due to some unavoidable circumstances, the letter of October 3, 1989, was not received in the Law Offices of Merchant, Gould, et al., to properly reply within 15 days. In a discussion on October 30, 1989 with Robert Raich, Mr. Raich informed Andrew Sorensen that a response to the Factual and Legal Analysis may still be submitted on October 30, 1989. We apologize for any inconvenience this may have caused the Commission, and appreciate consideration of the following comments.

FACTUAL AND LEGAL ANALYSIS RELATING TO
RESPONDENT ROBERT JOHNSON

In the second paragraph of the above-identified Factual and Legal Analysis, it is alleged the Commission obtained information from a former employee that Robert Johnson used company funds to make contributions to the Bush for President Campaign, as well as solicit members of the organizations to contribute to the Bush campaign. Mr. Johnson has never used company funds to make contributions to the Bush for President Campaign, nor does he recall ever soliciting members of any of the organizations for the purpose to contribute to the Bush campaign (Johnson Aff., ¶ 8).

The third paragraph of the Factual and Legal Analysis alleges that the former employee states that company checks of $10,000 were used to reimburse employees for personal checks to the Bush campaign. Allegedly, these checks may have come from NAREA, NARA/MU, or IAM. The paragraph further alleges that Robert Johnson used company stationary, a non-profit postage meter, and employee labor to solicit contributions to the Bush campaign for members of two of the organizations, NAREA and NARA/MU. Robert Johnson is not aware of any company check for $10,000 used to reimburse employees for personal checks for the Bush campaign (Johnson Aff., ¶ 9).

Further, Robert Johnson does not recall using company stationary, nor has he ever used non-profit postage or any employee labor to solicit contributions to the Bush campaign from members of any of the organizations listed in the Factual and Legal Analysis

9504367014

(Johnson Aff., ¶ 10). In summary, respondent is of the belief that Robert Johnson has not violated either 2 U.S.C. § 441b(a) or § 441f.

It is respectfully requested that the name of the former employee, and/or other employees the Commission has obtained information from, be revealed to the respondent. The respondent cannot effectively respond to such accusations unless the source of the accusation is known. It is theoretically possible that such employees may be disgruntled or have misunderstood some action they observed while at one of the organizations listed in the Factual and Legal Analysis, in which case, such accusations could be readily explained.

Although the deposition of Mr. Johnson will not result in any further useful information, Mr. Johnson will be present at the Federal Building, 230 North First Avenue, Phoenix, Arizona, on December 15, 1989, at 10:00 a.m.

Respondent respectfully states a desire to enter into conciliation with regard to Robert Johnson in MUR 2984 at this time or after Mr. Johnson is deposed on December 15, 1989.

Enclosed is an unsigned Affidavit of Robert G. Johnson. Due to time restraints, we were unable to have the affidavit signed. We will send a signed affidavit via Federal Express as soon as possible.

If you have any questions regarding this matter, please do not hesitate to contact me.

Sincerely,

D. Randall King

DRK/ADS/sjb

Enclosure: Affidavit of Robert G. Johnson

9504367015

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 2984
Robert Johnson	)	
	)	

AFFIDAVIT OF ROBERT G. JOHNSON

STATE OF ARIZONA)
) ss
COUNTY OF MARICOPA)

Sir:

Robert G. Johnson, being duly sworn, deposes and says as follows:

1. I am Robert G. Johnson, an officer of the National Association of Real Estate Appraisers.

2. I have read the subpoena to Mr. Robert Johnson of MUR 2984.

3. I have further read the document requests (a), (b), and (c) of the aforementioned subpoena.

4. I have never sent any resumes or cover letters to George Bush and associates of George Bush.

5. I have never caused any checks to be drawn on the account of any company or association listed in the subpoena or the Factual and Legal Analysis of MUR 2984 for the purpose of directly or indirectly benefitting any candidate for federal office or any political party of 1988.

6. I do not have any letters signed or distributed by myself which attempted to solicit contributions for any candidate for federal office or to any political party of 1988.

9504367017 6

7. I have carefully reviewed the Factual and Legal Analysis of MUR 2984 dated October 3, 1989.

8. I have never used company funds to make contributions for the Bush for President Campaign, nor do I recall soliciting members of the organizations listed in the Factual and Legal Analysis for the purpose to contribute to the Bush campaign.

9. I know of no company checks for $10,000 that were used to reimburse employees for personal checks for the Bush campaign. More specifically, I know of no checks originating from NAREA, NARA/MU, or IAM which were used to reimburse employees for personal checks for the Bush campaign.

10. I do not recall ever using company stationary, nor have I ever used a non-profit postage meter from any of the associations or employee labor to solicit contributions to the Bush campaign from members of the organizations NAREA or NARA/MU.

Further affiant sayeth not.

_____ _____

Date Robert G. Johnson

Subscribed and sworn before me
this _____ day of _____,
1989.

_____

Notary Public

9504367017 7

OGC 4669

MERCHANT & GOULD

Merchant, Gould, Smith, Edell, Welter & Schmidt
Professional Association
Patent, Trademark & Copyright Lawyers

1000 Norwest Center
55 East Fifth Street
Saint Paul, Minnesota
U.S.A. 55101
FAX 612/298-1160
Telex 297470 MANDG Stp
612/298-1055

John D. Gould
Phillip H. Smith
Robert T. Edell
Paul A. Welter
Cecil C. Schmidt
John S. Sumners
Alan G. Carlson
Micheal L. Schwegman
Earl D. Reiland
Charles E. Golla
Douglas J. Williams
Douglas A. Strawbridge
Albert L. Underhill
D. Randall King
Norman P. Friederichs
Michael B. Lasky
Curtis B. Hamre
Michael D. Schumann
Michael L. Mau
John A. Clifford
Mark J. DiPietro
Steven W. Lundberg
Warren D. Woessner

Janet R. Westrom
David G. Johnson
Alan W. Kowalchyk
Michael S. Sherrill
Timothy R. Conrad
Daniel W. McDonald
R. Carl Moy
Robert C. Freed
Daniel J. Kluth
Wendy McDonald
Linda M. Byrne
Mark D. Schuman
Randall A. Hillson
John P. Sumner
Brian H. Batzli
David K. Tellekson
Hallie A. Finucane
John J. Gresens
Steven J. Keough
Paul F. Lacy
John L. Knoble
Michelle M. Michel
Philip P. Caspers
Gregory A. Sebald
Jane H. Arrett
Albin J. Nelson
Robert C. Beck
George H. Gates

EXPRESS MAIL

November 27, 1989

Federal Election Commission
Attn: Robert Raich, Esq.
Office of the General Counsel
99 E Street, N.W.
Washington, D.C. 20463

Re: MUR 2984
Respondent: National Association of Review Appraisers and Mortgage Underwriters, Inc.
Respondent: International Association Managers, Inc.
Our Ref: M&G 3230.23-US-AA

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
89 NOV 28 PM 3:30

Dear Mr. Raich:

Enclosed are two originally-executed affidavits of Robert G. Johnson corresponding to the above-referenced matters.

If you have any questions, please do not hesitate to contact me at 612/298-1055.

Sincerely,

(For D. Randall King)

D. Randall King

DRK/ADS/sjb

Enclosures: Signed Affidavit of Robert G. Johnson for National Association of Review Appraisers and Mortgage Underwriters, Inc.
Signed Affidavit of Robert G. Johnson for International Association Managers, Inc.

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM
89 NOV 28 PM 12:04

9504367017/8

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 2984
NATIONAL ASSOCIATION OF REVIEW APPRAISERS AND MORTGAGE UNDERWRITERS, INC.	)	

AFFIDAVIT OF ROBERT G. JOHNSON

STATE OF ARIZONA)
) ss
COUNTY OF MARICOPA)

Sir:

Robert G. Johnson, being duly sworn, deposes and says as follows:

1. I am Robert G. Johnson, an officer of the National Association of Real Estate Appraisers, Inc.

2. I have carefully reviewed the factual and legal analysis of MUR 2984 dated October 3, 1989, involving the National Association of Review Appraisers and Mortgage Underwriters, Inc.

3. I have never used company funds to make contributions for the Bush for President campaign, nor do I recall soliciting members of NARA/MU for the purpose to contribute to the Bush campaign.

9504367019

4. I know of no company checks for $10,000 that were used to reimburse employees for personal checks for the Bush campaign. More specifically, I know of no checks originating from NARA/MU which were used to reimburse employees for their personal checks for the Bush campaign.

5. I do not recall ever using company stationery, nor have I ever used a non-profit postage meter from any of the associations or employee labor to solicit contributions to the Bush campaign from members of NARA/MU.

Further affiant sayeth not.

11/21/89
Date

Robert G. Johnson

Subscribed and sworn before me
this 21st day of November,
1989.

E. K.
6/30/93

9504367018O

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 2984
INTERNATIONAL ASSOCIATION MANAGERS, INC.	)	
	)	
	)	

AFFIDAVIT OF ROBERT G. JOHNSON

STATE OF ARIZONA)
) ss
COUNTY OF MARICOPA)

Sir:

Robert G. Johnson, being duly sworn, deposes and says as follows:

1. I am Robert G. Johnson, an officer of the National Association of Real Estate Appraisers, Inc.

2. I have read the legal and factual analysis regarding the International Association Managers, Inc., MUR 2984.

3. I have never used company funds to make contributions for the Bush for President campaign, nor do I recall soliciting members of the organizations listed in the factual legal analysis for the purpose to contribute to the Bush campaign.

9504367018 1

4. I know of no company checks for $10,000 that were used to reimburse employees for personal checks for the Bush campaign. More specifically, I know of no checks originating from NAREA or IAM which were used to reimburse employees for their personal checks for the Bush campaign.

Further affiant sayeth not.

11/21/89
Date

Robert G. Johnson

Subscribed and sworn before me
this 21st day of November,
1989.

E. [illegible]
6/30/93

9504367018 2

06C4447

RECEIVED
FEDERAL ELECTION
SECRETARY

89 OCT 31 AM 11:32

MERCHANT & GOULD

Merchant, Gould, Smith, Edell, Welter & Schmidt
Professional Association
Patent, Trademark & Copyright Lawyers

1000 Norwest Center
55 East Fifth Street
Saint Paul, Minnesota
U.S.A. 55101
FAX 612/298-1160
Telex 297470 MANDG Stp
612/298-1055

John D. Gould
Phillip H. Smith
Robert T. Edell
Paul A. Welter
Cecil C. Schmidt
John S. Sumners
Alan G. Carlson
Micheal L. Schwegman
Earl D. Reiland
Charles E. Golla
Douglas J. Williams
Douglas A. Strawbridge
Albert L. Underhill
D. Randall King
Norman P. Friederichs
Michael B. Lasky
Curtis B. Hamre
Michael D. Schumann
Michael L. Mau
John A. Clifford
Mark J. DiPietro
Steven W. Lundberg
Warren D. Woessner

Janet R. Westrom
David G. Johnson
Alan W. Kowalchyk
Michael S. Sherrill
Timothy R. Conrad
Daniel W. McDonald
R. Carl Moy
Robert C. Freed
Daniel J. Kluth
Wendy McDonald
Linda M. Byrne
Mark D. Schuman
Randall A. Hillson
John P. Sumner
Brian H. Batzli
David K. Tellekson
Hallie A. Finucane
John J. Gresens
Steven J. Keough
Paul E. Lacy
John L. Knoble
Michelle M. Michel
Philip P. Caspers
Gregory A. Sebald
Jane H. Arrett
Albin J. Nelson
Robert C. Beck
George H. Gates

FEDERAL EXPRESS

October 30, 1989

Federal Election Commission
Attn: Mr. Danny L. McDonald
Office of the General Counsel
Chairman, Federal Election Commission
99 E Street, N.W.
Washington, D.C. 20463

Re: MUR 2984
Subpoena, Mr. Robert Johnson
Our Ref: M&G 3230.23-US-AA

Rich

Dear Mr. McDonald:

This is to acknowledge receipt of the subpoena dated September 29, 1989, for Mr. Robert Johnson and your letter of October 3, 1989, outlining the position of the Federal Election Commission. The subpoena stipulates that, pursuant to 2 U.S.C. § 437d(a)(3), three categories of documents are to be produced:

(a) All resumes and cover letters sent to George Bush and associates of George Bush;

(b) All checks caused to be drawn on an account of any company or association for the purpose of directly or indirectly benefitting any candidate for federal office or any political party in 1988; and

(c) Letters authorized, sent, or distributed by Mr. Johnson soliciting contributions to any candidate for federal office or to any political party in 1988.

In response to production request (a), Mr. Johnson is not aware of any resumes or cover letters sent to George Bush or associates of George Bush from Mr. Johnson (Johnson Aff., ¶ 4). In response to production request (b), Mr. Johnson did not cause any checks to be drawn on the account of any company or association for the purpose of directly or indirectly benefitting any candidate for federal office or any political party in 1988 (Johnson Aff., ¶ 5). In response to production request (c), Mr. Johnson does not have any letters signed or distributed by himself, which attempted to solicit contributions for any candidate for federal

89 OCT 31 AM 11:32

9504367018 3

RECEIVED 06 4527
FEDERAL ELECTION COMMISSION
MAIL ROOM

89 NOV 13 PM 12:14

MUR 2984

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
89 NOV 13 PM 4:00

November 6, 1989

Mr. Robert Raich
Federal Election Commission
999 "E" Street, NW
Washington, D.C. 20463

Dear Mr. Raich:

Attached please find a photocopy of one of my paychecks with the address of Valley National Bank circled for your reference. This particular check was drawn from the International Association Managers, Inc. account (account # circled at bottom of check).

Also attached please find a list of all of the associations that Mr. Johnson operated at 8383 E. Evans Rd. in Scottsdale, AZ. This may assist you in determining which account the alleged $10,000 campaign contribution checks were drawn from. I know that the account for Todd Publishing was also at Valley National Bank (but I am not able to locate the copy of the deposit slip for Todd Publishing as I had promised you earlier).

I am quite certain that each association's account was at Valley National Bank, as well as Mr. Johnson's personal accounts.

As I stated, Ann Bourget would probably be able to provide more information about Mr. Johnson's banking activities. I have been unsuccessful at locating her, however.

I hope this information is of help to you. Please let me know if I can be of further assistance.

Sincerely,

Barbara J. Hemmerick

Barbara J. Hemmerick

9504367018 4

9 5 0 4 3 6 7 0 1 8 6

INTERNATIONAL ASSOCIATION MANAGERS. INC.
8383 E. EVANS RD.. 602-998-8119
SCOTTSDALE, AZ 85260-3614

12597

91-2/1221

3-22 1989

PAY TO THE ORDER OF Barbara Hemmerich $ 547.30

Five hundred forty-seven & 30/100 DOLLARS

VALLEY BANK PLAZA OFFICE (100)
P.O. Box 1787
Scottsdale, Arizona 85252

FOR 661.54, 49.68 Fica, 5292 Fed 11.64 Ariz

Robert Johnson

⑈00 12597⑈ ⑆122100024⑆ 0150⑈3785⑈

9504367001186

International Association Managers, Inc. (998-2000)

National Association of Real Estate Appraisers (NAREA) (948-8000)

National Association of Review Appraisers
and Mortgage Underwriters (NARA/MU) (998-3000)

International Real Estate Institute (IREI) (998-8267)

Professional Womens Appraisal Association (PWAA)

Robert Johnson and Associates (RJA)

Relocation Management Network (RMN) or
National/International Relocation Directory
(address as stated on order form: 1901 Avenue of the Stars,
Suite 1774, Los Angeles, CA 90067, 1-800-553-3396)

P.O. Meter #6801801

OGC 4513

MERCHANT & GOULD

Merchant, Gould, Smith,
Edell, Welter & Schmidt
Professional Association
Patent, Trademark &
Copyright Lawyers

1000 Norwest Center
55 East Fifth Street
Saint Paul, Minnesota
U.S.A. 55101
FAX 612/298-1160
Telex 297470 MANDG Stp
612/298-1055

John D. Gould
Phillip H. Smith
Robert T. Edell
Paul A. Welter
Cecil C. Schmidt
John S. Sumners
Alan G. Carlson
Micheal L. Schwegman
Earl D. Reiland
Charles E. Golla
Douglas J. Williams
Douglas A. Strawbridge
Albert L. Underhill
D. Randall King
Norman P. Friederichs
Michael B. Lasky
Curtis B. Hamre
Michael D. Schumann
Michael L. Mau
John A. Clifford
Mark J. DiPietro
Steven W. Lundberg
Warren D. Woessner

Janet R. Westrom
David G. Johnson
Alan W. Kowalchyk
Michael S. Sherrill
Timothy R. Conrad
Daniel W. McDonald
R. Carl Moy
Robert C. Freed
Daniel J. Kluth
Wendy McDonald
Linda M. Byrne
Mark D. Schuman
Randall A. Hillson
John P. Sumner
Brian H. Batzli
David K. Tellekson
Hallie A. Finucane
John J. Gresens
Steven J. Keough
Paul F. Lacy
John L. Knoble
Michelle M. Michel
Philip P. Caspers
Gregory A. Sebald
Jane H. Arrett
Albin J. Nelson
Robert C. Beck
George H. Gates

EXPRESS MAIL

November 10, 1989

Federal Election Commission
Attn: Robert Raich, Esq.
Office of the General Counsel
99 E Street, N.W.
Washington, D.C. 20463

Re: MUR 2984
Subpoena, Mr. Robert Johnson
Our Ref: M&G 3230.23-US-AA

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
89 NOV 13 PM 4:01

Dear Mr. Raich:

Enclosed is a designation of counsel and a signed affidavit of Robert G. Johnson for MUR 2984. We apologize for the delay in the submission of these documents.

If you have any questions, please do not hesitate to contact me at 612/298-1055.

Sincerely,

Andrew D. Sorensen

ADS/sjb

Enclosures: Signed Affidavit of Robert G. Johnson
Statement of Designation of Counsel

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM
89 NOV 13 AM 10:57

9504367018?

STATEMENT OF DESIGNATION OF COUNSEL

MUR 2984

NAME OF COUNSEL: D. Randall King, Esq.

ADDRESS: Merchant, Gould, Smith, Edell,
Welter & Schmidt, P.A.
1000 Norwest Center

St. Paul, Minnesota 55101

TELEPHONE: 612/298-1055

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.

10/7/89
Date

Signature

RESPONDENT'S NAME: Robert G. Johnson
Officer
National Association of Real Estate
Appraisers, Inc.

ADDRESS: 8383 East Evans Road

Scottsdale, Arizona 85260-3614

HOME PHONE: 602/991-9719

BUSINESS PHONE: 602/948-8000

9504336701188

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 2984
Robert Johnson	)	
	)	

AFFIDAVIT OF ROBERT G. JOHNSON

STATE OF ARIZONA)
) ss
COUNTY OF MARICOPA)

Sir:

Robert G. Johnson, being duly sworn, deposes and says as follows:

1. I am Robert G. Johnson, an officer of the National Association of Real Estate Appraisers.

2. I have read the subpoena to Mr. Robert Johnson of MUR 2984.

3. I have further read the document requests (a), (b), and (c) of the aforementioned subpoena.

4. I have never sent any resumes or cover letters to George Bush and associates of George Bush.

5. I have never caused any checks to be drawn on the account of any company or association listed in the subpoena or the Factual and Legal Analysis of MUR 2984 for the purpose of directly or indirectly benefitting any candidate for federal office or any political party of 1988.

6. I do not have any letters signed or distributed by myself which attempted to solicit contributions for any candidate for federal office or to any political party of 1988.

9504367089

7. I have carefully reviewed the Factual and Legal Analysis of MUR 2984 dated October 3, 1989.

8. I have never used company funds to make contributions for the Bush for President Campaign, nor do I recall soliciting members of the organizations listed in the Factual and Legal Analysis for the purpose to contribute to the Bush campaign.

9. I know of no company checks for $10,000 that were used to reimburse employees for personal checks for the Bush campaign. More specifically, I know of no checks originating from NAREA, NARA/MU, or IAM which were used to reimburse employees for personal checks for the Bush campaign.

10. I do not recall ever using company stationary, nor have I ever used a non-profit postage meter from any of the associations or employee labor to solicit contributions to the Bush campaign from members of the organizations NAREA or NARA/MU.

Further affiant sayeth not.

Nov-2, 1989
Date

Robert G. Johnson

Subscribed and sworn before me
this 2nd day of November,
1989.

E. L. [redacted]
Notary Public
6/30/93

9504367019 0

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

November 15, 1989

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Timothy Cloud
1720 East Thunderbird
Phoenix, Arizona 85022

RE: MUR 2984

Dear Mr. Cloud:

The Federal Election Commission has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended, and Chapters 95 and 96 of Title 26, United States Code. The Commission has issued the attached Subpoena which requires you to appear and give sworn testimony on December 13 , 1989 in Room 3449 of the Federal Building in Phoenix, Arizona in connection with an investigation the Commission is conducting. The Subpoena also requires you to produce certain documentation. 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 present with you at the deposition. If you intend to be so represented, please advise us of the name and address of your attorney prior to the date of the deposition.

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

9504367019 1

Within two days after your receipt of this notification, please confirm your scheduled appearance with Robert Raich, the attorney handling this matter, at (800) 424-9530.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosure
Subpoena

95043670192

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 2984

SUBPOENA

TO: Mr. Timothy Cloud
1720 East Thunderbird
Phoenix, Arizona 85022

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 certain activities of National Association of Real Estate Appraisers and related organizations. Notice is hereby given that the deposition is to be taken on December 13 , 1989 in Room 3449 of the Federal Building, 230 North First Avenue, Phoenix, Arizona, beginning at 10:00 a.m. and continuing each day thereafter as necessary.

Further, pursuant to 2 U.S.C. § 437d(a)(3), you are hereby subpoenaed to produce legible copies of all checks you received from any source, and all checks you wrote, in 1988 for the purpose of benefitting any candidate for federal office or any political party. The documents must be submitted to the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, by November 30, 1989.

9504367019 3

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set his hand at Washington, D.C., this 15th day of November, 1989.

Danny L. McDonald, Chairman
Federal Election Commission

ATTEST:

Marjorie W. Emmons
Secretary to the Commission

95043670194

DOC 4672

MERCHANT & GOULD

Merchant, Gould, Smith,
Edell, Welter & Schmidt
Professional Association
Patent, Trademark &
Copyright Lawyers

1000 Norwest Center
55 East Fifth Street
Saint Paul, Minnesota
U.S.A. 55101
FAX 612/298-1160
Telex 297470 MANDG Stp
612/298-1055

John D. Gould
Phillip H. Smith
Robert T. Edell
Paul A. Welter
Cecil C. Schmidt
John S. Sumners
Alan G. Carlson
Micheal L. Schwegman
Earl D. Reiland
Charles E. Golla
Douglas J. Williams
Douglas A. Strawbridge
Albert L. Underhill
D. Randall King
Norman P. Friederichs
Michael B. Lasky
Curtis B. Hamre
Michael D. Schumann
Michael L. Mau
John A. Clifford
Mark J. DiPietro
Steven W. Lundberg
Warren D. Woessner

Janet R. Westrom
David G. Johnson
Alan W. Kowalchyk
Michael S. Sherrill
Timothy R. Conrad
Daniel W. McDonald
R. Carl Moy
Robert C. Freed
Daniel J. Kluth
Wendy McDonald
Linda M. Byrne
Mark D. Schuman
Randall A. Hillson
John P. Sumner
Brian H. Batzli
David K. Tellekson
Hallie A. Finucane
John J. Gresens
Steven J. Keough
Paul F. Lacy
John L. Knoble
Michelle M. Michel
Philip P. Caspers
Gregory A. Sebald
Jane H. Arrett
Albin J. Nelson
Robert C. Beck
George H. Gates

FEDERAL EXPRESS

November 22, 1989

Federal Election Commission
ATTN: Mr. Danny L. McDonald
Office of the General Counsel
Chairman, Federal Election Commission
99 E Street, N.W.
Washington, D.C. 20463

RE: MUR 2984
International Association Managers, Inc.
Our Ref: M&G 3230.23-US-AA

Dear Mr. McDonald:

This is to acknowledge receipt of the letter and factual legal analysis dated October 3, 1989 outlining the position of the Federal Election Commission. There was a delay in receipt of the aforementioned letters, due to erroneous addresses being used for the International Association Managers, Inc. Our client was in receipt of the October 3, 1989, documents on November 10, 1989.

In your letter of October 3, 1989, you indicate an option available to our client to pursue a pre-probable cause conciliation. At this time, we request a pre-probable cause conciliation with regard to the International Association Managers, Inc.

FACTUAL AND LEGAL ANALYSIS RELATING TO THE
INTERNATIONAL ASSOCIATION MANAGERS, INC.

In the second paragraph of the above-identified factual and legal analysis, it alleged that a former employee informed the Commission that Robert Johnson used company funds to make contributions to the Bush for President campaign, as well as solicit members of the organizations to contribute to the Bush campaign. Mr. Johnson has never used company funds to make contributions to the Bush for President campaign, nor does he recall soliciting members of any of the other organizations for the purpose of contributing to the Bush campaign (Johnson Aff. ¶ 3).

RECEIVED
FEDERAL ELECTION COMMISSION
SECRETARIAT
89 NOV 28 AM 10:45

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
89 NOV 28 PM 4:29

9504367019 5

The third paragraph of the factual and legal analysis alleges that company checks of $10,000 were used to reimburse employees for personal checks to the Bush campaign and that the checks may have come from International Association Managers, Inc. Robert Johnson is not aware of any company checks for $10,000 used to reimburse employees for personal checks to the Bush campaign (Johnson Aff. ¶ 4). No checks have come from International Association Managers, Inc., to reimburse employee contributions.

It is respectfully requested that the name of the former employee, and/or other employees that the Commission has obtained information from, be revealed to the Respondent. The Respondent cannot effectively respond to such accusations unless the source of the accusations is known.

Enclosed is an executed Statement of Designation of Counsel. Also enclosed is a facsimile copy of Mr. Johnson's signed Affidavit. We will submit the original as soon as possible.

If you have any questions regarding this matter, please do not hesitate to contact me.

Sincerely,

(for D. Randall King)

D. Randall King

DRK/ADS/sjd

Enclosures: Statement of Designation of Counsel
Facsimile Copy of Robert G. Johnson Affidavit

9504367019 96

STATEMENT OF DESIGNATION OF COUNSEL

MUR 2984

NAME OF COUNSEL: D. Randall King, Esq.

ADDRESS: Merchant, Gould, Smith,
Edell, Welter & Schmidt, P.A.
1000 Norwest Center

St. Paul, Minnesota 55101

TELEPHONE: 612/298-1055

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.

11-10-89
Date

Signature

RESPONDENT'S NAME: Robert G. Johnson
Officer

ADDRESS: International Association Managers, Inc.

8383 East Evans Road

Scottsdale, Arizona 85260-3614

HOME PHONE: 602/991-9719

BUSINESS PHONE: 602/948-8000

9504367019 7

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 2984
INTERNATIONAL ASSOCIATION MANAGERS, INC.	)	
	)	
	)	

AFFIDAVIT OF ROBERT G. JOHNSON

STATE OF ARIZONA)
) ss
COUNTY OF MARICOPA)

Sir:

Robert G. Johnson, being duly sworn, deposes and says as follows:

1. I am Robert G. Johnson, an officer of the National Association of Real Estate Appraisers, Inc.

2. I have read the legal and factual analysis regarding the International Association Managers, Inc., MUR 2984.

3. I have never used company funds to make contributions for the Bush for President campaign, nor do I recall soliciting members of the organizations listed in the factual legal analysis for the purpose to contribute to the Bush campaign.

9504367019 98

4. I know of no company checks for $10,000 that were used to reimburse employees for personal checks for the Bush campaign. More specifically, I know of no checks originating from NAREA or IAM which were used to reimburse employees for their personal checks for the Bush campaign.

Further affiant sayeth not.

11/21/89
Date

Robert G. Johnson

Subscribed and sworn before me
this 21st day of November,
1989.

[redacted]
6/30/93

9504367019 9

OGC 4697

FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

MERCHANT & GOULD

Merchant, Gould, Smith, Edell, Welter & Schmidt
Professional Association
Patent, Trademark & Copyright Lawyers

1000 Norwest Center
55 East Fifth Street
Saint Paul, Minnesota
U.S.A. 55101
FAX 612/298-1160
Telex 297470 MANDG Stp
612/298-1055

Robert T. Edell
Paul A. Welter
Cecil C. Schmidt
John S. Sumners
Alan G. Carlson
Micheal L. Schwegman
Earl D. Reiland
Charles E. Golla
Douglas J. Williams
Douglas A. Strawbridge
Albert L. Underhill
D. Randall King
Norman P. Friederichs
Michael B. Lasky
Curtis B. Hamre
Michael D. Schumann
Michael L. Mau
John A. Clifford
Mark J. DiPietro
Steven W. Lundberg
Warren D. Woessner

Janet R. Westrom
David G. Johnson
Alan W. Kowalchyk
Michael S. Sherrill
Timothy R. Conrad
Daniel W. McDonald
R. Carl Moy
Robert C. Freed
Daniel J. Kluth
Wendy McDonald
Linda M. Byrne
Mark D. Schuman
Randall A. Hillson
John P. Sumner
Brian H. Batzli
David K. Tellekson
Hallie A. Finucane
John J. Gresens
Steven J. Keough
Paul F. Lacy
John L. Knoble
Michelle M. Michel
Philip P. Caspers
Gregory A. Sebald
Jane H. Arrett
Albin J. Nelson
Robert C. Beck
George H. Gates

89 NOV 30 AM 10:0

BY TELECOPIER
(Confirmation Copy to Follow)

November 27, 1989

Federal Election Commission
ATTN: Robert Raich, Esq.
Office of the General Counsel
99 E Street, N.W.
Washington, D.C. 20463

RE: MUR 2984
Our Ref: M&G 3230.23-US-AA

Dear Mr. Raich:

This letter acknowledges the Federal Election Commission's letter and subpoena of November 15, 1989, subpoenaing Mr. Timothy Cloud on December 13, 1989. The subpoena requests legible copies of all checks received from any source and all checks written in 1988 for the purpose of benefitting any candidate for a federal election or any political party.

Mr. Cloud will be present in Room 3449 of the Federal Building in Phoenix, Arizona, on December 13, 1989, at 10 a.m. Mr. D. Randall King of the firm Merchant, Gould et al. will be representing Mr. Cloud at the deposition.

Mr. Cloud is complying with the document requests and will produce, if any, all documents requested under the subpoena. In a discussion on November 27, 1989, I informed you that the documents, if any, may be submitted after November 30, 1989, due to logistical problems, but will be submitted as soon as possible.

We have also agreed you will depose Mr. E. Kenneth Twichell and Mr. Robert G. Johnson following Mr. Timothy Cloud at an earlier time than scheduled, if time permits, and if agreeable to both parties.

If you have any questions regarding this matter, please do not hesitate to contact me.

Sincerely,

Andrew D. Sorensen

ADS/sjb

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM
89 NOV 30 AM 10:35

9504367202 0

STATEMENT OF DESIGNATION OF COUNSEL

MUR 2984

NAME OF COUNSEL: D. Randall King, Esq.

ADDRESS: Merchant, Gould, Smith,
Edell, Welter & Schmidt, P.A.
1000 Norwest Center

St. Paul, Minnesota 55101

TELEPHONE: 612/298-1055

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.

11-10-89
Date

Signature

RESPONDENT'S NAME: Robert G. Johnson
Officer

ADDRESS: National Association of Review Appraisers
and Mortgage Underwriters, Inc.
8383 East Evans Road

Scottsdale, Arizona 85260-3614

HOME PHONE: 602/991-9719

BUSINESS PHONE: 602/948-8000

9504367020 1

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 2984
NATIONAL ASSOCIATION OF REVIEW APPRAISERS AND MORTGAGE UNDERWRITERS, INC.	)	
	)	

AFFIDAVIT OF ROBERT G. JOHNSON

STATE OF ARIZONA)
) ss
COUNTY OF MARICOPA)

Sir:

Robert G. Johnson, being duly sworn, deposes and says as follows:

1. I am Robert G. Johnson, an officer of the National Association of Real Estate Appraisers, Inc.

2. I have carefully reviewed the factual and legal analysis of MUR 2984 dated October 3, 1989, involving the National Association of Review Appraisers and Mortgage Underwriters, Inc.

3. I have never used company funds to make contributions for the Bush for President campaign, nor do I recall soliciting members of NARA/MU for the purpose to contribute to the Bush campaign.

9504367020 2

4. I know of no company checks for $10,000 that were used to reimburse employees for personal checks for the Bush campaign. More specifically, I know of no checks originating from NARA/MU which were used to reimburse employees for their personal checks for the Bush campaign.

5. I do not recall ever using company stationery, nor have I ever used a non-profit postage meter from any of the associations or employee labor to solicit contributions to the Bush campaign from members of NARA/MU.

Further affiant sayeth not.

11/21/89
Date

Robert G. Johnson

Subscribed and sworn before me
this 21st day of November,
1989.

[redacted]

6/30/93

9504367002203

SENSITIVE

RECEIVED
FEDERAL ELECTION COMMISSION
SECRETARIAT
89 NOV 24 PM 1:09

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
E. Kenneth Twichell	)	
Robert Johnson	)	
National Association of Real Estate Appraisers, Inc.	)	MUR 2984
National Association of Review Appraisers and Mortgage Underwriters, Inc.	)	
International Association Managers, Inc.	)	

GENERAL COUNSEL'S REPORT

I. BACKGROUND

The Commission has found reason to believe all of the respondents violated 2 U.S.C. §§ 441b(a) and 441f, and has approved subpoenas to E. Kenneth Twichell, Robert Johnson, and Timothy Cloud. Messrs. Twichell and Johnson have responded through counsel to the subpoenas and the reason to believe findings. (Attachment 1)

Depositions are scheduled for Mr. Cloud on December 13, Mr. Twichell on December 14, and Mr. Johnson on December 15, 1989. In addition, this Office has conducted interviews with several witnesses who have knowledge of the facts at issue. These witnesses have stated facts contrary to information supplied by Messrs. Twichell and Johnson. For example, the witnesses state that employees were reimbursed for their contributions and that the corporations paid for solicitations, allegations that the respondents deny. It appears that further light would be shed in this matter by a review of complete financial records. Moreover, these records should be reviewed prior to the depositions. Accordingly, this Office recommends that the Commission approve the attached Subpoenas to Produce

9504367020204

Documents, which require production on December 11, 1989, earlier in the week in which depositions are scheduled.

II. RECOMMENDATIONS

1. Approve the attached Subpoenas to Produce Documents.

2. Approve and send the attached letters.

Lawrence M. Noble
General Counsel

11-22-89
Date

By: [signature]
Lois G. Lerner
Associate General Counsel

Attachments
1. Responses
2. Subpoenas
3. Letters

Staff Member: R. Raich

9504367020205

BEFORE THE FEDERAL ELECTION COMMISSION

In the matter of	)	
	)	
E. Kenneth Twichell	)	MUR 2984
Robert Johnson	)	
National Association of Real Estate Appraisers, Inc.	)	
National Association of Review Appraisers and Mortgage Underwriters, Inc.	)	
International Association Managers, Inc.	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on November 29, 1989, the Commission decided by a vote of 4-0 to take the following actions in MUR 2984:

1. Approve the Subpoenas to Produce Documents, as recommended in the General Counsel's Report dated November 22, 1989.

2. Approve and send the letters, as recommended in the General Counsel's Report dated November 22, 1989.

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

Attest:

11/29/89
Date

Helen Arndt
for Marjorie W. Emmons
Secretary of the Commission

Received in the Secretariat: Friday, Nov. 24, 1989 1:08 p.m.
Circulated to the Commission: Monday, Nov. 27, 1989 11:00 a.m.
Deadline for vote: Wednesday, Nov. 29, 1989 11:00 a.m.

9504367020 6

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

November 30, 1989

VIA AIRBORNE

D. Randall Ring, Esquire
Merchant & Gould
1000 Norwest Center
55 East Fifth Street
Saint Paul, Minnesota 55101

RE: MUR 2984
E. Kenneth Twichell
Robert Johnson
National Association of Real Estate Appraisers, Inc.
National Association of Review Appraisers and Mortgage Underwriters, Inc.
International Association Managers, Inc.

95 04 3670207

Dear Mr. King:

The Federal Election Commission has found reason to believe your clients 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 subpoenas requiring your clients to provide documents which will assist the Commission in carrying out its statutory duty of supervising compliance with the Federal Election Campaign Act of 1971, as amended, and Chapters 95 and 96 of Title 26, U.S. Code.

If you have any questions, please contact Robert Raich, the attorney handling this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosures
Subpoenas to Produce Documents

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 2984

SUBPOENA TO PRODUCE DOCUMENTS

TO: International Association Managers, Inc.

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 the documents listed on the attachment to this subpoena.

Notice is given that these documents must be presented for inspection and copying on December 11, 1989, at 9:00 a.m., in Room 3449 of the Federal Building, 230 North First Avenue, Phoenix, Arizona, or such other location as may be agreed upon. Legible copies which, where applicable, show both sides of the documents may be substituted for originals.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set his hand in Washington, D.C. on this 29th day of November, 1989.

Danny L. McDonald, Chairman
Federal Election Commission

ATTEST:

Marjorie W. Emmons
Secretary to the Commission

9504367020 8

INSTRUCTIONS

In responding to this document request, furnish all documents and other information, however obtained, that are in possession of, known by, or otherwise available to you, including documents and information appearing in your records.

Should you claim a privilege with respect to any documents requested by this document request, 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.

This document request is continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

DEFINITIONS

For the purpose of this document request, including the instructions thereto, the terms listed below are defined as follows:

"You" shall mean International Association Managers, Inc., including all officers, directors, employees, agents, or attorneys thereof.

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

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of this document request any documents and materials which may otherwise be construed to be out of its scope.

9504367020 9

"Specified Persons" shall mean any candidate for federal office; any federal political committee; any political party; National Association of Real Estate Appraisers, Inc.; National Association of Review Appraisers and Mortgage Underwriters, Inc.; International Association Managers, Inc.; International Real Estate Institute; Professional Womens Appraisal Association; Robert Johnson and Associates; Todd Publishing; Robert Johnson; E. Kenneth Twichell; Timothy Cloud; Stephen Schneck; and Todd Johnson.

DOCUMENT REQUEST

1. Produce all of your statements from banks, brokerage houses, and all other financial institutions, and all of your check registers, for the period of January 1 through June 30, 1988.

2. Produce all documents that in any way reflect, constitute, relate, or refer to financial activity, or the transfer of any asset either directly or indirectly through a third party, between you and any of the Specified Persons during the period of January 1 through June 30, 1988. Such documents include, but are not limited to, all of the following: checks written to you; check stubs; deposit slips; cancelled checks; records of electronic transfers; confirmations of the purchase or sale of stocks, bonds, mutual funds, commodities, and real estate; and all other financial transactions.

9504367021 0

3. Produce all documents constituting communications during the period of January 1, 1987 through December 31, 1988, in which Robert Johnson, E. Kenneth Twichell, National Association of Real Estate Appraisers, Inc., National Association of Review Appraisers and Mortgage Underwriters, Inc., International Association Managers, Inc., International Real Estate Institute, or Professional Womens Appraisal Association requested support for any federal candidate or political party. Produce all letters, statements, invoices, vouchers, receipts, checks, and any other documents which in any way relate, pertain, or refer to such communications.

9504367021 1

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 2984

SUBPOENA TO PRODUCE DOCUMENTS

TO: National Association of Review Appraisers and Mortgage Underwriters, Inc.

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 the documents listed on the attachment to this subpoena.

Notice is given that these documents must be presented for inspection and copying on December 11, 1989, at 9:00 a.m., in Room 3449 of the Federal Building, 230 North First Avenue, Phoenix, Arizona, or such other location as may be agreed upon. Legible copies which, where applicable, show both sides of the documents may be substituted for originals.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set his hand in Washington, D.C. on this 29th day of November, 1989.

Danny L. McDonald, Chairman
Federal Election Commission

ATTEST:

Marjorie W. Emmons
Secretary to the Commission

9504367021 2

9504367021 3

INSTRUCTIONS

In responding to this document request, furnish all documents and other information, however obtained, that are in possession of, known by, or otherwise available to you, including documents and information appearing in your records.

Should you claim a privilege with respect to any documents requested by this document request, 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.

This document request is continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

DEFINITIONS

For the purpose of this document request, including the instructions thereto, the terms listed below are defined as follows:

"You" shall mean National Association of Review Appraisers and Mortgage Underwriters, Inc., including all officers, directors, employees, agents, or attorneys thereof.

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

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of this document request any documents and materials which may otherwise be construed to be out of its scope.

"Specified Persons" shall mean any candidate for federal office; any federal political committee; any political party; National Association of Real Estate Appraisers, Inc.; National Association of Review Appraisers and Mortgage Underwriters, Inc.; International Association Managers, Inc.; International Real Estate Institute; Professional Womens Appraisal Association; Robert Johnson and Associates; Todd Publishing; Robert Johnson; E. Kenneth Twichell; Timothy Cloud; Stephen Schneck; and Todd Johnson.

DOCUMENT REQUEST

1. Produce all of your statements from banks, brokerage houses, and all other financial institutions, and all of your check registers, for the period of January 1 through June 30, 1988.

2. Produce all documents that in any way reflect, constitute, relate, or refer to financial activity, or the transfer of any asset either directly or indirectly through a third party, between you and any of the Specified Persons during the period of January 1 through June 30, 1988. Such documents include, but are not limited to, all of the following: checks written to you; check stubs; deposit slips; cancelled checks; records of electronic transfers; confirmations of the purchase or sale of stocks, bonds, mutual funds, commodities, and real estate; and all other financial transactions.

9504367021 4

3. Produce all documents constituting communications in which Robert Johnson, E. Kenneth Twichell, National Association of Real Estate Appraisers, Inc., National Association of Review Appraisers and Mortgage Underwriters, Inc., International Association Managers, Inc., International Real Estate Institute, or Professional Womens Appraisal Association requested support for any political candidate. Produce all letters, statements, invoices, vouchers, receipts, checks, and any other documents which in any way relate, pertain, or refer to such communications requesting support for a political candidate.

9504367021 5

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 2984

SUBPOENA TO PRODUCE DOCUMENTS

TO: National Association of Real Estate Appraisers, Inc.

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 the documents listed on the attachment to this subpoena.

Notice is given that these documents must be presented for inspection and copying on December 11, 1989, at 9:00 a.m., in Room 3449 of the Federal Building, 230 North First Avenue, Phoenix, Arizona, or such other location as may be agreed upon. Legible copies which, where applicable, show both sides of the documents may be substituted for originals.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set his hand in Washington, D.C. on this 29th day of November, 1989.

Danny L. McDonald, Chairman
Federal Election Commission

ATTEST:

Marjorie W. Emmons
Secretary to the Commission

9504367021 6

INSTRUCTIONS

In responding to this document request, furnish all documents and other information, however obtained, that are in possession of, known by, or otherwise available to you, including documents and information appearing in your records.

Should you claim a privilege with respect to any documents requested by this document request, 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.

This document request is continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

DEFINITIONS

For the purpose of this document request, including the instructions thereto, the terms listed below are defined as follows:

"You" shall mean National Association of Real Estate Appraisers, Inc., including all officers, directors, employees, agents, or attorneys thereof.

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

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of this document request any documents and materials which may otherwise be construed to be out of its scope.

9504367021 7

"Specified Persons" shall mean any candidate for federal office; any federal political committee; any political party; National Association of Real Estate Appraisers, Inc.; National Association of Review Appraisers and Mortgage Underwriters, Inc.; International Association Managers, Inc.; International Real Estate Institute; Professional Womens Appraisal Association; Robert Johnson and Associates; Todd Publishing; Robert Johnson; E. Kenneth Twichell; Timothy Cloud; Stephen Schneck; and Todd Johnson.

DOCUMENT REQUEST

1. Produce all of your statements from banks, brokerage houses, and all other financial institutions, and all of your check registers, for the period of January 1 through June 30, 1988.

2. Produce all documents that in any way reflect, constitute, relate, or refer to financial activity, or the transfer of any asset either directly or indirectly through a third party, between you and any of the Specified Persons during the period of January 1 through June 30, 1988. Such documents include, but are not limited to, all of the following: checks written to you; check stubs; deposit slips; cancelled checks; records of electronic transfers; confirmations of the purchase or sale of stocks, bonds, mutual funds, commodities, and real estate; and all other financial transactions.

9504367021 8

3. Produce all documents constituting communications in which Robert Johnson, E. Kenneth Twichell, National Association of Real Estate Appraisers, Inc., National Association of Review Appraisers and Mortgage Underwriters, Inc., International Association Managers, Inc., International Real Estate Institute, or Professional Womens Appraisal Association requested support for any political candidate. Produce all letters, statements, invoices, vouchers, receipts, checks, and any other documents which in any way relate, pertain, or refer to such communications requesting support for a political candidate.

9504367 0219

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 2984

SUBPOENA TO PRODUCE DOCUMENTS

TO: Timothy Cloud

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 the documents listed on the attachment to this subpoena.

Notice is given that these documents must be presented for inspection and copying on December 11, 1989, at 9:00 a.m., in Room 3449 of the Federal Building, 230 North First Avenue, Phoenix, Arizona, or such other location as may be agreed upon. Legible copies which, where applicable, show both sides of the documents may be substituted for originals.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set his hand in Washington, D.C. on this 29th day of November, 1989.

Danny L. McDonald

Danny L. McDonald, Chairman
Federal Election Commission

ATTEST:

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

9504367022O

INSTRUCTIONS

In responding to this document request, furnish all documents and other information, however obtained, that are in possession of, known by, or otherwise available to you, including documents and information appearing in your records.

Should you claim a privilege with respect to any documents requested by this document request, 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.

This document request is continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

DEFINITIONS

For the purpose of this document request, including the instructions thereto, the terms listed below are defined as follows:

"You" shall mean Timothy Cloud, including all employees, agents, or attorneys thereof.

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

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of this document request any documents and materials which may otherwise be construed to be out of its scope.

9504367022 1

"Specified Persons" shall mean any candidate for federal office; any federal political committee; any political party; National Association of Real Estate Appraisers, Inc.; National Association of Review Appraisers and Mortgage Underwriters, Inc.; International Association Managers, Inc.; International Real Estate Institute; Professional Womens Appraisal Association; Robert Johnson and Associates; Todd Publishing; Robert Johnson; E. Kenneth Twichell; Timothy Cloud; Stephen Schneck; and Todd Johnson.

DOCUMENT REQUEST

1. Produce all of your statements from banks, brokerage houses, and all other financial institutions, and all of your check registers, for the period of January 1 through June 30, 1988.

2. Produce all documents that in any way reflect, constitute, relate, or refer to financial activity, or the transfer of any asset either directly or indirectly through a third party, between you and any of the Specified Persons during the period of January 1 through June 30, 1988. Such documents include, but are not limited to, all of the following: checks written to you; check stubs; deposit slips; cancelled checks; records of electronic transfers; confirmations of the purchase or sale of stocks, bonds, mutual funds, commodities, and real estate; and all other financial transactions.

9504367022

3. Using all computer records at your disposal, produce all communications in which Robert Johnson, E. Kenneth Twichell, National Association of Real Estate Appraisers, Inc., National Association of Review Appraisers and Mortgage Underwriters, Inc., International Association Managers, Inc., International Real Estate Institute, or Professional Womens Appraisal Association requested support for any political candidate. Produce all letters, statements, invoices, vouchers, receipts, checks, and any other documents which in any way relate, pertain, or refer to such communications requesting support for a political candidate.

9504367023

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 2984

SUBPOENA TO PRODUCE DOCUMENTS

TO: Robert Johnson

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 the documents listed on the attachment to this subpoena.

Notice is given that these documents must be presented for inspection and copying on December 11, 1989, at 9:00 a.m., in Room 3449 of the Federal Building, 230 North First Avenue, Phoenix, Arizona, or such other location as may be agreed upon. Legible copies which, where applicable, show both sides of the documents may be substituted for originals.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set his hand in Washington, D.C. on this 29th day of November, 1989.

Danny L. McDonald, Chairman
Federal Election Commission

ATTEST:

Marjorie W. Emmons
Secretary to the Commission

9504367022 4

INSTRUCTIONS

In responding to this document request, furnish all documents and other information, however obtained, that are in possession of, known by, or otherwise available to you, including documents and information appearing in your records.

Should you claim a privilege with respect to any documents requested by this document request, 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.

This document request is continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

DEFINITIONS

For the purpose of this document request, including the instructions thereto, the terms listed below are defined as follows:

"You" shall mean Robert Johnson, including all employees, agents, or attorneys thereof.

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

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of this document request any documents and materials which may otherwise be construed to be out of its scope.

9504367022 5

"Specified Persons" shall mean any candidate for federal office; any federal political committee; any political party; National Association of Real Estate Appraisers, Inc.; National Association of Review Appraisers and Mortgage Underwriters, Inc.; International Association Managers, Inc.; International Real Estate Institute; Professional Womens Appraisal Association; Robert Johnson and Associates; Todd Publishing; Robert Johnson; E. Kenneth Twichell; Timothy Cloud; Stephen Schneck; and Todd Johnson.

DOCUMENT REQUEST

1. Produce all of your statements from banks, brokerage houses, and all other financial institutions, and all of your check registers, for the period of January 1 through June 30, 1988.

2. Produce all documents that in any way reflect, constitute, relate, or refer to financial activity, or the transfer of any asset either directly or indirectly through a third party, between you and any of the Specified Persons during the period of January 1 through June 30, 1988. Such documents include, but are not limited to, all of the following: checks written to you; check stubs; deposit slips; cancelled checks; records of electronic transfers; confirmations of the purchase or sale of stocks, bonds, mutual funds, commodities, and real estate; and all other financial transactions.

9504367022 6

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 2984

SUBPOENA TO PRODUCE DOCUMENTS

TO: E. Kenneth Twichell

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 the documents listed on the attachment to this subpoena.

Notice is given that these documents must be presented for inspection and copying on December 11, 1989, at 9:00 a.m., in Room 3449 of the Federal Building, 230 North First Avenue, Phoenix, Arizona, or such other location as may be agreed upon. Legible copies which, where applicable, show both sides of the documents may be substituted for originals.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set his hand in Washington, D.C. on this 29th day of November, 1989.

Danny L. McDonald, Chairman
Federal Election Commission

ATTEST:

Marjorie W. Emmons
Secretary to the Commission

9504367022 7

INSTRUCTIONS

In responding to this document request, furnish all documents and other information, however obtained, that are in possession of, known by, or otherwise available to you, including documents and information appearing in your records.

Should you claim a privilege with respect to any documents requested by this document request, 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.

This document request is continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

DEFINITIONS

For the purpose of this document request, including the instructions thereto, the terms listed below are defined as follows:

"You" shall mean E. Kenneth Twichell, including all employees, agents, or attorneys thereof.

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

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of this document request any documents and materials which may otherwise be construed to be out of its scope.

9504367022 8

"Specified Persons" shall mean any candidate for federal office; any federal political committee; any political party; National Association of Real Estate Appraisers, Inc.; National Association of Review Appraisers and Mortgage Underwriters, Inc.; International Association Managers, Inc.; International Real Estate Institute; Professional Womens Appraisal Association; Robert Johnson and Associates; Todd Publishing; Robert Johnson; E. Kenneth Twichell; Timothy Cloud; Stephen Schneck; and Todd Johnson.

DOCUMENT REQUEST

1. Produce all of your statements from banks, brokerage houses, and all other financial institutions, and all of your check registers, for the period of January 1 through June 30, 1988.

2. Produce all documents that in any way reflect, constitute, relate, or refer to financial activity, or the transfer of any asset either directly or indirectly through a third party, between you and any of the Specified Persons during the period of January 1 through June 30, 1988. Such documents include, but are not limited to, all of the following: checks written to you; check stubs; deposit slips; cancelled checks; records of electronic transfers; confirmations of the purchase or sale of stocks, bonds, mutual funds, commodities, and real estate; and all other financial transactions.

9504367 02229

FEDERAL ELECTION COMMISSION
WASHINGTON D C 20463

November 30, 1989

VIA AIRBORNE

Mr. Timothy Cloud
1720 East Thunderbird
Phoenix, Arizona 85022

RE: MUR 2984

Dear Mr. Cloud:

The Federal Election Commission has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended, and Chapters 95 and 96 of Title 26, United States Code. The Commission has issued the attached subpoena which requires you to provide certain 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 subpoena. However, you are required to submit the information on December 11, 1989, or such other date as may be agreed upon.

If you have any questions, please contact Robert Raich, the attorney handling this matter, at (800) 424-9530.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosure
Subpoena to Produce Documents

9504367023 0

FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
RECEIVED
89 DEC -5 AM 11:29
GCC# 4761

MERCHANT & GOULD

Merchant, Gould, Smith, Edell, Welter & Schmidt
Professional Association
Patent, Trademark & Copyright Lawyers

1000 Norwest Center
55 East Fifth Street
Saint Paul, Minnesota
U.S.A. 55101
FAX 612/298-1160
Telex 297470 MANDG Stp
612/298-1055

John D. Gould
Phillip H. Smith
Robert T. Edell
Paul A. Welter
Cecil C. Schmidt
John S. Sumners
Alan G. Carlson
Micheal L. Schwegman
Earl D. Reiland
Charles E. Gollis
Douglas J. Williams
Douglas A. Strawbridge
Albert L. Underhill
D. Randall King
Norman P. Friederichs
Michael B. Lasky
Curtis B. Hamre
Michael D. Schumann
Michael L. Mau
John A. Clifford
Mark J. DiPietro
Steven W. Lundberg
Warren D. Woessner

Janet R. Westrom
David G. Johnson
Alan W. Kowalchyk
Michael S. Sherrill
Timothy R. Conrad
Daniel W. McDonald
R. Carl Moy
Robert C. Freed
Daniel J. Kluth
Wendy McDonald
Linda M. Byrne
Mark D. Schuman
Randall A. Hillson
John P. Sumner
Brian H. Batzli
David K. Tellekson
Hallie A. Finucane
John J. Gresens
Steven J. Keough
Paul E. Lacy
John L. Knoble
Michelle M. Michel
Philip P. Caspers
Gregory A. Sebald
Jane H. Arrett
Albin J. Nelson
Robert C. Beck
George H. Gates

BY FEDERAL EXPRESS

December 4, 1989

Federal Election Commission
ATTN: Robert Raich, Esq.
Office of the General Counsel
99 E Street, N.W.
Washington, D.C. 20463

Re: MUR 2984
Our Ref: M&G 3230.23-US-AA

Dear Mr. Raich:

Enclosed is a copy of a check produced by Mr. Timothy Cloud pursuant to the document request of November 15, 1989. We apologize for the delay but, as discussed last week, Mr. Cloud had to wait for his bank to duplicate a copy of the check.

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

Sincerely,

Andrew D. Sorensen

ADS/sjd

Enclosure: Copy of Check from Mr. Timothy Cloud

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

HAND DELIVERED
RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM
89 DEC -5 AM 10:32

9504367023 1

FEDERAL ELECTION COMMISSION
WASHINGTON D C 20463

December 7, 1989

VIA AIRBORNE

D. Randall King, Esquire
Merchant & Gould
1000 Norwest Center
55 East Fifth Street
Saint Paul, Minnesota 55101

RE: MUR 2984
E. Kenneth Twichell
Robert Johnson
National Association of Real Estate Appraisers, Inc.
National Association of Review Appraisers and Mortgage Underwriters, Inc.
International Association Managers, Inc.

Dear Mr. King:

This confirms the substance of Robert Bauer's December 5 conversation with Robert Raich. The depositions formerly scheduled for December 13 through 15 will be rescheduled. The document production formerly scheduled in Phoenix for December 11 will take place at the Commission's offices on a new date. Mr. Bauer will file Designation of Counsel Statements for his clients.

This confirms the substance of Andrew Sorensen's December 6 conversation with Robert Raich. You will produce the actual copy of the check Timothy Cloud gave you. You will file an affidavit from Timothy Cloud swearing that the check is the only document responsive to the document request accompanying his deposition subpoena. You will file a Designation of Counsel Statement from Timothy Cloud.

9504367023 2

If these statements do not comport with your understanding, please advise immediately.

Sincerely,

Lawrence M. Noble
General Counsel

By: Jonathan A. Bernstein
Assistant General Counsel

95043670233

OGC 4805

MERCHANT & GOULD

Merchant, Gould, Smith, Edell, Welter & Schmidt
Professional Association
Patent, Trademark & Copyright Lawyers

1000 Norwest Center
55 East Fifth Street
Saint Paul, Minnesota
U.S.A. 55101
FAX 612/298-1160
Telex 297470 MANDG Stp
612/298-1055

John D. Gould
Phillip H. Smith
Robert T. Edell
Paul A. Welter
Cecil C. Schmidt
John S. Sumners
Alan G. Carlson
Micheal L. Schwegman
Earl D. Reiland
Charles E. Golla
Douglas J. Williams
Douglas A. Strawbridge
Albert L. Underhill
D. Randall King
Norman P. Friederichs
Michael B. Lasky
Curtis B. Hamre
Michael D. Schumann
Michael L. Mau
John A. Clifford
Mark J. DiPietro
Steven W. Lundberg
Warren D. Woessner

Janet R. Westrom
David G. Johnson
Alan W. Kowalchyk
Michael S. Sherrill
Timothy R. Conrad
Daniel W. McDonald
R. Carl Moy
Robert C. Freed
Daniel J. Kluth
Wendy McDonald
Linda M. Byrne
Mark D. Schuman
Randall A. Hillson
John P. Sumner
Brian H. Batzli
David K. Tellekson
Hallie A. Finucane
John J. Gresens
Steven J. Keough
Paul F. Lacy
John L. Knoble
Michelle M. Michel
Philip P. Caspers
Gregory A. Sebald
Jane H. Arrett
Alban J. Nelson
Robert C. Beck
George H. Gates

BY EXPRESS MAIL

December 8, 1989

Federal Election Commission
ATTN: Robert Raich, Esq.
Office of the General Counsel
99 E Street, N.W.
Washington, D.C. 20463

Re: MUR 2984
Our Ref: M&G 3230.23-US-AA

Dear Mr. Raich:

Enclosed, as promised, is the original photostat copy of the check produced by Mr. Timothy Cloud and his affidavit. We are also enclosing five Designations of Counsel designating Robert Bauer as co-counsel to receive notifications and to act on the Respondents' behalf.

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

Sincerely,

Andrew D. Sorensen

ADS/sjd

Enclosures: Original Photostat of Check from Mr. Timothy Cloud; Affidavit of Timothy Cloud; Designations of Counsel for: E. Kenneth Twichell; Robert G. Johnson; National Association of Real Estate Appraisers, Inc.; International Association Managers, Inc.; National Association of Review Appraisers and Mortgage Underwriters, Inc.

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

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
89 DEC 11 PM 1:04

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM
89 DEC 11 AM 11:35

9504367023 4

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 2984

AFFIDAVIT OF TIMOTHY CLOUD

STATE OF ARIZONA)
) ss
COUNTY OF MARICOPA)

Sir:

Timothy Cloud, being duly sworn, deposes and says as follows:

1. I am Timothy Cloud, subpoenaed to produce legible copies of all checks received from any source, and any checks written, in 1988 for the purpose of benefitting any candidate for federal office or any political party.

2. I have carefully reviewed the subpoena and document requests of MUR 2984, dated November 15, 1989.

3. I have produced a check I wrote in 1988. There are no other checks that I am aware that I have written in 1988 for the purpose of benefitting any candidate for federal office or any political party.

4. There are no checks I have received from any source in 1988 for the purpose of benefitting any candidate for federal office or any political party.

9504367023 5

Further affiant sayeth not.

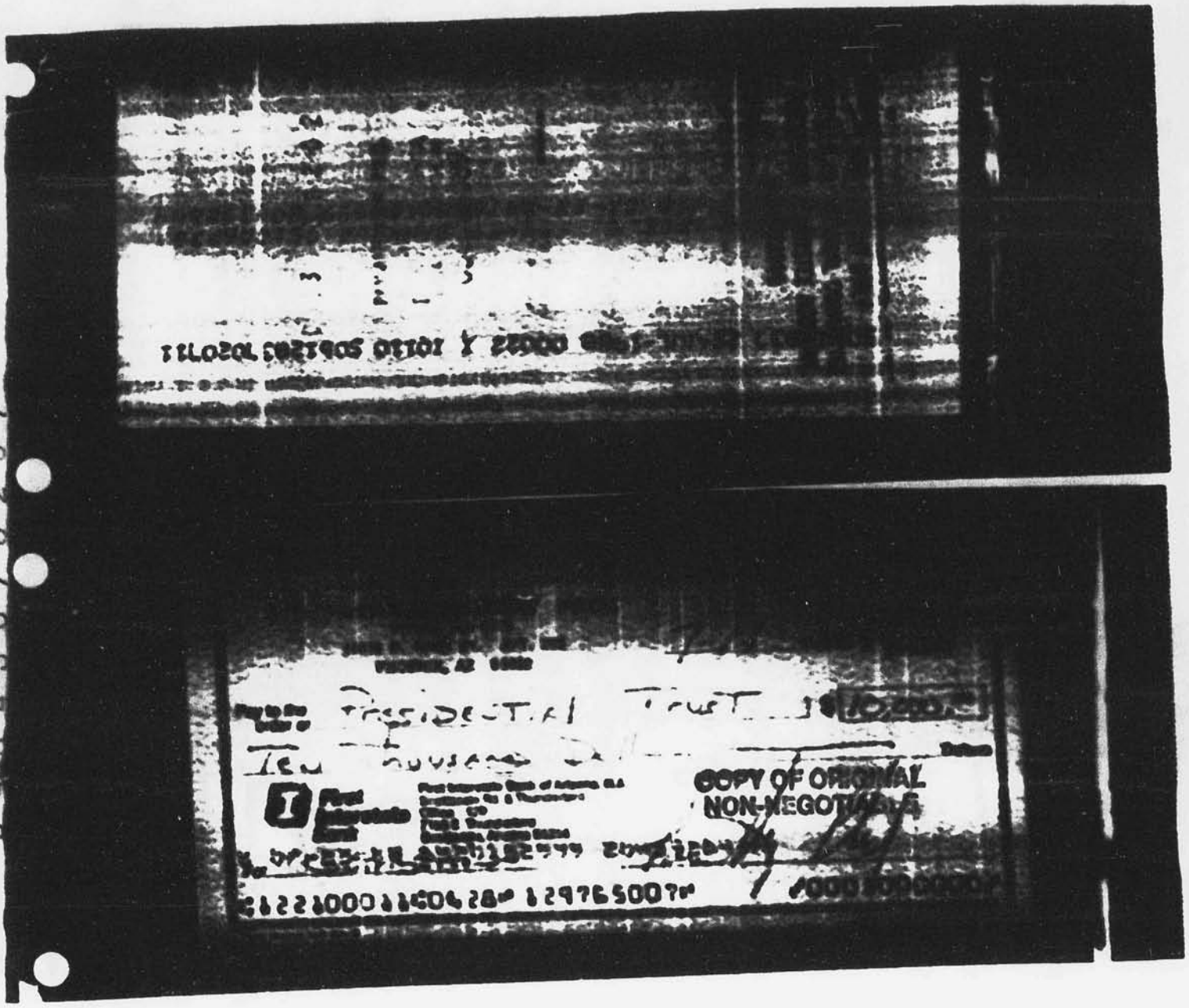
12-5-89
Date

Timothy Cloud

Subscribed and sworn before me
this 5th day of December,
1989.

Notary Public

9504136702236



0504367023237

STATEMENT OF DESIGNATION OF COUNSEL

MUR 2984

NAME OF COUNSEL: Robert F. Bauer, Esq.

ADDRESS: Perkins Coie
1110 Vermont Avenue, N.W.
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.

12/7/89
Date

Signature
E. Kenneth Twichell
Managing Director

RESPONDENT'S NAME: E. Kenneth Twichell
Managing Director

ADDRESS: National Association of Real Estate Appraisers, Inc.
8383 East Evans Road
Scottsdale, Arizona 85260-3614

HOME PHONE: 602/971-0927

BUSINESS PHONE: 602/948-8000

9504367023 8

STATEMENT OF DESIGNATION OF COUNSEL

MUR 2984

NAME OF COUNSEL: Robert F. Bauer, Esq.

ADDRESS: Perkins Coie
1110 Vermont Avenue, N.W.
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.

12/7/89
Date

Signature Robert G. Johnson
Executive Director

RESPONDENT'S NAME: Robert G. Johnson
Executive Director

ADDRESS: National Association of Real Estate Appraisers, Inc.
8383 East Evans Road
Scottsdale, Arizona 85260-3614

HOME PHONE: 602/991-9719

BUSINESS PHONE: 602/948-8000

9504367023 9

STATEMENT OF DESIGNATION OF COUNSEL

MUR 2984

NAME OF COUNSEL: Robert F. Bauer, Esq.

ADDRESS: Perkins Coie
1110 Vermont Avenue, N.W.
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.

12/7/89
Date

Signature Robert G. Johnson
Officer

RESPONDENT'S NAME: Robert G. Johnson
Officer

ADDRESS: National Association of Real Estate Appraisers, Inc.
8383 East Evans Road
Scottsdale, Arizona 85260-3614

HOME PHONE: 602/991-9719

BUSINESS PHONE: 602/948-8000

9504367024O

STATEMENT OF DESIGNATION OF COUNSEL

MUR 2984

NAME OF COUNSEL: Robert F. Bauer, Esq.

ADDRESS: Perkins Coie
1110 Vermont Avenue, N.W.
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.

12/7/89
Date

Signature Robert G. Johnson
Officer

RESPONDENT'S NAME: Robert G. Johnson
Officer

ADDRESS: International Association Managers, Inc.
8383 East Evans Road
Scottsdale, Arizona 85260-3614

HOME PHONE: 602/991-9719

BUSINESS PHONE: 602/948-8000

9504367024 1

STATEMENT OF DESIGNATION OF COUNSEL

MUR 2984

NAME OF COUNSEL: Robert F. Bauer, Esq.

ADDRESS: Perkins Coie
1110 Vermont Avenue, N.W.
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.

12/7/89
Date

Signature Robert G. Johnson
Officer

RESPONDENT'S NAME: Robert G. Johnson
Officer
National Association of Review Appraisers
and Mortgage Underwriters, Inc.

ADDRESS: 8383 East Evans Road
Scottsdale, Arizona 85260-3614

HOME PHONE: 602/991-9719

BUSINESS PHONE: 602/948-8000

9504367024 2

OGC 4872

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

89 DEC 15 AM 10:31

PERKINS COIE

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

December 15, 1989

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

Re: MUR 2984

Dear Mr. Raich:

We are in receipt of the Commission's November 30, 1989 letter and subpoena to produce documents. Your request as currently drafted requires the National Association of Real Estate Appraisers, Inc.; the National Association of Review Appraisers and Mortgage Underwriters, Inc.; and the International Association Managers, Inc. (the "Companies"), to produce a large quantity of documents that are of a proprietary and confidential nature. Moreover, because your request with regard to banking and financial transactions is not limited in any way except by the time period covered, we believe that the subpoena is overly broad in scope.

Therefore, we ask for the Commission's agreement that the document request may be read as follows:

1. The Companies will produce all documents that in any way reflect, constitute, relate, or refer to financial activity, or the transfer of any asset either directly or indirectly through a third party, between any one of the Companies and any of the Specified Persons for the purpose of directly or indirectly supporting or in any way benefiting a political candidate or political party, during the period of January 1 through June 30, 1988. Such documents include, but are not limited to, all of the following: checks written to any one or more of the Companies; check stubs; deposit slips; cancelled checks; records of electronic transfers; confirmations of the purchase or sale of stocks, bonds, mutual funds, commodities, and real estate; and all other financial transactions.

9504367024 3

2. The Companies will produce all of their statements from banks, brokerage houses, and all other financial institutions, and all of their check registers that reflect or refer to financial activity or the transfer of any asset either directly or indirectly through a third party, between the Companies and any of the Specified Persons for the period of January 1 through June 30, 1988 and for the purposes specified in paragraph 1.

Our intent here is to ensure that the Commission receives all documents relevant to the claims in this matter, while protecting the parties' confidential business and personal records which in no way relate to this inquiry. If after review of the documents produced, the Commission believes that an additional request is necessary, we are fully prepared to respond accordingly.

Although we are identifying the dates above as they appeared in your original request, January 1 to June 30, 1988, we understand that you intend to extend the period covered through December 31, 1988.

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

Sincerely,

Robert F. Bauer

Robert F. Bauer
Counsel

1419E

9504367024

OGC 4894

MERCHANT & GOULD

Merchant, Gould, Smith,
Edell, Welter & Schmidt
Professional Association
Patent, Trademark &
Copyright Lawyers

1000 Norwest Center
55 East Fifth Street
Saint Paul, Minnesota
U.S.A. 55101
FAX 612/298-1160
Telex 297470 MANDG Stp
612/298-1055

John D. Gould
Phillip H. Smith
Robert T. Edell
Paul A. Welter
Cecil C. Schmidt
John S. Sumners
Alan G. Carlson
Micheal L. Schwegman
Earl D. Reiland
Charles E. Golla
Douglas J. Williams
Douglas A. Strawbridge
Albert L. Underhill
D. Randall King
Norman P. Friederichs
Michael B. Lasky
Curtis B. Hamre
Michael D. Schumann
Michael L. Mau
John A. Clifford
Mark J. DiPietro
Steven W. Landberg
Warren D. Woessner

Janet R. Westrom
David G. Johnson
Alan W. Kowalchyk
Michael S. Sherrill
Timothy R. Conrad
Daniel W. McDonald
R. Carl Moy
Robert C. Freed
Daniel J. Kluth
Wendy McDonald
Linda M. Byrne
Mark D. Schuman
Randall A. Hillson
John P. Sumner
Brian H. Batzli
David K. Tellekson
Hallie A. Finucane
John J. Gresens
Steven J. Keough
Paul E. Lacy
John L. Knoble
Michelle M. Michel
Philip P. Caspers
Gregory A. Sebald
Jane H. Arrett
Albin J. Nelson
Robert C. Beck
George H. Gates

SENT BY TELECOPIER
CONFIRMATION SENT BY MAIL

December 15, 1989

Federal Election Commission
Attn: Robert Raich, Esq.
Office of the General Counsel
999 E Street, N.W.
Washington, D.C. 20463

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM
89 DEC 17 AM 9:50

Re: MUR 2984
Our Ref: M&G 3230.23-US-AA

Dear Mr. Raich:

We are in receipt of the Commission's November 29, 1989 subpoena to produce documents. Your request as currently drafted requires Robert Johnson and E. Kenneth Twichell to produce a large quantity of documents that are of a proprietary and confidential nature. Moreover, because your request with regard to banking and financial transactions is not limited in any way except by the time period covered, we believe that the subpoena is overly broad in scope.

Therefore, we ask for the Commission's agreement that the document request may be read as follows:

1. Messrs. Johnson and Twichell will produce all documents that in any way reflect, constitute, relate, or refer to financial activity, or the transfer of any asset either directly or indirectly through a third party, between them and any of the Specified Persons for the purpose of directly or indirectly supporting or in any way benefiting a political candidate or political party, during the period of January 1 through June 30, 1988. Such documents include, but are not limited to, all of the following: Checks written to Messrs. Johnson and Twichell; check stubs; deposit slips; cancelled checks; records of electronic

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
89 DEC 18 PM 12:26

9504367024 5

transfers; confirmations of the purchase or sale of stocks, bonds, mutual funds, commodities, and real estate; and all other financial transactions.

2. Messrs. Johnson and Twichell will produce all of their statements from banks, brokerage houses, and all other financial institutions, and all of their check registers that reflect or refer to financial activity or the transfer of any asset either directly or indirectly through a third party, between them and any of the Specified Persons for the period of January 1 through June 30, 1988 and for the purposes specified in paragraph 1.

Our intent here is to ensure that the Commission receives all documents relevant to the claims in this matter, while protecting the parties' confidential business and personal records which in no way relate to this inquiry. If after review of the documents produced, the Commission believes that an additional request is necessary, we are fully prepared to respond accordingly.

Although we are identifying the dates above as they appeared in your original request, January 1 to June 30, 1988, we understand that you intend to extend the period covered through December 31, 1988.

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

Sincerely,

D. Randall King

DRK/dmm

9504367024 6

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 18, 1989

BY TELECOPIER AND FIRST CLASS MAIL

D. Randall King, Esquire
Merchant & Gould
1000 Norwest Center
55 East Fifth Street
Saint Paul, Minnesota 55101

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

RE: MUR 2984

Dear Messrs. King and Bauer:

This sets forth the Commission's understanding concerning your representation of persons involved in this matter.

Robert Bauer represents only National Association of Real Estate Appraisers, Inc., National Association of Review Appraisers and Mortgage Underwriters, Inc., and International Association Managers, Inc. Randall King and Andrew Sorensen represent the three above-referenced corporations as well as E. Kenneth Twichell and Robert Johnson. Neither Mr. Bauer nor Messrs. King and Sorensen represent Timothy Cloud.

If this does not accurately reflect your understanding, please file appropriate Designation of Counsel Statements within five days.

Sincerely,

Lawrence M. Noble
General Counsel

By: Lois G. Lerner
Assistant General Counsel

9504367024 7

OGC 4967

MERCHANT & GOULD

Merchant, Gould, Smith, Edell, Welter & Schmidt
Professional Association
Patent, Trademark & Copyright Lawyers

1000 Norwest Center
55 East Fifth Street
Saint Paul, Minnesota
U.S.A. 55101
FAX 612/298-1160
Telex 297470 MANDG Stp
612/298-1055

John D. Gould
Phillip H. Smith
Robert T. Edell
Paul A. Welter
Cecil C. Schmidt
John S. Sumners
Alan G. Carlson
Micheal L. Schwegman
Earl D. Reiland
Charles E. Golla
Douglas J. Williams
Douglas A. Strawbridge
Albert L. Underhill
D. Randall King
Norman P. Friederichs
Michael B. Lasky
Curtis B. Hamre
Michael D. Schumann
Michael L. Mau
John A. Clifford
Mark J. DiPietro
Steven W. Lundberg
Warren D. Woessner

Janet R. Westrom
David G. Johnson
Alan W. Kowalchyk
Michael S. Sherrill
Timothy R. Conrad
Daniel W. McDonald
R. Carl Moy
Robert C. Freed
Daniel J. Kluth
Wendy McDonald
Linda M. Byrne
Mark D. Schuman
Randall A. Hillson
John P. Sumner
Brian H. Batzli
David K. Tellekson
Hallie A. Finucane
John J. Gresens
Steven J. Keough
Paul F. Lacy
John L. [illegible]
Michelle [illegible]
Philip P. [illegible]
Gregory [illegible]
Jane H. [illegible]
Albin J. [illegible]
Robert C. Beck
George H. Gates

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
89 DEC 26 PM 4:18

BY TELECOPIER AND FIRST CLASS MAIL

December 20, 1989

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

Re: MUR 2984
Our Ref: M&G 3230.23-US-AA

Dear Mr. Noble:

Your letter of December 18, 1989, erroneously states Counsel's representation of the above-referenced matter. D. Randall King and Andrew D. Sorensen only represent E. Kenneth Twichell and Robert Johnson. D. Randall King and Andrew D. Sorensen do not represent National Association of Real Estate Appraisers, Inc., National Association of Review Appraisers and Mortgager Underwriters, Inc., and International Association Managers, Inc. The remaining portion of the December 18 letter is correct.

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

Sincerely,

Andrew D. Sorensen

ADS/sjd

cc: Robert Raich, Esq., Federal Election Commission
Lois G. Lerner, Esq., Federal Election Commission
Robert F. Bauer, Esq., Perkins Coie

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM
89 DEC 26 AM 11:31

95043670248

Mr. Reich,

OGC 4925
MUR 2984

Here are my copies of the news
articles and the one I think
is a Black article. Please let me
know if you have more
questions.

Thank you,

Laura Ashbaugh

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
89 DEC 19 PM 11:25

9504367024 9

2-12-88
OGC 4925

*#437 3460 sign, match, fold, stamp 255.30
3 inserts

*#434 (first half of project)
2000 sign, match, fold, stamp 148.00
3 inserts

T - 403.30

95043367002550

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
89 DEC 19 PM 1:25

Laura Ashbaugh
10775 E. Becker LN
Scottsdale, AZ.
85259

2-14-88

#439*	(2nd half of project) 1750 sight, match, stamp, 3 inserts	129.50
#451	1512 sight, match, fold, 1 insert	84.68
#462	196 label, 4 inserts	6.28
#465	167 sight, match, fold, 2 inserts	10.36
#466	848 fold, 1 insert	10.18
#469	240 sight, match, label, 7 inserts	21.12
	Total	262.12

Laura Ashbaugh
10775 E Becker Ln
Scottsdale, AZ
85259

3-30-11

#524 671 sightmatch, fold, label 9 inserts 67.11

#536* 11,232 label, stamp, 3 inserts 449.28

Total 516.39

9504356702252

Laura Ashbaugh
10775 E. Becker Ln
Scottsdale, AZ.
85259

4.86

#564*	2880	label, stamp, 3 inserts	115.20
#570	1300	match, 2 inserts	31.20
#574*	1250	stamp, label, 3 inserts	50.00
#577	518	sign, match, fold, 2 inserts	32.13
#578	2078	3 inserts	33.25
			Total 261.78

9504367025 3

Laura Ashbaugh
10775 E. Becker Rd
Scottsdale, AZ
85259

RECEIVED
FEDERAL ELECTION COMMISSION
SECRETARIAT

89 DEC 12 PM 12:49

BEFORE THE FEDERAL ELECTION COMMISSION

SENSITIVE

In the Matter of	)	
	)	
National Association of Review Appraisers and Mortgage Underwriters, Inc.	)	MUR 2984
International Association Managers, Inc.	)	

GENERAL COUNSEL'S REPORT

I. BACKGROUND

The Commission has found reason to believe the above-referenced respondents violated 2 U.S.C. §§ 441b(a) and 441f. In their replies to the reason to believe findings (Attachment 1), the respondents both request to enter into pre-probable cause conciliation at this time.

The respondents are currently scheduled to produce documents for the Commission on December 11, 1989, and the respondents' employees are scheduled for depositions on December 13, 14, and 15, 1989. Accordingly, the General Counsel's Office recommends that the Commission deny the conciliation requests at this time so this Office may complete its investigation.

II. RECOMMENDATIONS

1. Decline at this time to enter into conciliation negotiations with National Association of Review Appraisers and Mortgage Underwriters, Inc., and International Association Managers, Inc.

9504367025 4

2. Approve and send the attached letter.

Lawrence M. Noble
General Counsel

12-11-89
Date

By: _____
Lois G. Lerner
Associate General Counsel

Attachments
1. Respondents' Replies
2. Letter

Staff Member: R. Raich

9504367025 5

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
National Association of Review Appraisers and Mortgage Underwriters, Inc.	)	MUR 2984
International Association Managers, Inc.	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on December 15, 1989, the Commission decided by a vote of 6-0 to take the following actions in MUR 2984:

1. Decline at this time to enter into conciliation negotiations with National Association of Review Appraisers and Mortgage Underwriters, Inc., and International Association Managers, Inc. as recommended in the General Counsel's Report dated December 11, 1989.

2. Approve and send the letter as recommended in the General Counsel's Report dated December 11, 1989.

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

Attest:

12/15/89
Date

for Hilda Arnold
Marjorie W. Emmons
Secretary of the Commission

Received in the Secretariat: Tuesday, December 12, 1989 12:49
Circulated to the Commission: Wednesday, December 13, 1989 4:00
Deadline for vote: Friday, December 15, 1989 4:00

9504367025 6

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 22, 1989

D. Randall King, Esquire
Merchant & Gould
1000 Norwest Center
55 East Fifth Street
Saint Paul, Minnesota 55101

RE: MUR 2984
National Association of
Review Appraisers and
Mortgage Underwriters, Inc.
International Association
Managers, Inc.

Dear Mr. King:

The Federal Election Commission has found reason to believe the above-referenced respondents violated 2 U.S.C. §§ 441b(a) and 441f. On November 28, 1989, you submitted a request to enter into conciliation negotiations prior to findings 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 Robert Raich, the attorney handling this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

cc: Robert F. Bauer, Esquire

9504367025 7

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

December 27, 1989

HAND DELIVERY

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

Re: MUR 2984
National Association of Real Estate Appraisers, Inc.
National Association of Review Appraisers and Mortgage Underwriters, Inc.
International Association Managers, Inc.

Dear Mr. Bauer:

This confirms the substance of our telephone conversation today. On or before January 8, 1990, you will comply with the Commission's outstanding Subpoenas at least as to documents not objectionable pursuant to your December 15 letter requesting that the Commission narrow the scope of the Subpoenas. You will produce any remaining such documents by January 15, 1990. Those documents will be produced at the Commission's offices.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Jonathan A. Bernstein
Assistant General Counsel

9504367025 8

OGC 9012

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

MERCHANT & GOULD

Merchant, Gould, Smith,
Edell, Welter & Schmidt
Professional Association
Patent, Trademark &
Copyright Lawyers

1000 Norwest Center
55 East Fifth Street
Saint Paul, Minnesota
U.S.A. 55101
FAX 612/298-1160
Telex 297470 MANDG Stp
612/298-1055

90 JAN -2 PM 1:27

John D. Gould
Phillip H. S[illegible]
Robert T. Edell
Paul A. Welter
Cecil C. Schmidt
John S. Sumners
Alan G. Carlson
Micheal L. Schwegman
Earl D. Reiland
Charles E. Golla
Douglas J. Williams
Douglas A. Strawbridge
Albert L. Underhill
D. Randall King
Norman P. Friederichs
Michael B. Lasky
Curtis B. Hamre
Michael D. Schumann
Michael L. Mau
John A. Clifford
Mark J. DiPietro
Steven W. Lundberg
Warren D. Woessner

Janet P. Westram
[illegible]
Alan W. Kowalchyk
Michael S. Sherrill
Timothy R. Conrad
Daniel W. McDonald
R. Carl Moy
Robert C. Freed
Daniel J. Kluth
Wendy McDonald
Linda M. Byrne
Mark D. Schuman
Randall A. Hillson
John P. Sumner
Brian H. Batzli
David K. Tellekson
Halbe A. Finucane
John J. Gresens
Steven J. Keough
Paul F. Lacy
John L. Knoble
Michelle M. Michel
Philip P. Caspers
Gregory A. Sebald
Jane H. Arrett
Alban J. Nelson
Robert C. Beck
George H. Gates

December 27, 1989

Federal Election Commission
Attn: Robert Raich, Esq.
Office of the General Counsel
99 E Street, N.W.
Washington, D.C. 20463

Re: MUR 2984
Our Ref: M&G 3230.23-US-AA

Dear Mr. Raich:

This letter is to confirm our discussion on December 27, 1989. Pursuant to that discussion, we have agreed to put forth our best efforts to compile and produce unobjectionable documents in the above-identified proceeding on or by January 8, 1990.

We would like to thank you for your flexibility in allowing us an extension to produce documents. If you have any questions regarding this matter, please do not hesitate to contact me.

Sincerely,

Andrew D. Sorensen

ADS/dms

9504367025 9

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 JAN -2 PM 1:27

OGC 5068

MUR 2984

MERCHANT & GOULD

Merchant, Gould, Smith, Edell, Welter & Schmidt
Professional Association
Patent, Trademark & Copyright Lawyers

1000 Norwest Center
55 East Fifth Street
Saint Paul, Minnesota
U.S.A. 55101
FAX 612/298-1160
Telex 297470 MANDG Stp
612/298-1055

John D. Gould
Phillip H. Smith
Robert T. Edell
Paul A. Welter
Cecil C. Schmidt
John S. Sumners
Alan G. Carlson
Micheal L. Schwegman
Earl D. Reiland
Charles E. Golla
Douglas J. Williams
Douglas A. Strawbridge
Albert L. Underhill
D. Randall King
Norman P. Friederichs
Michael B. Lasky
Curtis B. Hamre
Michael D. Schumann
Michael L. Mau
John A. Clifford
Mark J. DiPietro
Steven W. Lundberg
Warren D. Woessner

Janet R. Westrom
David G. Johnson
Alan W. Kowalchyk
Michael S. Sherrill
Timothy R. Conrad
Daniel W. McDonald
R. Carl Moy
Robert C. Freed
Daniel J. Kluth
Wendy McDonald
Linda M. Byrne
Mark D. Schuman
Randall A. Hillson
John P. Sumner
Brian H. Batzli
David K. Tellekson
Hallie A. Finucane
John J. Gresens
Steven J. Keough
Paul F. Lacy
John L. Knoble
Michelle M. Michel
Philip P. Caspers
Gregory A. Sebald
Jane H. Arrett
Albin J. Nelson
Robert C. Beck
George H. Gates

January 8, 1990

SENT BY FACSIMILE
CONFIRMATION COPY SENT BY FEDERAL EXPRESS

Federal Election Commission
Attn: Robert Raich, Esq.
Office of the General Counsel
99 E Street, N.W.
Washington, D.C. 20463

RE: MUR 2984
Our Ref: M&G 3230.23-US-AA

Dear Mr. Raich:

Pursuant to the letter to you from D. Randall King of December 15, 1989, enclosed you will find photocopies of checks drafted by Robert Johnson and E. Kenneth Twichell. In addition to those checks drafted by E. Kenneth Twichell which are photocopied and enclosed, there was also Check No. 625 to George Bush for President dated January 26, 1988 for the sum of $1,000.00. A photocopy of this check is on request from the bank, and it will be forwarded as soon as it is received.

We should have no problem forwarding a copy of the check by the agreed upon January 15, 1990 date.

We will maintain custody of the originals of these checks until the depositrous of Messrs. Johnson and Twichell.

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 JAN -9 PM 12:29

HAND DELIVERED
90 JAN -9 AM 10:11

9504367002660

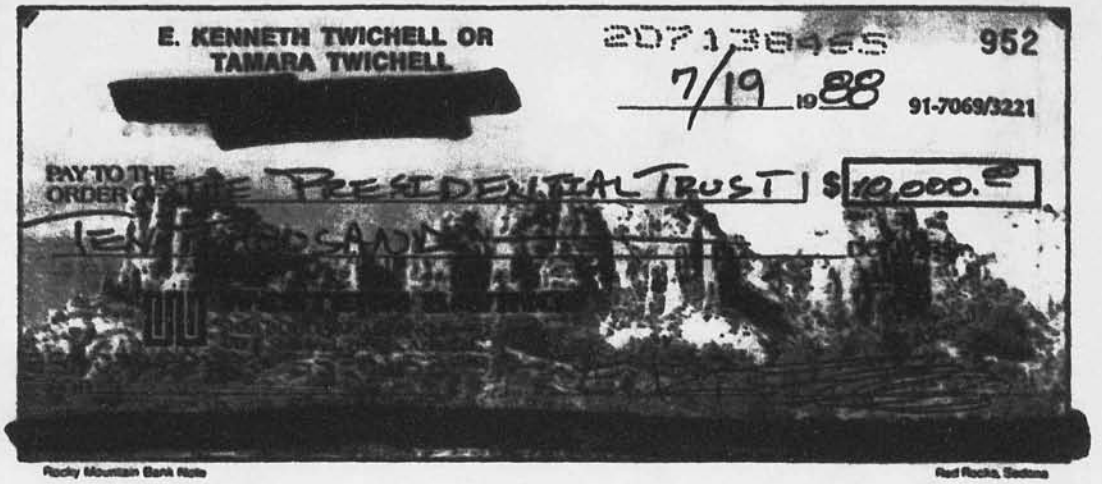
If you have any questions, please do not hesitate to contact me.

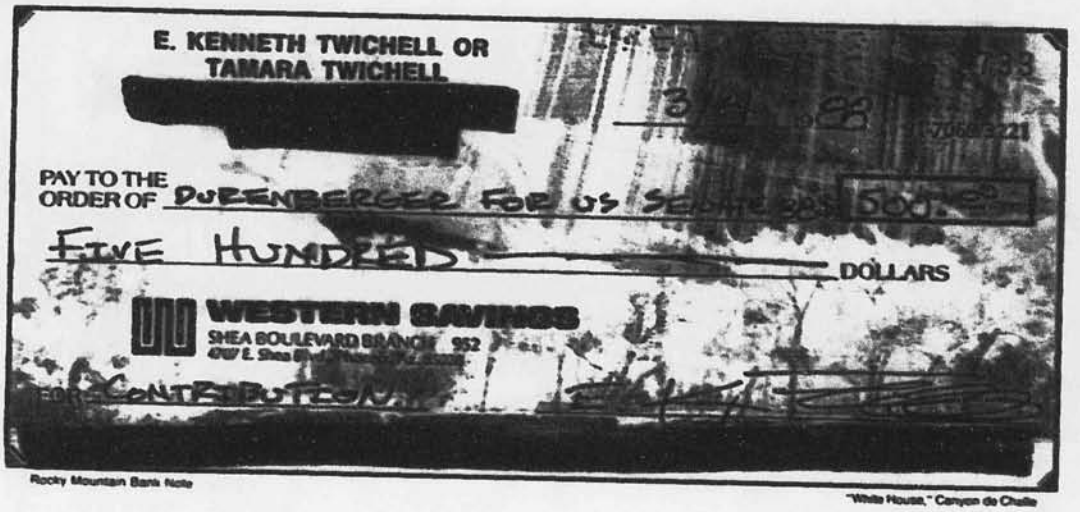
Sincerely,

Joel A. Rothfus

JAR/cls
Enclosures

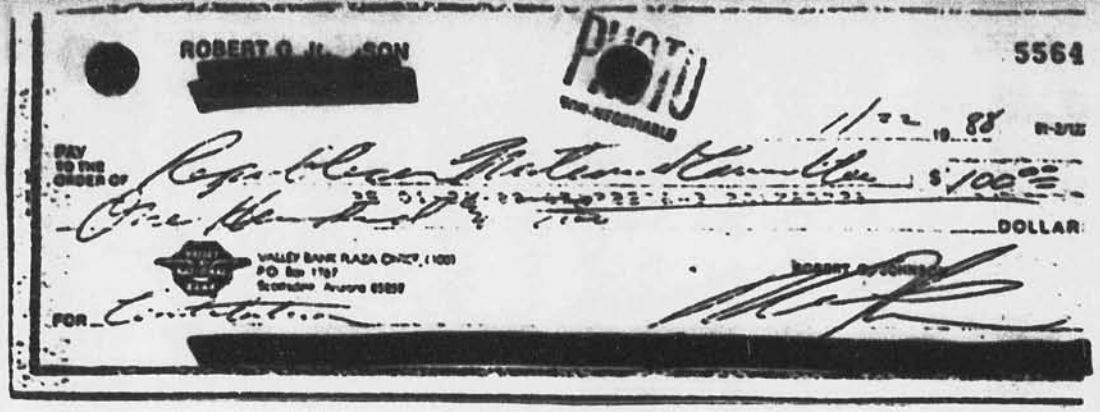
95043670261

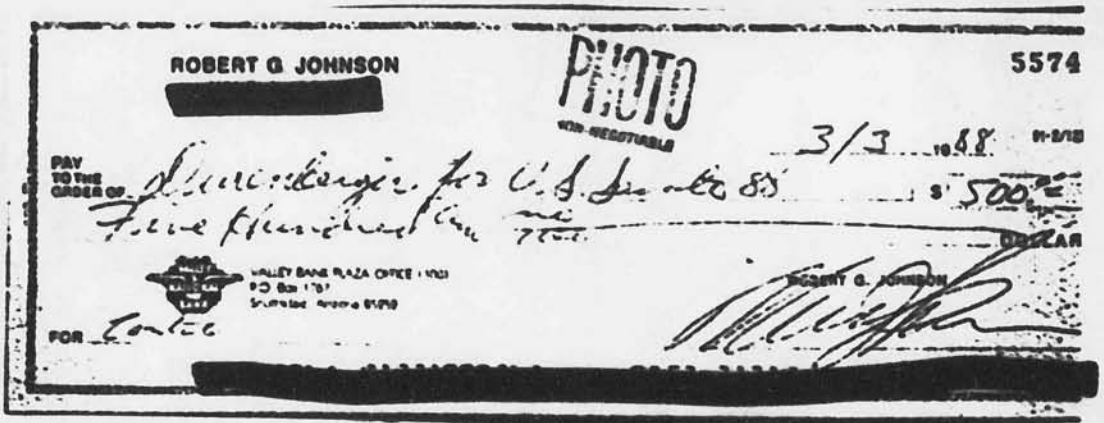


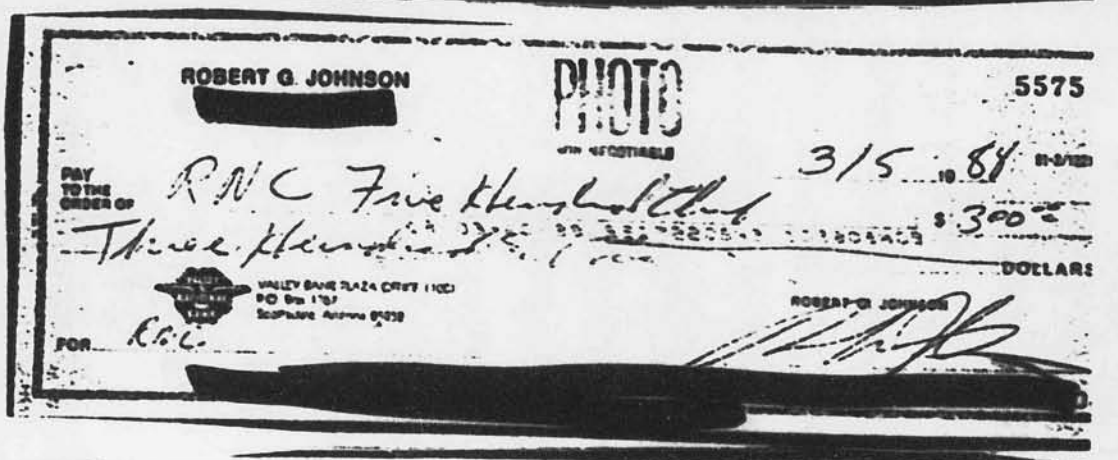


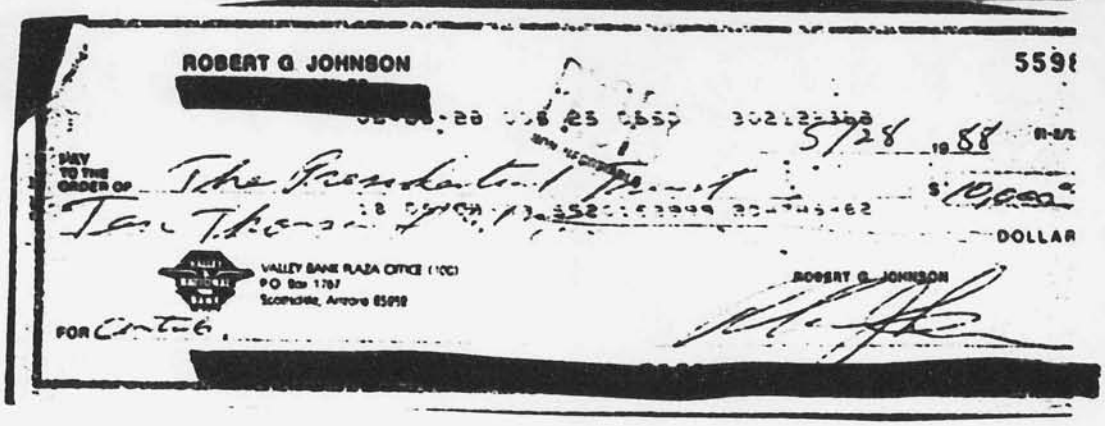
9504367026 2

9504367002663









OGC 3114

MERCHANT & GOULD

Merchant, Gould, Smith,
Edell, Welter & Schmidt
Professional Association
Patent, Trademark &
Copyright Lawyers

1000 Norwest Center
55 East Fifth Street
Saint Paul, Minnesota
U.S.A. 55101
FAX 612/298-1160
Telex 297470 MANDG Stp
612/298-1055

John D. Gould
Phillip H. Smith
Robert T. Edell
Paul A. Welter
Cecil C. Schmidt
John S. Sumners
Alan G. Carlson
Micheal L. Schwegman
Earl D. Reiland
Charles E. Golla
Douglas J. Williams
Douglas A. Strawbridge
Albert L. Underhill
D. Randall King
Norman P. Friederichs
Michael B. Lasky
Curtis B. Hamre
Michael D. Schumann
Michael L. Mau
John W. Bunch
John A. Clifford
Mark J. DiPietro
Steven W. Lundberg
Warren D. Woessner

Janet R. Westrom
David G. Johnson
Alan W. Kowalchyk
Michael S. Sherrill
Timothy R. Conrad
Daniel W. McDonald
R. Carl Moy
Robert C. Freed
Daniel J. Kluth
Wendy McDonald
Linda M. Byrne
Mark D. Schuman
Randall A. Hillson
John P. Sumner
Brian H. Batzli
David K. Tellekson
Hathe A. Finucane
John J. Gresens
Steven J. Keough
Paul F. Lacy
Michelle M. Michel
Philip P. Caspers
Gregory A. Sebald
Jane H. Arrett

January 12, 1990

SENT BY FACSIMILE
CONFIRMATION COPY SENT BY FEDERAL EXPRESS

Federal Election Commission
Attn: Robert Raich, Esq.
Office of the General Counsel
99 E Street, N.W.
Washington, D.C. 20463

RE: MUR 2984
Our Ref: M&G 3230.23-US-AA

Dear Mr. Raich:

Pursuant to the letter to you from D. Randall King of December 15, 1989 agreeing to produce various documents by January 15, 1990, enclosed you will find photocopies of checks drafted by Robert Johnson. You will note by the date on these checks that they are beyond the scope of your original request for documents. In producing these documents, our clients are making every effort to cooperate with the Commission in this matter.

I have not yet received check no. 625 drafted by E. Kenneth Twichell mentioned in my letter of January 8, 1990 as he has not yet received a copy from the bank. I will forward a copy as soon as it is received. Again, we will maintain the custody of the originals of these checks until the depositions of Messrs. Johnson and Twichell.

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

Sincerely,

Joel A. Rothfus

JAR/cls
Enclosures

HAND DELIVERED
RECEIVED
FEDERAL ELECTION COMMISSION
90 JAN 16 AM 11:26

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 JAN 16 PM 4:02

9504336702064

9504367026 5

OGC 5131

PERKINS COIE

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

January 16, 1990

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 JAN 16 PM 5:00

Robert Raich, Esq.
Office of General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

Re: MUR 2984

Dear Mr. Raich:

Attached you will find the documents produced in response to the subpoena of November 29, 1989 on the National Association of Real Estate Appraisers, Inc. ("NAREA"); National Association of Review Appraisers and Mortgage Underwriters, Inc.; and International Association Managers, Inc. (collectively referred to as the "Companies").

As agreed with your office, we are producing these documents under the construction of the scope of the subpoena which is set forth in our letter of December 15, 1989, and pending the Commission's decision on our request for modification of the scope of the subpoena. The documents produced today constitute in full the documents, records or other materials of the Companies relating to political activity, and in particular to financial support for any political party or political candidate. Production of additional records, having no relationship to these political purposes, would constitute a broad intrusion, without benefit to the Commission's bona fide fact-finding efforts, into the proprietary business affairs of the Companies.

To avoid any questions about the completeness of this production under the narrowed construction of the subpoena, the NAREA has produced a check from the NAREA in the amount of $100,000 reflecting a "loan" to the Inaugural Guarantee Fund - 1989 established in support of the 1989 Presidential Inauguration. While in technical respects this check does not reflect a political activity, as the General Counsel's office doubtless intended the term, it is produced here in the interests of comprehensiveness. The Companies reiterate that they can accept a broad definition of "political", but not a construction compelling production of nonpolitical proprietary material.

9504367026

Finally the undersigned wishes to reply to certain concerns expressed by the Office of General Counsel about arrangements made with that Office in connection with production of documents under subpoenas issued to both Messrs. Johnson and Twichell and to the Companies. Some concern has been expressed by the Office that I communicate only on behalf of the Companies, thus avoiding the confusion which purportedly results if, in those communications, I relay both my views and on an authorized basis, the views of Mr. King, counsel to Messrs. Johnson and Twichell. This question apparently arose when, in the course of setting the successive days for this production, the 8th and 15th of January, I noted to Mr. Jonathan Bernstein that I was speaking for both the Companies and for counsel to Messrs. Johnson and Twichell who joined in my request. I have honored Mr. Bernstein's request since that time, and have not attempted to convey any joint requests.

While I fail to understand how any significant confusion could have arisen by my performing a simple courtesy for a co-counsel, I do not wish this issue to obstruct the progress of this case toward an appropriate resolution. Accordingly, I have instructed Mr. King to communicate separately with the Commission on all issues, even in circumstances where the position that the Companies and Messrs. Johnson and Twichell take on those issues are identical.

Very truly yours,

Robert F. Bauer

RFB:smb

Enclosures

1473E

9504367026 7

NATIONAL ASSOCIATION OF REAL ESTATE APPRAISERS
8383 E. EVANS RD.
SCOTTSDALE, AZ 85260-6914

9691

8/18 19 88

91-2/1221

PAY TO THE ORDER OF Victory '88 California $ 2000 00/100

Two Thousand and 00/100 DOLLARS

VALLEY BANK PLAZA OFFICE (100)
P.O. Box 1787
Scottsdale, Arizona 85252

FOR

Robert G Johnson

⑈009691⑈ ⑆122100024⑆ 0147-8903⑈ ⑈0000200000⑈

950433670268

AG 31
1220-0016-6

3220347

3220347

08 30 88

AG 31
PROCESSED
ONLY ANY BANK
VALLEY NATIONAL BANK
PHOENIX, ARIZONA

PAY TO THE ORDER OF
COMMUNITY BANK
BURBANK, CA
FOR DEPOSIT ONLY
CALIFORNIA REPUBLICAN PARTY
STATE/AB NO. 0100103
02 005015

NATIONAL ASSOCIATION OF REAL ESTATE APPRAISERS
8383 E. EVANS RD.
SCOTTSDALE, AZ 85260-3614

10088

91-2/1221

10/18 19 88

PAY TO THE ORDER OF Republican Eagles $ 10,000 00

Ten thousand and 00/100 DOLLARS

VALLEY BANK PLAZA OFFICE (100)
P.O. Box 1767
Scottsdale, Arizona 85252

FOR

⑈010088⑈ ⑆122000241⑆ 0147-8903⑈ ⑈0001000000⑈

SIGNET BANK/VA

10-19-88

⑆212401814

PAY TO THE ORDER OF
BANK OF VIRGINIA
FALLS CHURCH
FOR DEPOSIT ONLY
REPUBLICAN NATIONAL STATE
ELECTIONS COMMITTEE 001 7067

NATIONAL ASSOCIATION OF REAL ESTATE APPRAISERS
8383 E. EVANS RD.
SCOTTSDALE, AZ 85260-3614

10370

91-2/1221

12/2 1988

PAY TO THE ORDER OF The Inaugural Guarantee Fund - 1989 $ 100,000 00/100

One hundred thousand & 00/100 DOLLARS

VALLEY BANK PLAZA OFFICE
P.O. Box 1797
Scottsdale, Arizona

FOR Robert G. Johnson

⑈0010370⑈ ⑆122100024⑆ 0147-8903⑈ ⑈0010000000⑈

Deposited To The Credit Of The Within Named Payee Absence Of Endorsement Guaranteed

The American Bicentennial Presidential Inaugural

Co-Chairmen
Bobby Holt
Penne Percy Korth

March 30, 1989

National Association of Real Estate Appraisers
8383 East Evans Road
Scottsdale, Arizona 85260

Dear Sirs,

Just days after the election of President Bush, the American Bicentennial Inaugural committee approached you about becoming an Inaugural Guarantor. You graciously pledged your support for the Inaugural of the newly elected President and Vice President.

It is with great pride that we return to you your full Guarantors loan. A check in the amount of $100,000.00 is enclosed. Thanks to your generosity, the Inauguration of George Bush and Dan Quayle was one of the most successful in American history. This Inauguration was able to provide more free, open to the public, events than ever before.

This could only have been possible through your generous support. On behalf of the President and Vice President, please accept our heartfelt thanks.

Sincerely,

Bobby Holt
Co-Chairman

Penne Korth
Co-Chairman

Walter Ganzi
Director of Finance

9504367027 1

Southeast Federal Center #159 4th & M Street, S.E. Washington, D.C. 20599
(202) 252-3000

RECEIVED
FEDERAL ELECTION COMMISSION
SECRETARIAT

90 JAN -9 PM 3:45

BEFORE THE FEDERAL ELECTION COMMISSION

SENSITIVE
JAN 23 1990
EXECUTIVE SESSION

In the Matter of	)	
	)	
E. Kenneth Twichell	)	
Robert Johnson	)	
National Association of Real Estate Appraisers, Inc.	)	MUR 2984
National Association of Review Appraisers and Mortgage Underwriters, Inc.	)	
International Association Managers, Inc.	)	

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On November 29, 1989 the Commission approved Subpoenas to Produce Documents to the above-referenced respondents and to Timothy Cloud. The Subpoenas required production of financial and other documents in Phoenix, Arizona on December 11. Depositions were scheduled in Phoenix for December 13-15.

The corporate respondents have now retained other counsel in this matter. Attachment 1. At counsel's request, this Office agreed to postpone the depositions until January. The parties further agreed that the document production would take place at the Commission's offices at the end of December.

Counsel for all of the respondents have now requested that the Commission narrow the scope of the subpoenas.[1]

9504367027 2

1. On December 15, this Office received Washington counsel's request on behalf of the entities (Attachment 3, pp. 3-4). On December 18, we received an identical request from out of town counsel on behalf of Messrs. Twichell and Johnson (Attachment 3, pp. 1-2). Because Washington counsel had suggested in initial discussions with staff of this Office that he represented the individuals as well as the corporate respondents, on December 18, we sent a letter confirming the scope of representation in this matter (Attachment 2, p. 1). In a December 20 letter (Attachment 2, p. 2), out of town counsel stated that they no longer represent the corporations in this matter.

Specifically, they propose to produce only those financial documents which are "for the purpose of directly or indirectly supporting or in any way benefiting a political candidate or political party." Attachment 3.

II. FACTUAL AND LEGAL ANALYSIS

The requests to modify the subpoenas are untimely under the Commission's Regulations and should therefore be denied. The Regulations state, in relevant part:

> Any person to whom a subpoena is directed may, prior to the time specified therein for compliance, but in no event more than 5 days after the date of receipt of such subpoena, apply to the Commission to quash or modify such subpoena, accompanying such application with a brief statement of the reasons therefor.

11 C.F.R. § 111.15(a). (Emphasis added.) The period within which to move to modify the subpoenas was not met by the respondents. The subpoenas were served on December 1, 1989, and required compliance on December 11. The requests to modify were filed after the date for filing such requests, on December 15 and 18.

The five-day period for filing a request to modify is not extended by a change in the compliance date specified in the subpoena. According to 11 C.F.R. § 111.15(c), an agreement to change the date for the production of documents does not affect the force and effect of the subpoena, and there is nothing in Section 111.15 suggesting that an agreement to change the compliance date affects the deadline for filing a request to modify.

Even if the requests to modify were timely under 11 C.F.R.

9504367027 3

§ 111.15, counsels' proposal appears wholly unacceptable. Limiting the scope of the Subpoenas in such a manner would permit the respondents themselves to decide which of their documents were "for the purpose of . . . benefiting" a candidate or party. Corporate reimbursement for contributions, however, commonly takes place through devices such as "bonuses" or "reimbursements" which, on their face, are not "for the purpose of benefiting" any candidate or party. Accordingly, the General Counsel's Office recommends that the Commission refuse to agree to this modification of the outstanding Subpoenas.

The Subpoenas currently request relevant financial records for the first half of 1988. Information that has now come to light indicates that Timothy Cloud and E. Kenneth Twichell both contributed $10,000 to the Republican National Committee on July 22, 1988. It is suspected that Messrs. Cloud and Twichell were reimbursed for those contributions. Furthermore, in October 1988, Robert Johnson made a $1,000 contribution to the George Bush for President Compliance Committee, for which he may have been reimbursed.[2] In light of this information, the General

9504367027 4

---

2. At the time of the reason to believe recommendations and the recommendation to merge MUR 2593 with this matter in September 1989, staff searched the microfilm "G" Index for individual contributions by the several individuals implicated. Staff found only E. Kenneth and Tamara Twichell's contributions to George Bush for President, Inc. ("Bush Committee") in January 1988, Stephen Schneck's contributions to the Bush Committee and Durenberger for U.S. Senate Volunteer Committee ("Durenberger Committee") in January and March 1988, and Robert Johnson's contributions to the Bush Committee, the Durenberger Committee, and the Republican National Committee in September 1987 and March, May, and June 1988. In preparation for the depositions, staff again reviewed the "G" Index which had been updated and discovered the later contributions by Messrs. Twichell, Johnson,

Counsel's Office has prepared new Subpoenas, containing financial records requests identical to those approved by the Commission on November 29, but that encompass the second half of the 1988 calendar year. This Office therefore recommends that the Commission approve the attached Subpoenas.

III. CONTINGENT SUIT AUTHORIZATION

This Office requests authorization to file a civil suit for relief in United States District Court in the event the subpoenas are not complied with. Throughout the course of the investigation to date, the respondents have been uncooperative. Their previous replies to the Commission have been evasive, equivocal, and incomplete. Respondents' counsels requested to narrow the scope of the subpoenas in an untimely manner, after the original due date for production of the documents.[3] It is the estimation of the General Counsel's Office that full compliance with the subpoenas will require a civil suit for subpoena enforcement. Therefore, to expedite the investigation, this Office requests suit authorization.

IV. RECOMMENDATIONS

1. Deny the respondents' requests to narrow the scope of the Commission's Subpoenas signed November 29, 1989.

9504367027 5

(Footnote 2 continued from previous page)
and Cloud. Therefore, it is necessary to extend the time-frame of the subpoenaed records.

3. Upon receiving an extension from the original December 11 due date for production of the documents, counsel agreed to produce them by December 29. Counsel then filed their requests to narrow the scope of the Subpoenas, with expectations of filing no documents on schedule. After repeated communications with staff of this Office, counsel have now agreed to produce by January 8 and 15 the documents that they find unobjectionable.

2. Approve the attached Subpoenas to Produce Documents.

3. Authorize the Office of the General Counsel to institute a civil action for subpoena enforcement in United States District Court against National Association of Real Estate Appraisers, Inc., National Association of Review Appraisers and Mortgage Underwriters, Inc., International Association Managers, Inc., E. Kenneth Twichell, Robert Johnson, and Timothy Cloud in the event the subpoenas are not complied with.

4. Approve and send the attached letters.

Date 1/9/90

Lawrence M. Noble
General Counsel

Attachments
1. Counsel's 12/8/89 letter
2. Letters concerning scope of representation
3. Counsels' 12/15/89 letters
4. Subpoenas
5. Proposed letters

Staff Member: R. Raich

9504367027 6

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 2984
E. Kenneth Twichell	)	
Robert Johnson	)	
National Association of Real Estate Appraisers, Inc.	)	
National Association of Review Appraisers and Mortgage Underwriters, Inc.	)	
International Association Managers, Inc.	)	

95043670277

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on January 30, 1990, do hereby certify that the Commission decided by a vote of 6-0 to take the following actions in MUR 2984:

1. Deny the respondents' requests to narrow the scope of the Commission's Subpoenas signed November 29, 1989.

2. Approve the Subpoenas to Produce Documents, as recommended in the General Counsel's report dated January 9, 1990.

(continued)

3. Authorize the Office of the General Counsel to institute a civil action for subpoena enforcement in United States District Court against National Association of Real Estate Appraisers, Inc., National Association of Review Appraisers and Mortgage Underwriters, Inc., International Association Managers, Inc., E. Kenneth Twichell, Robert Johnson, and Timothy Cloud in the event the subpoenas are not complied with.

4. Approve the letters attached to the General Counsel's report dated January 9, 1990.

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

Attest:

2-1-90
Date

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

9504367027 8

OGC 9503

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 7, 1990

CERTIFIED MAIL -- RETURN RECEIPT REQUESTED

D. Randall King, Esquire
Merchant & Gould
1000 Norwest Center
55 East Fifth Street
Saint Paul, Minnesota 55101

RE: MUR 2984
E. Kenneth Twichell
Robert Johnson

Dear Mr. King:

The Federal Election Commission found reason to believe your clients violated 2 U.S.C. §§ 441b(a) and 441f, provisions of the Federal Election Campaign Act of 1971, as amended.

Be advised that the Commission has denied your request to narrow the scope of the Commission's Subpoenas signed November 29, 1989. Pursuant to its investigation of this matter, the Commission has also issued the enclosed Subpoenas requiring your clients to produce additional documents that will assist the Commission in carrying out its statutory duty of supervising compliance with the Federal Election Campaign Act of 1971, as amended, and Chapters 95 and 96 of Title 26, U.S. Code.

Complete responses to both sets of Subpoenas are due in the Commission's offices by March 2 , 1990. The Commission has authorized the General Counsel to institute a civil action for subpoena enforcement in United States District Court in the event the subpoenas are not complied with.

If you have any questions, please contact Robert Raich, the attorney handling this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

By: Lois G. Lerner
Associate General Counsel

9504367027 9

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 2984

SUBPOENA TO PRODUCE DOCUMENTS

TO: Robert Johnson

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 the documents listed on the attachment to this subpoena.

Notice is given that these documents must be presented for inspection and copying on March 2 1990 at 10:00 a.m., at the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463. Legible copies which, where applicable, show both sides of the documents may be substituted for originals.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 6th day of February, 1990.

Lee Ann Elliott

Lee Ann Elliott, Chairman
Federal Election Commission

ATTEST:

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

9504367028 0

INSTRUCTIONS

In responding to this document request, furnish all documents and other information, however obtained, that are in possession of, known by, or otherwise available to you, including documents and information appearing in your records.

Should you claim a privilege with respect to any documents requested by this document request, 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.

This document request is continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

DEFINITIONS

For the purpose of this document request, including the instructions thereto, the terms listed below are defined as follows:

"You" shall mean Robert Johnson, including all employees, agents, or attorneys thereof.

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

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of this document request any documents and materials which may otherwise be construed to be out of its scope.

9504367028 1

"Specified Persons" shall mean any candidate for federal office; any federal political committee; any political party; National Association of Real Estate Appraisers, Inc.; National Association of Review Appraisers and Mortgage Underwriters, Inc.; International Association Managers, Inc.; International Real Estate Institute; Professional Womens Appraisal Association; Robert Johnson and Associates; Todd Publishing; Robert Johnson; E. Kenneth Twichell; Timothy Cloud; Stephen Schneck; and Todd Johnson.

DOCUMENT REQUEST

1. Produce all of your statements from banks, brokerage houses, and all other financial institutions, and all of your check registers, for the period of July 1 through December 31, 1988.

2. Produce all documents that in any way reflect, constitute, relate, or refer to financial activity, or the transfer of any asset either directly or indirectly through a third party, between you and any of the Specified Persons during the period of July 1 through December 31, 1988. Such documents include, but are not limited to, all of the following: checks written to you; check stubs; deposit slips; cancelled checks; records of electronic transfers; confirmations of the purchase or sale of stocks, bonds, mutual funds, commodities, and real estate; and records of all other financial transactions.

9504367028 2

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 2984

SUBPOENA TO PRODUCE DOCUMENTS

TO: E. Kenneth Twichell

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 the documents listed on the attachment to this subpoena.

Notice is given that these documents must be presented for inspection and copying on March 2 , 1990 at 10:00 a.m., at the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463. Legible copies which, where applicable, show both sides of the documents may be substituted for originals.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 6th day of February, 1990.

Lee Ann Elliott

Lee Ann Elliott, Chairman
Federal Election Commission

ATTEST:

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

9504367028 3

INSTRUCTIONS

In responding to this document request, furnish all documents and other information, however obtained, that are in possession of, known by, or otherwise available to you, including documents and information appearing in your records.

Should you claim a privilege with respect to any documents requested by this document request, 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.

This document request is continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

DEFINITIONS

For the purpose of this document request, including the instructions thereto, the terms listed below are defined as follows:

"You" shall mean E. Kenneth Twichell, including all employees, agents, or attorneys thereof.

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

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of this document request any documents and materials which may otherwise be construed to be out of its scope.

9504367028 4

"Specified Persons" shall mean any candidate for federal office; any federal political committee; any political party; National Association of Real Estate Appraisers, Inc.; National Association of Review Appraisers and Mortgage Underwriters, Inc.; International Association Managers, Inc.; International Real Estate Institute; Professional Womens Appraisal Association; Robert Johnson and Associates; Todd Publishing; Robert Johnson; E. Kenneth Twichell; Timothy Cloud; Stephen Schneck; and Todd Johnson.

DOCUMENT REQUEST

1. Produce all of your statements from banks, brokerage houses, and all other financial institutions, and all of your check registers, for the period of July 1 through December 31, 1988.

2. Produce all documents that in any way reflect, constitute, relate, or refer to financial activity, or the transfer of any asset either directly or indirectly through a third party, between you and any of the Specified Persons during the period of July 1 through December 31, 1988. Such documents include, but are not limited to, all of the following: checks written to you; check stubs; deposit slips; cancelled checks; records of electronic transfers; confirmations of the purchase or sale of stocks, bonds, mutual funds, commodities, and real estate; and records of all other financial transactions.

9504367028 5

OBC9504

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

February 7, 1990

CERTIFIED MAIL -- RETURN RECEIPT REQUESTED

Mr. Timothy Cloud
1720 East Thunderbird
Phoenix, Arizona 85022

RE: MUR 2984

Dear Mr. Cloud:

The Federal Election Commission has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended, and Chapters 95 and 96 of Title 26, United States Code. The Commission has issued the attached subpoena which requires you to provide certain 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 subpoena. However, you are required to submit the information on March 2, 1990. The Commission has authorized the General Counsel to institute a civil action for subpoena enforcement in United States District Court in the event the subpoenas are not complied with.

If you have any questions, please contact Robert Raich, the attorney handling this matter, at (800) 424-9530.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosure
Subpoena to Produce Documents

9504367002886

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 2984

SUBPOENA TO PRODUCE DOCUMENTS

TO: Timothy Cloud

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 the documents listed on the attachment to this subpoena.

Notice is given that these documents must be presented for inspection and copying on March 2 , 1990 at 10:00 a.m., at the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463. Legible copies which, where applicable, show both sides of the documents may be substituted for originals.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set his hand in Washington, D.C. on this 6th day of February, 1990.

Lee Ann Elliott, Chairman
Federal Election Commission

ATTEST:

Marjorie W. Emmons
Secretary to the Commission

9504367002837

INSTRUCTIONS

In responding to this document request, furnish all documents and other information, however obtained, that are in possession of, known by, or otherwise available to you, including documents and information appearing in your records.

Should you claim a privilege with respect to any documents requested by this document request, 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.

This document request is continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

DEFINITIONS

For the purpose of this document request, including the instructions thereto, the terms listed below are defined as follows:

"You" shall mean Timothy Cloud, including all employees, agents, or attorneys thereof.

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

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of this document request any documents and materials which may otherwise be construed to be out of its scope.

9504367028 8

"Specified Persons" shall mean any candidate for federal office; any federal political committee; any political party; National Association of Real Estate Appraisers, Inc.; National Association of Review Appraisers and Mortgage Underwriters, Inc.; International Association Managers, Inc.; International Real Estate Institute; Professional Womens Appraisal Association; Robert Johnson and Associates; Todd Publishing; Robert Johnson; E. Kenneth Twichell; Timothy Cloud; Stephen Schneck; and Todd Johnson.

DOCUMENT REQUEST

1. Produce all of your statements from banks, brokerage houses, and all other financial institutions, and all of your check registers, for the period of July 1 through December 31, 1988.

2. Produce all documents that in any way reflect, constitute, relate, or refer to financial activity, or the transfer of any asset either directly or indirectly through a third party, between you and any of the Specified Persons during the period of July 1 through December 31, 1988. Such documents include, but are not limited to, all of the following: checks written to you; check stubs; deposit slips; cancelled checks; records of electronic transfers; confirmations of the purchase or sale of stocks, bonds, mutual funds, commodities, and real estate; and records of all other financial transactions.

9504367028 9

OGC9505

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 7, 1990

CERTIFIED MAIL -- RETURN RECEIPT REQUESTED

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

Re: MUR 2984
National Association of Real Estate Appraisers, Inc.
National Association of Review Appraisers and Mortgage Underwriters, Inc.
International Association Managers, Inc.

Dear Mr. Bauer:

The Federal Election Commission found reason to believe your clients violated 2 U.S.C. §§ 441b(a) and 441f, provisions of the Federal Election Campaign Act of 1971, as amended.

Be advised that the Commission has denied your request to narrow the scope of the Commission's Subpoenas signed November 29, 1989. Pursuant to its investigation of this matter, the Commission has also issued the enclosed Subpoenas requiring your clients to produce additional documents that will assist the Commission in carrying out its statutory duty of supervising compliance with the Federal Election Campaign Act of 1971, as amended, and Chapters 95 and 96 of Title 26, U.S. Code.

Complete responses to both sets of Subpoenas are due in the Commission's offices by March 2 , 1990. The Commission has authorized the General Counsel to institute a civil action for subpoena enforcement in United States District Court in the event the subpoenas are not complied with.

If you have any questions, please contact Robert Raich, the attorney handling this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

By: Lois G. Lerner
Associate General Counsel

9504367029 0

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 2984

SUBPOENA TO PRODUCE DOCUMENTS

TO: National Association of Real Estate Appraisers, Inc.

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 the documents listed on the attachment to this subpoena.

Notice is given that these documents must be presented for inspection and copying on March 2 , 1990 at 10:00 a.m., at the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463. Legible copies which, where applicable, show both sides of the documents may be substituted for originals.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set his hand in Washington, D.C. on this 6th day of February, 1990.

Lee Ann Elliott

Lee Ann Elliott, Chairman
Federal Election Commission

ATTEST:

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

9504367029 1

INSTRUCTIONS

In responding to this document request, furnish all documents and other information, however obtained, that are in possession of, known by, or otherwise available to you, including documents and information appearing in your records.

Should you claim a privilege with respect to any documents requested by this document request, 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.

This document request is continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

DEFINITIONS

For the purpose of this document request, including the instructions thereto, the terms listed below are defined as follows:

"You" shall mean National Association of Real Estate Appraisers, Inc., including all officers, directors, employees, agents, or attorneys thereof.

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

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of this document request any documents and materials which may otherwise be construed to be out of its scope.

9504367029 2

"Specified Persons" shall mean any candidate for federal office; any federal political committee; any political party; National Association of Real Estate Appraisers, Inc.; National Association of Review Appraisers and Mortgage Underwriters, Inc.; International Association Managers, Inc.; International Real Estate Institute; Professional Womens Appraisal Association; Robert Johnson and Associates; Todd Publishing; Robert Johnson; E. Kenneth Twichell; Timothy Cloud; Stephen Schneck; and Todd Johnson.

DOCUMENT REQUEST

1. Produce all of your statements from banks, brokerage houses, and all other financial institutions, and all of your check registers, for the period of July 1 through December 31, 1988.

2. Produce all documents that in any way reflect, constitute, relate, or refer to financial activity, or the transfer of any asset either directly or indirectly through a third party, between you and any of the Specified Persons during the period of July 1 through December 31, 1988. Such documents include, but are not limited to, all of the following: checks written to you; check stubs; deposit slips; cancelled checks; records of electronic transfers; confirmations of the purchase or sale of stocks, bonds, mutual funds, commodities, and real estate; and records of all other financial transactions.

9504367 0293

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
) MUR 2984

SUBPOENA TO PRODUCE DOCUMENTS

TO: National Association of Review Appraisers and Mortgage Underwriters, Inc.

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 the documents listed on the attachment to this subpoena.

Notice is given that these documents must be presented for inspection and copying on March 2 , 1990 at 10:00 a.m., at the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463. Legible copies which, where applicable, show both sides of the documents may be substituted for originals.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set his hand in Washington, D.C. on this 6th day of February, 1990.

Lee Ann Elliott

Lee Ann Elliott, Chairman
Federal Election Commission

ATTEST:

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

9504367029 4

9504367029 5

INSTRUCTIONS

In responding to this document request, furnish all documents and other information, however obtained, that are in possession of, known by, or otherwise available to you, including documents and information appearing in your records.

Should you claim a privilege with respect to any documents requested by this document request, 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.

This document request is continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

DEFINITIONS

For the purpose of this document request, including the instructions thereto, the terms listed below are defined as follows:

"You" shall mean National Association of Review Appraisers and Mortgage Underwriters, Inc., including all officers, directors, employees, agents, or attorneys thereof.

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

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of this document request any documents and materials which may otherwise be construed to be out of its scope.

"Specified Persons" shall mean any candidate for federal office; any federal political committee; any political party; National Association of Real Estate Appraisers, Inc.; National Association of Review Appraisers and Mortgage Underwriters, Inc.; International Association Managers, Inc.; International Real Estate Institute; Professional Womens Appraisal Association; Robert Johnson and Associates; Todd Publishing; Robert Johnson; E. Kenneth Twichell; Timothy Cloud; Stephen Schneck; and Todd Johnson.

DOCUMENT REQUEST

1. Produce all of your statements from banks, brokerage houses, and all other financial institutions, and all of your check registers, for the period of July 1 through December 31, 1988.

2. Produce all documents that in any way reflect, constitute, relate, or refer to financial activity, or the transfer of any asset either directly or indirectly through a third party, between you and any of the Specified Persons during the period of July 1 through December 31, 1988. Such documents include, but are not limited to, all of the following: checks written to you; check stubs; deposit slips; cancelled checks; records of electronic transfers; confirmations of the purchase or sale of stocks, bonds, mutual funds, commodities, and real estate; and records of all other financial transactions.

9504367002996

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 2984

SUBPOENA TO PRODUCE DOCUMENTS

TO: International Association Managers, Inc.

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 the documents listed on the attachment to this subpoena.

Notice is given that these documents must be presented for inspection and copying on March 2 , 1990 at 10:00 a.m., at the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463. Legible copies which, where applicable, show both sides of the documents may be substituted for originals.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set his hand in Washington, D.C. on this 6th day of February, 1990.

Lee Ann Elliott

Lee Ann Elliott, Chairman
Federal Election Commission

ATTEST:

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

9504367002997

INSTRUCTIONS

In responding to this document request, furnish all documents and other information, however obtained, that are in possession of, known by, or otherwise available to you, including documents and information appearing in your records.

Should you claim a privilege with respect to any documents requested by this document request, 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.

This document request is continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

DEFINITIONS

For the purpose of this document request, including the instructions thereto, the terms listed below are defined as follows:

"You" shall mean International Association Managers, Inc., including all officers, directors, employees, agents, or attorneys thereof.

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

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of this document request any documents and materials which may otherwise be construed to be out of its scope.

9504367002298

"Specified Persons" shall mean any candidate for federal office; any federal political committee; any political party; National Association of Real Estate Appraisers, Inc.; National Association of Review Appraisers and Mortgage Underwriters, Inc.; International Association Managers, Inc.; International Real Estate Institute; Professional Womens Appraisal Association; Robert Johnson and Associates; Todd Publishing; Robert Johnson; E. Kenneth Twichell; Timothy Cloud; Stephen Schneck; and Todd Johnson.

DOCUMENT REQUEST

1. Produce all of your statements from banks, brokerage houses, and all other financial institutions, and all of your check registers, for the period of July 1 through December 31, 1988.

2. Produce all documents that in any way reflect, constitute, relate, or refer to financial activity, or the transfer of any asset either directly or indirectly through a third party, between you and any of the Specified Persons during the period of July 1 through December 31, 1988. Such documents include, but are not limited to, all of the following: checks written to you; check stubs; deposit slips; cancelled checks; records of electronic transfers; confirmations of the purchase or sale of stocks, bonds, mutual funds, commodities, and real estate; and records of all other financial transactions.

9504367002999

MUR 2984

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
90 FEB 28 PM 5:23

February 28, 1990

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

Attn: Jonathan Bernstein

Re: MUR 2984, National Association of Real Estate Appraisers, Inc.; National Association of Review Appraisers and Mortgage Underwriters, Inc.; and International Association Managers, Inc.

Dear Mr. Noble:

Pursuant to our conversation, I have reviewed with my clients your question about the volume and nature of the documents required for production under the Commission's subpoena of February 7, 1990. As you know, the subpoena requests a wide range of documents including statements from banks, brokerage houses and other financial institutions, as well as all checks and records of other financial transactions for a period of six months. Therefore, at least 10,000-15,000 individual records will be produced in order to fully comply with this request. Since it was hard to estimate the number of boxes, presumably there are approximately 20-25 boxes.

It would require a massive effort by the corporations and individuals involved to ship these documents to Washington, D.C. In addition, because these are recent records, the corporations use them regularly for business purposes. Therefore, they are needed on site and copying these documents would be immensely time-consuming and costly.

Therefore, we request that the document production take place at the site of the corporations in Scottsfield, Arizona. Not only would this avoid the task of copying and shipping these records, but would allow the Commission staff reviewing them to benefit from the assistance the corporations might offer in answering any questions that may arise.

9504367003 00

My clients are prepared to make these documents available on Friday, March 2 as requested but should this timing be inconvenient to the Commission, the production can occur on March 7. The documents will be located in a conference room with adequate space for your staff to review them.

Sincerely,

Robert F. Bauer

1596E

95043670301

OGC 5576

LAW OFFICES

TEILBORG, SANDERS & PARKS

PROFESSIONAL CORPORATION

FRANK A. PARKS
ROBERT J. BRUNO
WINN L. SAMMONS
RICHARD A. KENT
JAMES M. MARLAR
ALISON LEWIS
JAMES W. KAUCHER
JOHN J. BLACK
STEPHEN C. BAKER
GARRICK L. GALLAGHER
MARQUE L. FRENCH
SCOTT J. HERGENROETHER
BRUCE C. SMITH

RICHARD B. SANDERS
NEIL C. ALDEN
J. CLAYTON BERGER
DAVID J. DAMRON
BRIAN R. BURT
STEVEN PLITT
GERALD T. HICKMAN
JEAN E. HUFFINGTON
MONTE M. SIMPSON
MARK WORISCHECK
R. COREY HILL
MARY G. ISBAN
PAUL D. FRIEDMAN

JAMES A. TEILBORG
JOHN C. GEMMILL
STEPHEN PAUL FORREST
BRADLEY R. JARDINE
BRUCE A. PELKEY
CONI RAE GOOD
TIMOTHY W. HOLT
SCOTT H. HOUSTON
MELINDA S. BARNETT
KEITH R. BEVAN
RICK N. BRYSON
EDYTHE H. KELLY

3030 NORTH THIRD STREET
SUITE 1300
PHOENIX, ARIZONA 85012
(602) 230-5600

FACSIMILE (602) 230-5693

WRITER'S DIRECT LINE

March 1, 1990

602-230-57

90 MAR -2 PM 4:50

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

AIRBORNE EXPRESS

Federal Election Commission
Attention: Jonathan Bernstein
Office of the General Counsel
99 E Street, N.W.
Washington, D.C. 20463

Re: Federal Election Commission v. N.A.R.E.A., E. Kenneth Twichell and Robert G. Johnson
MUR 2984

Dear Mr. Bernstein:

This letter will confirm the substance of our conversation of today's date.

As I indicated to you, I have been retained to represent Mr. Timothy Cloud with respect to the subpoena issued to him in the above matter. Pursuant to that subpoena, the following documents are enclosed:

1. Mr. Cloud's bank statements for December 1987 - December 1988;

2. Check no. 9471 from the National Association of Real Estate Appraisers to Tim Cloud dated July 19, 1988 in the sum of Ten Thousand Dollars ($10,000.00), including the reverse of said check;

3. A deposit slip dated July 19, 1988 in the sum of Ten Thousand Dollars ($10,000.00), including the reverse of said deposit slip; and

4. A copy of Mr. Cloud's check no. 428 dated July 19, 1988, made payable to the Presidential Trust.

9504367030 2

Mr. Cloud and I reviewed the above documents prior to my contact with you. Upon our review, it was discovered that he did not have his bank statement which covers the latter portion of December 1988. Also, the "original copy" of Mr. Cloud's check no. 428 had been requested. Mr. Cloud is unable to locate the "original copy" and has requested another copy of said check from his bank. Both of these documents will be forwarded to you upon receipt.

I have prepared a designation of counsel form for Mr. Cloud's signature. I will forward that document to you together with the above-referenced documents.

Please do not hesitate to contact me if you should have any questions.

Sincerely,

Bruce A. Pelkey

Bruce A. Pelkey
For the firm

BAP:ei
Enclosure

cc: Mr. Timothy Cloud

9504336703

9504336700304

PROPERLY ENDORSE ALL ITEMS

NATIONAL ASSOCIATION OF REAL ESTATE APPRAISERS
8918 VIA DE COMERCIO
SCOTTSDALE, AZ

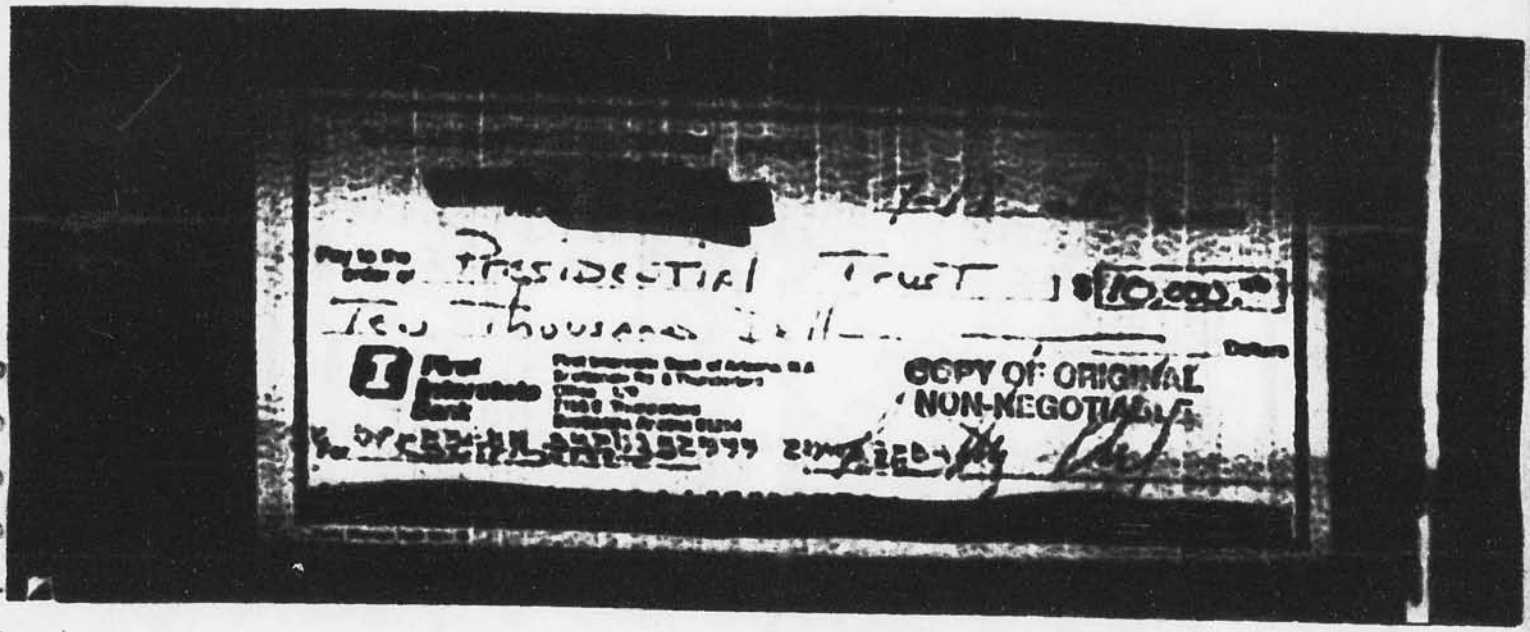
9471

91-1
129
ATM

7/11

DOLLARS

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 MAR -2 PM 4:49



9504367030 5

OGC 5575

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
90 MAR -2 PM 4:27

March 2, 1990

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

Attn: Jonathan Bernstein

Re: MUR 2984, National Association of Real Estate Appraisers, Inc.; National Association of Review Appraisers and Mortgage Underwriters, Inc.; and International Association Managers, Inc.

Dear Mr. Noble:

Pursuant to our conversation, I am writing to confirm our understanding that the documents required for production under the Commission's subpoena of February 7, 1990 will be produced at the offices of NAREA in Scottsdale, Arizona on March 26, 1990. The documents will be available for a reasonable period of time to enable your staff to conduct a thorough review.

Sincerely,

Robert F. Bauer

1596E

9504336703006

OGC 5597

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

90 MAR -5 AM 10:46

MERCHANT & GOULD

Merchant, Gould, Smith,
Edell, Welter & Schmidt
Professional Association
Patent, Trademark &
Copyright Lawyers

1000 Norwest Center
55 East Fifth Street
Saint Paul, Minnesota
U.S.A. 55101
FAX 612/298-1160
Telex 297470 MANDG Stp
612/298-1055

John D. Gould
Phillip H. Smith
Robert T. Edell
Paul A. Welter
Cecil C. Schmidt
John S. Sumners
Alan G. Carlson
Micheal L. Schwegman
Earl D. Reiland
Charles E. Gotlia
Douglas J. Williams
Douglas A. Strawbridge
Albert L. Underhill
D. Randall King
Norman P. Friederichs
Michael B. Lasky
Curtis B. Hamre
Michael D. Schumann
Michael L. Mau
John W. Bunch
John A. Clifford
Mark J. DiPietro
Steven W. Landberg
Warren D. Woessner

Janet R. Westrom
David G. Johnson
Alan W. Kowalchyk
Michael S. Sherrill
Timothy R. Conrad
Daniel W. McDonald
R. Carl Moy
Robert C. Freed
Daniel J. Kluth
Wendy McDonald
Linda M. Byrne
Mark D. Schuman
Randall A. Hillson
John P. Sumner
Brian H. Batzli
David K. Tellekson
Hallie A. Finucane
John J. Oresens
Steven J. Keough
Paul E. Lacy
Michelle M. Michel
Philip P. Caspers
Gregory A. Sebald
Jane H. Arrett

SENT BY TELECOPIER
CONFIRMATION SENT BY MAIL

March 2, 1990

90 MAR -5 PM 2:06
FEDERAL ELECTION COMMISSION
RECEIVED
OFFICE OF GENERAL COUNSEL

Federal Election Commission
Attn: Jonathan A. Bernstein, Esq.
Assistant General Counsel
99 E Street, N.W.
Washington, D.C. 20463

Re: MUR 2984
Our Ref: M&G 3230.23-US-AA

Dear Mr. Bernstein:

This is in response to the FEC subpoenas dated February 6, 1990 to Robert Johnson and E. Kenneth Twichell and to confirm our phone conversations of yesterday and today. I continue to be of the opinion that for you to require production of these documents today by facsimile when the vast majority of documents are being produced on March 26 is, at best, totally unreasonable. It has now been several months since this matter was initiated, a mutually convenient time for production of documents of March 26 has been agreed to by you and Robert Bauer, and you can offer no reasonable explanation as to why there should be separate and piecemeal production of documents in this matter. I am aware of nothing that is scheduled to occur in the next 24 days and I cannot imagine why you are adamant about receiving documents in a piecemeal fashion. Your actions simply make this matter more difficult and costly for all concerned.

9504336703 07

In spite of the fact that production of these documents by Messrs. Johnson and Twichell could more conveniently and with less expense be made on March 26, we produce herewith the following, to the extent that the subpoenaed documents are available:

1. Mr. Johnson's check register for the relevant period.

2. Mr. Twichell's check register for the relevant period.

3. Mr. Twichell's bank statements for the relevant period.

4. Documents relating to Mr. Johnson's bank statements and statements from brokerage houses.

In addition to the foregoing, Mr. Twichell has been in the process of obtaining his cancelled checks and a statement from Shamrock Credit Union concerning a savings account. These documents should be received by me on Monday, March 5, and will be forwarded to you by fax, with confirmation by mail, on the date received by me.

The documents are being sent to you by facsimile, pursuant to your request of yesterday, with confirmation by mail.

Finally, you will note that each of the documents being produced is marked "Confidential - Attorney's Only". Pursuant to our conversation of even date, this notation is being made on each document to preserve the confidentiality of the information contained therein.

Sincerely,

D. Randall King

DRK/dmm
Enclosures

9504367030 8

06C5595

MERCHANT & GOULD

Merchant, Gould, Smith, Edell, Welter & Schmidt
Professional Association
Patent, Trademark & Copyright Lawyers

1000 Norwest Center
55 East Fifth Street
Saint Paul, Minnesota
U.S.A. 55101
FAX 612/298-1160
Telex 297470 MANDG Stp
612/298-1055

John D. Gould
Phillip H. Smith
Robert T. Edell
Paul A. Welter
Cecil C. Schmidt
John S. Sumners
Alan G. Carlson
Micheal L. Schwegman
Earl D. Reiland
Charles E. Golla
Douglas J. Williams
Douglas A. Strawbridge
Albert L. Underhill
D. Randall King
Norman P. Friedericks
Michael B. Lasky
Curtis B. Hamre
Michael D. Schumann
Michael L. Mau
John W. Bunch
John A. Clifford
Mark J. DiPietro
Steven W. Lundberg
Warren D. Woessner
Janet R. Westrom
David G. Johnson
Alan W. Kowalchyk
Michael S. Sherrill
Timothy R. Conrad
Daniel W. McDonald
R. Carl Moy
Robert C. Freed
Daniel J. Kluth
Wendy McDonald
Linda M. Byrne
Mark D. Schuman
Randall A. Hillson
John P. Sumner
Brian H. Batzli
David K. Tellekson
Hallie A. Finucane
John J. Gresens
Steven J. Keough
Paul E. Lacy
Michelle M. Michel
Philip P. Caspers
Gregory A. Sebald
Jane H. Arrett

March 2, 1990

SENT BY FACSIMILE
(Confirmation Copy to Follow)

Federal Election Commission
Attn: Robert Raich, Esq.
Office of General Counsel
999 E Street, N.W.
Washington, D.C. 20463

RE: Federal Election Commission v. NAREA,
E. Kenneth Twichell and Robert G. Johnson
MUR 2984
Our Ref: M&G 3230.23-US-AA

Dear Mr. Raich:

This letter is to follow-up on my letter of January 12, 1990 forwarding photocopies of checks drafted by Robert G. Johnson. In that letter I mentioned Check No. 625 drafted by E. Kenneth Twichell which we had not yet received. Enclosed you will find a copy of this check which was finally made available to us by the bank. Again, as mutually agreed, we will maintain custody of the original photocopy of the check received from the bank.

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

Sincerely,

Joel A. Rothfus

JAR/cls
Enc: Copy of Check No. 625

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 MAR -5 PM 2:05

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM
90 MAR -5 AM 10:52

95043670309

9504367031O

OGC5645

MERCHANT & GOULD

Merchant, Gould, Smith, Edell, Welter & Schmidt
Professional Association
Patent, Trademark & Copyright Lawyers

1000 Norwest Center
55 East Fifth Street
Saint Paul, Minnesota
U.S.A. 55101
FAX 612/298-1160
Telex 297470 MANDG Stp
612/298-1055

John D. Gould
Phillip H. Smith
Robert T. Edell
Paul A. Welter
Cecil C. Schmidt
John S. Sumners
Alan G. Carlson
Micheal L. Schwegman
Earl D. Reiland
Charles E. Golla
Douglas J. Williams
Douglas A. Strawbridge
Albert L. Underhill
D. Randall King
Norman P. Friederichs
Michael B. Lasky
Curtis B. Hamre
Michael D. Schumann
Michael L. Mau
John W. Bunch
John A. Clifford
Mark J. DiPietro
Steven W. Lundberg
Warren D. Woessner

Janet R. Westrom
David G. Johnson
Alan W. Kowalchyk
Michael S. Sherrill
Timothy R. Conrad
Daniel W. McDonald
R. Carl Moy
Robert C. Freed
Daniel J. Kluth
Wendy McDonald
Linda M. Byrne
Mark D. Schuman
Randall A. Hillson
John P. Sumner
Brian H. Batzli
David K. Tellekson
Hallie A. Finucane
John J. Gresens
Steven J. Keough
Paul E. Lacy
Michelle M. Michel
Philip P. Caspers
Gregory A. Sebald
Jane H. Arrett

March 5, 1990

SENT BY FACSIMILE
(Confirmation Copy to Follow)

Federal Election Commission
Attn: Jonathan Bernstein, Esq.
Office of the General Counsel
999 E Street, N.W.
Washington, D.C. 20463

RE: Federal Election Commission v. NAREA
E. Kenneth Twichell and Robert G. Johnson
MUR 2984
Our Ref: M&G 3230.23-US-AA

Dear Mr. Bernstein:

Pursuant to our telephone conversation of today, this letter is to document the attempts made by E. Kenneth Twichell to comply with the return date requirement for various documents.

Mr. Twichell is currently compiling the documents subject to the subpoena which is sending us overnight by Federal Express. Upon our receipt tomorrow, we will forward those documents subject to the subpoena to you by facsimile with photocopies to follow the next day by Federal Express.

It is hoped that this letter illustrates that our client is attempting to comply with the subpoena and is not engaging in any willful noncompliance. If you have any questions, please do not hesitate to contact me.

Sincerely,

Joel A. Rothfus

JAR/cls

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM
90 MAR -9 AM 10: 31

RECEIVED
FEDERAL ELECTION COMMISSION
90 MAR -9 AM 11: 57

9504367031 1

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 6, 1990

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

Re: MUR 2984
National Association of Real Estate Appraisers, Inc.
National Association of Review Appraisers and Mortgage Underwriters, Inc.
International Association Managers, Inc.

Dear Mr. Bauer:

Regarding the subpoenas dated November 29, 1989 and the subpoenas dated February 6, 1990 issued to your clients in this matter, this is to confirm our agreement last Thursday, March 1, 1990 that in lieu of production of the responsive documents on March 2, 1990 at the Commission's offices, the document production will take place starting March 26, 1990 at the clients' offices in Scottsdale, Arizona.

If you have a different understanding as to our agreement, or if you have any other questions relating to this matter, please contact me or Robert Raich right away, at 376-5690.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Jonathan A. Bernstein
Assistant General Counsel

9504367031 2

OGC 5624

MERCHANT & GOULD

Merchant, Gould, Smith, Edell, Welter & Schmidt
Professional Association
Patent, Trademark & Copyright Lawyers

1000 Norwest Center
55 East Fifth Street
Saint Paul, Minnesota
U.S.A. 55101
FAX 612/298-1160
Telex 297470 MANDG Stp
612/298-1055

John D. Gould
Phillip H. Smith
Robert T. Edell
Paul A. Welter
Cecil C. Schmidt
John S. Sumners
Alan G. Carlson
Micheal L. Schwegman
Earl D. Reiland
Charles E. Gollia
Douglas J. Williams
Douglas A. Strawbridge
Albert L. Underhill
D. Randall King
Norman P. Friederichs
Michael B. Lasky
Curtis B. Hamre
Michael D. Schumann
Michael L. Mau
John W. Bunch
John A. Chifford
Mark J. DiPietro
Steven W. Lundberg
Warren D. Woessner
Janet R. Westrom
David G. Johnson
Alan W. Kowalchyk
Michael S. Sherrill
Timothy R. Conrad
Daniel W. McDonald
R. Carl Moy
Robert C. Freed
Daniel J. Kluth
Wendy McDonald
Linda M. Byrne
Mark D. Schuman
Randall A. Hillson
John P. Sumner
Brian H. Batzli
David K. Tellekson
Hallie A. Finucane
John J. Gresens
Steven J. Keough
Paul E. Lacy
Michelle M. Michel
Philip P. Caspers
Gregory A. Sebald
Jane H. Arnett

March 6, 1990

SENT BY FACSIMILE
(Confirmation Copy Sent Federal Express)

90 MAR -7 AM 10:06
HAND DELIVERED
FEDERAL ELECTION COMMISSION

Federal Election Commission
Attn: Jonathan A. Bernstein, Esq.
Assistant General Counsel
99 E Street, N.W.
Washington, D.C. 20231

RE: MUR 29884
Our Ref: M&G 3230.23-US-AA

Dear Mr. Bernstein:

This is in response to the FEC subpoena dated February 6, 1990 to E. Kenneth Twichell.

In spite of the fact that production of these documents by Mr. Twichell could more conveniently and with less expense be made on March 26, we produce herewith the following, to the extent that the subpoenaed documents are available:

1. Mr. Twichell's cancelled checks for the relevant period.

2. Mr. Twichell's bank statements for the relevant period.

The statement from Shamrock Credit Union concerning a savings account mentioned in Mr. King's letter of March 2, 1990 will not be produced as it is an account belonging to Mr. Twichell's wife and beyond the scope of the subpoena.

The documents are being sent to you by facsimile, pursuant to your request of last week, with confirmation by Federal Express.

90 MAR -7 AM 11:35
RECEIVED
FEDERAL ELECTION COMMISSION

9504367031 3

Finally, you will note that each of the documents being produced is marked "Confidential - Attorney's Only". This notation is being made on each document to preserve the confidentiality of the information contained therein.

Sincerely,

J A Roth

Joel A. Rothfus

JAR/cls
Enclosures

9504367031 4

OGC 5657

MERCHANT & GOULD

Merchant, Gould, Smith, Edell, Welter & Schmidt
Professional Association
Patent, Trademark & Copyright Lawyers

1000 Norwest Center
55 East Fifth Street
Saint Paul, Minnesota
U.S.A. 55101
FAX 612/298-1160
Telex 297470 MANDG Stp
612/298-1055

John D. Gould
Phillip H. Smith
Robert T. Edell
Paul A. Welter
Cecil C. Schmidt
John S. Sumners
Alan G. Carlson
Micheal L. Schwegman
Earl D. Reiland
Charles E. Golla
Douglas J. Williams
Douglas A. Strawbridge
Albert L. Underhill
D. Randall King
Norman P. Friederichs
Michael B. Lasky
Curtis B. Hamre
Michael D. Schumann
Michael L. Mau
John W. Bunch
John A. Clifford
Mark J. DiPietro
Steven W. Lundberg
Warren D. Woessner
Janet R. Westrom
David G. Johnson
Alan W. Kowalchyk
Michael S. Sherrill
Timothy R. Conrad
Daniel W. McDonald
R. Carl Moy
Robert C. Freed
Daniel J. Kluth
Wendy McDonald
Linda M. Byrne
Mark D. Schuman
Randall A. Hillson
John P. Sumner
Brian H. Batzli
David K. Tellekson
Hallie A. Finucane
John J. Gresens
Steven J. Keough
Paul E. Lacy
Michelle M. Michel
Philip P. Caspers
Gregory A. Sebald
Jane H. Arrett

March 9, 1990

SENT BY FEDERAL EXPRESS

Federal Election Commission
Attn: Jonathan Bernstein, Esq.
Office of the General Counsel
999 E Street, N.W.
Washington, D.C. 20463

HAND DELIVERED

90 MAR 12 AM 11:21

RECEIVED
FEDERAL ELECTION COMMISSION

RE: Federal Election Commission v. NAREA
E. Kenneth Twichell and Robert G. Johnson
MUR 2984
Our Ref: M&G 3230.23-US-AA

Dear Mr. Bernstein:

This is in response to the FEC's subpoenas dated November 29, 1989 to Robert G. Johnson and E. Kenneth Twichell. As you know, certain documents were produced pursuant to a proposed modification of the subpoena which was later rejected by the Commission. In a subsequent phone conversation between Messrs. King and Raich, Mr. Raich indicated that a new subpoena would issue calling for all the documents the FEC was requesting. From this conversation, it was Mr. King's understanding that the new subpoena would cover all of 1988, and that it was not necessary to reply to the November subpoenas. When the February 6, 1990 subpoenas arrived, it appeared that the time period covered was limited to July 1, 1988 through December 31, 1988. Documents have been produced over the course of the last week pursuant to the subpoenas.

90 MAR 12 PM 2:38

RECEIVED
FEDERAL ELECTION COMMISSION

Pursuant to our conversations and the subpoenas of November 29, 1989 to Robert G. Johnson and E. Kenneth Twichell, we produce herewith the following, to the extent that the subpoenaed documents are available:

9504367031 5

1. Mr. Johnson's check register.

2. Mr. Twichell's check register.

3. Mr. Twichell's bank statements.

4. Mr. Twichell's bank statement for January 1989.

Mr. Twichell's cancelled checks for 1988 are not being produced, as you indicated to me that they were beyond the scope of the subpoenas. Mr. Twichell's bank statement from January 1989 is being produced as it contains information on checking transactions which occurred in December 1988. The only bank statement from the first half of 1988 in Mr. Johnson's possession at this time, was forwarded to you in the March 2, 1990 facsimile transmission.

Again, you will note that each of the documents being produced is marked "Confidential - Attorneys Only". Pursuant to the conversation between yourself and Mr. King, this notation is being made on each document to preserve the confidentiality of the information contained therein.

Sincerely,

Joel A. Rothfus

JAR/cls
Enclosures

9504367031 6

06L5740

LAW OFFICES

TEILBORG, SANDERS & PARKS

PROFESSIONAL CORPORATION

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

90 MAR 20 AM 10:57

FRANK A. PARKS
ROBERT J. BRUNO
WINN L. SAMMONS
RICHARD A. KENT
JAMES M. MARLAR
ALISON LEWIS
JAMES W. KAUCHER
JOHN A. BLACK
STEPHEN C. BAKER
GARRICK L. GALLAGHER
MARQUE L. FRENCH
SCOTT J. HERGENROETHER
BRUCE C. SMITH

RICHARD B. SANDERS
NEIL C. ALDEN
J. CLAYTON BERGER
DAVID J. DAMRON
BRIAN R. BURT
STEVEN PLITT
GERALD T. HICKMAN
JEAN E. HUFFINGTON
MONTE M. SIMPSON
MARK WORISCHECK
R. COREY HILL
MARY G. ISBAN
PAUL D. FRIEDMAN

JAMES A. TEILBORG
JOHN C. GEMMILL
STEPHEN PAUL FORREST
BRADLEY R. JARDINE
BRUCE A. PELKEY
CONI RAE GOOD
TIMOTHY W. HOLT
SCOTT H. HOUSTON
MELINDA S. BARNETT
KEITH R. BEVAN
RICK N. BRYSON
EDYTHE H. KELLY

3030 NORTH THIRD STREET
SUITE 1300
PHOENIX, ARIZONA 85012
(602) 230-5800

FACSIMILE (602) 230-5693

WRITER'S DIRECT LINE
602-230-5774

March 7, 1990

90 MAR 20 PM 3:54

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

Federal Election Commission
Attention: Jonathan Bernstein
Office of the General Counsel
99 E Street, N.W.
Washington, D.C. 20463

Re: Federal Election Commission v. N.A.R.E.A., E. Kenneth Twichell and Robert G. Johnson
MUR 2984

Dear Mr. Bernstein:

This letter is a follow-up to my letter of March 1, 1990 regarding Mr. Timothy Cloud.

As I indicated in my last letter, Mr. Cloud was attempting to obtain copies of additional documents from his bank. The following documents are enclosed:

1. A copy of Mr. Cloud's check no. 428 dated July 19, 1988, made payable to the Presidential Trust; and

2. Mr. Cloud's bank statement for the time period ending January 6, 1989, which covers the latter part of December, 1988.

I am also enclosing the original Statement of Designation of Counsel executed by Mr. Cloud.

At one point, there was some indication that the F.E.C. was interested in taking the deposition of Mr. Cloud and he was to have produced these documents at the time of his deposition. In light of the fact that he has now fully complied with the F.E.C.'s subpoena, I am curious as to whether a deposition of Mr. Cloud

9504367031 7

would be necessary. I would appreciate your thoughts on this matter.

Sincerely,

Bruce A. Pelkey
For the firm

BAP:ei

cc: Mr. Timothy Cloud

9504367031 8

STATEMENT OF DESIGNATION OF COUNSEL

MUR 2984

NAME OF COUNSEL: Bruce A. Pelkey, Esq.
TEILBORG, SANDERS & PARKS
3030 N. 3rd St., #1300
Phoenix, Arizona 85012

TELEPHONE: 602-230-5774

The above-named individual is hereby designated as my counsel and is authorized to receive any notification and other communications from the Commission and to act on my behalf before the Commission.

3-2-90
Date

Signature

RESPONDENT'S NAME: Timothy Cloud

ADDRESS: 13616 N. 43rd St., #265
Phoenix, Arizona 85032

HOME PHONE: 602-494-0673

BUSINESS PHONE: 602-498-8000

9504367031 9

[redacted]

7-19 19

91-6/1221

Pay to the order of

Dollars

First Interstate Bank

First Interstate Bank of Arizona N.A.

COPY OF ORIGINAL
NON-NEGOTIABLE

05043670320

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 20, 1990

D. Randall King, Esquire
Merchant & Gould
1000 Norwest Center
55 East Fifth Street
Saint Paul, MN 55101

RE: MUR 2984
Robert Johnson
Kenneth E. Twichell

Dear Mr. King:

This is to respond to your letter dated March 2, 1990, received by telecopier on March 5, 1990 regarding your clients' response to two Commission Subpoenas issued to them in this matter.

As you know, the Commission issued Subpoenas dated November 29, 1989 to Messrs. Johnson and Twichell, in part requiring the production of documents in Phoenix, Arizona beginning on December 11, 1989. Pursuant to communications between Robert Raich of this Office and Robert F. Bauer (copy of confirming letter attached), it was agreed that the responsive documents would be provided at a later date at the Commission's offices in Washington, D.C.

Thereafter, it was clarified that you represented Messrs. Johnson and Twichell in this matter and that Mr. Bauer represented the corporate entities involved. You then requested the Commission to narrow the scope of the Subpoenas to Messrs. Johnson and Twichell. By letter dated February 7, 1990, you were notified that the Commission had declined to do so. That letter also informed you that the Commission had issued additional Subpoenas to your clients; these Subpoenas extended the date of the financial records requested in the November 29 Subpoenas to the entire 1988 calendar year. That letter required that "[c]omplete responses to both sets of Subpoenas are due in the Commission's offices by March 2, 1990," and notified you that the Commission had authorized this office to bring suit for judicial enforcement of the Subpoenas if they were not complied with.

On March 1, 1990, you telephoned Jonathan Bernstein of my staff regarding the compliance of Messrs. Johnson and Twichell with the Subpoenas. You discussed your assumption that an

9504367032 1

agreement this Office had reached with counsel for the corporate respondents in this matter should extend to the personal financial documents responsive to the Subpoenas issued to your clients. As Mr. Bernstein explained to you at that time, our agreement with counsel for the corporate respondents was based upon the specific facts involved, and no reason beyond convenience to your clients had been given why the Subpoenas issued to your clients should not be complied with as required in the Commission's February 7, 1990 letter. Since this Office had received no request and made no agreement deferring the time or changing the place of your clients' compliance, and Mr. Bernstein explained to you that we required but had been given no specific reason why your clients could not produce the responsive documents at the time and place specified, we fail to understand the complaint in your correspondence dated March 2 that our expectation of full compliance with the Subpoenas "is, at best, totally unreasonable."

This is also to confirm receipt of subpoenaed documents of Messrs. Johnson and Twichell, forwarded with your letters dated March 2 and March 6, 1990. Based on our initial review, the financial documents covered the last six months of 1988 as requested in the February 6 Subpoenas, but did not include financial documents for the first half of 1988, as required by the Subpoenas issued on November 29, 1989. By the Commission's letter of February 7, 1990, these documents were also required to be produced no later than March 2, 1990 at the Commission's offices. Mr. Bernstein brought this omission to the attention of Mr. Rothfus of your office, in telephone conversations first initiated by Mr. Rothfus on March 7, 1990.

Mr. Rothfus first explained that the November 29, 1989 Subpoenas had already been complied with. After further inquiry, he explained that, based on a telephone conversation with Robert Raich of this Office prior to receiving the February 7, 1990 letter, you understood the new Subpoenas to be issued would supersede the November 29 Subpoenas, i.e. would contain a single comprehensive request for documents encompassing the entire 1988 calendar year. According to Mr. Rothfus, upon receiving the new Subpoenas, you noticed that the additional Subpoenas covered only the last half of 1988, but nonetheless assumed no further response to the November 29, 1989 Subpoenas was necessary. As Mr. Bernstein pointed out, however, the Commission's February 7th letter explicitly required that "[c]omplete responses to both sets of Subpoenas are due in the Commission's offices by March 2, 1990."

Mr. Rothfus agreed to forward the responsive documents immediately by Federal Express. He stated, however, that the documents did not include comprehensive bank statements of Mr. Johnson for the first half of 1988. Mr. Bernstein questioned this omission. On Monday, March 12, 1990, we received the promised documents but, as Mr. Rothfus' letter points out, these documents do not include bank statements of Mr. Johnson covering the first six months of 1988. The Commission's Subpoena dated November 29,

9504367032 2

1989 requires the production of these documents. Therefore, please submit them right away.

Our review of the submitted documents is continuing. As you know, the Commission has already authorized this Office to bring suit to enforce these Subpoenas if they are not complied with. Accordingly, in order to avoid the necessity of summary judicial proceedings in this matter, we ask the continued cooperation of your clients toward full compliance with the Commission's Subpoenas. If you have any questions about this matter, please contact Robert Raich, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure

9504336703323

OGC 5766

MERCHANT & GOULD

Merchant, Gould, Smith, Edell, Welter & Schmidt
Professional Association
Patent, Trademark & Copyright Lawyers

1000 Norwest Center
55 East Fifth Street
Saint Paul, Minnesota
U.S.A. 55101
FAX 612/298-1160
Telex 297470 MANDG Stp
612/298-1055

John D. Gould
Phillip H. Smith
Robert T. Edell
Paul A. Welter
Cecil C. Schmidt
John S. Sumners
Alan G. Carlson
Micheal L. Schwegman
Earl D. Reiland
Charles E. Golla
Douglas J. Williams
Douglas A. Strawbridge
Albert L. Underhill
D. Randall King
Norman P. Friederichs
Michael B. Lasky
Curtis B. Hamre
Michael D. Schumann
Michael L. Mau
John W. Bunch
John A. Clifford
Mark J. DiPietro
Steven W. Lundberg
Warren D. Woessner
Janet R. Westrom
David G. Johnson
Alan W. Kowalchyk
Michael S. Sherrill
Timothy R. Conrad
Daniel W. McDonald
R. Carl Moy
Robert C. Freed
Daniel J. Kluth
Wendy McDonald
Linda M. Byrne
Mark D. Schuman
Randall A. Hillson
John P. Sumner
Brian H. Batzli
David K. Tellekson
Halbe A. Finucane
John J. Gresens
Steven J. Keough
Paul E. Lacy
Michelle M. Michel
Philip P. Caspers
Gregory A. Sebald
Jane H. Arrett

March 23, 1990

SENT BY FACSIMILE
(Confirmation Copy to Follow)

Mr. Lawrence M. Noble
General Counsel
Federal Election Commission
Washington, DC 20463

90 MAR 26 AM 11:07

RE: Federal Election Commission v. NAREA
E. Kenneth Twichell and Robert G. Johnson
Your Ref.: MUR 2984
Our Ref.: M&G 3230.23-US-AA

Dear Mr. Noble:

This letter is in response to your letter dated March 20, 1990, regarding Mr. Johnson's response to the Commission's subpoena dated November 29, 1989, requiring the production of bank statements covering the first six months of 1988. It is also in response to your letter dated March 23, 1990, regarding documents not received by your office.

I was not involved with the production of documents which were sent by Mr. King on March 2, 1990. Therefore, during my telephone conversation with Mr. Bernstein of your office on March 7, 1990, I indicated that I was uncertain whether such production was considered to be in compliance with the November or the February subpoena or both. After further inquiry with Messrs. King and Johnson, it was determined that Mr. Johnson's bank statements produced by telecopier on March 2, 1990, was the totality of such documents in Mr. Johnson's possession at that time. The only bank statement in Mr. Johnson's possession from the first half of 1988, was the June 1988 statement, and this was forwarded to you in the above mentioned production.

90 MAR 26 PM 2:25

9504367 0324

Additionally, in our comparison of our list of what has been produced and your list regarding the same, one document was discovered which was previously overlooked:

1. A photocopy of Mr. Twichell's check register for the dates from June 6, 1988 through July 3, 1988.

This document is being produced with this letter. The only document in our client's possession regarding transactions with the "Specified Persons" are those which have already been produced: either check registers or those cancelled checks produced in my letters of January 8, 1990, January 12, 1990, and March 2, 1990, to Mr. Raich. Because our clients have produced all documents in their possession subject to the commission's subpoenas of November 29, 1989 and February 6, 1990, there is nothing more which can be submitted at this time.

In light of our clients complete production of the subject documents, I do not understand why you are threatening summary judicial proceedings in this matter. If you have any further questions, please contact me.

Sincerely,

Joel A. Rothfus

JAR/bjh

Encl.

9504367032 5

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 23, 1990

VIA TELECOPIER

D. Randall King, Esquire
Merchant & Gould
1000 Norwest Center
55 East Fifth Street
Saint Paul, Minnesota 55101

RE: MUR 2984
E. Kenneth Twichell
Robert Johnson

Dear Mr. King:

This confirms the substance of your telephone conversation today with Robert Raich of this Office.

The following documents responsive to the Commission's Subpoenas dated November 29, 1989 and February 6, 1990 have not yet been produced with respect to E. Kenneth Twichell:

Check register for the following periods:
1/1/88 - 3/11/88
6/25/88 - 7/3/88
8/15/88 - 12/29/88

Savings account statements for the period of:
1/1/88 - 2/29/88

Checking account statements for the period of:
1/1/88 - 3/9/88

Documents concerning all financial activity between Twichell and the "Specified Persons" as defined in the Subpoenas.

The following documents responsive to the Commission's Subpoenas dated November 29, 1989 and February 6, 1990 have not yet been produced with respect to Robert Johnson:

Valley National Bank account [redacted] statements for the period of: 1/1/88 - 7/29/88

Valley National Bank account [redacted] statements for the following periods: 1/1/88 - 5/31/88
6/30/88 - 7/29/88

9504336703326

Valley National Bank account [redacted] statements for the following periods: 1/1/88 - 6/27/88
12/27/88 - 12/31/88

Valley National Bank account [redacted] statements for the period of: 1/1/88 - 6/30/88

Valley National Bank account [redacted] statements for the period of: 1/1/88 - 3/31/88

Norwest Bank statements for the periods of:
1/1/88 - 6/28/88
8/26/88 - 9/29/88

All 1988 statements from Shearson Lehman Hutton

Documents concerning all financial activity between Johnson and the "Specified Persons" as defined in the Subpoenas

The original of the check register for Valley National Bank account [redacted]

You indicated that your clients would produce of the above-listed material at their offices on March 26, 1990. Upon receipt of this letter, please contact Mr. Raich at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

9504367003327

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 29, 1990

Bruce A. Pelkey, Esquire
Teilborg, Sanders & Parks
3030 North Third Street, Suite 1300
Phoenix, Arizona 85012

RE: MUR 2984

Dear Mr. Pelkey:

This relates to your client Timothy Cloud's response to the Commission's subpoenas in this matter, and to your March 23, 1990 conversation with Robert Raich of this Office.

In your conversation with Mr. Raich, you stated that Timothy Cloud told you he cannot locate his check registers for the year 1988. You further stated that Mr. Cloud also told you that he cannot locate records concerning financial transactions with any of the "Specified Persons" as defined in the Subpoenas, other than those materials already submitted. As you know, the Commission has already authorized this Office to bring suit to enforce these Subpoenas if they are not complied with fully. Accordingly, you should advise Mr. Cloud to make additional efforts immediately to locate the documents required by the Commission's Subpoenas.

Further in response to your letter dated March 7, 1990, be advised that pursuant to an earlier agreement Mr. Cloud's deposition was postponed, and will be rescheduled for a later date.

Sincerely,

Lawrence M. Noble
General Counsel

9504367032 8

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 30, 1990

BY HAND

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

Re: MUR 2984
National Association of Real Estate Appraisers, Inc.
National Association of Review Appraisers and Mortgage Underwriters, Inc.
International Association Managers, Inc.

Dear Mr. Bauer:

This is to confirm the events of March 28 and 29, 1990 regarding your clients' response to the Commission's subpoenas dated November 29, 1989 and February 6, 1990 in this matter. By the Commission's letter dated February 7, 1990, complete responses to these subpoenas were due in the Commission's offices by March 2, 1990.

Pursuant to your request, the Commission agreed that all documents responsive to its subpoenas could be produced at your clients' offices in Scottsdale, Arizona, rather than at the Commission's offices as specified in the February 6 subpoenas and in the Commission's letter dated February 7. Because it was not convenient for Commission staff to be in Scottsdale on March 2, document production did not begin until March 26, 1990. On March 27, 1990, after a preliminary review of the documents, Commission staff provided you with a list of categories of documents responsive to the subpoenas which had not thus far been produced. The missing documents included bank statements and other financial records from each of eight accounts of the different entities as well as documentation supporting disbursements from all the accounts reviewed. In addition, we requested a membership list to assist Commission staff in reviewing the substantial membership files produced purportedly in response to the subpoenas.

9504367032 9

By March 28, 1990, other than a bank statement relating to 3 days of 1988 activity by Todd Publishing, Inc., none of the missing documents had been produced. On that day, Associate General Counsel Lois Lerner discussed this matter with you by telephone. You agreed that the membership list would be produced in Scottsdale on the morning of March 29th. You also agreed that a comprehensive letter would be submitted to us at the Commission's offices by 2 p.m. on March 29. This letter was to elaborate those materials which were available to be produced (including documents available to your clients upon request from their banks and/or accountants) and a date on which they would be produced at the Commission's offices in Washington; a list of those materials unavailable, including an elaboration of the specific efforts undertaken to locate such records; and a date by which those materials which had been produced in Scottsdale, and which had been identified by Commission staff as requiring removal to the Commission's offices, would be duplicated and produced in Washington, D.C. At that time, Ms. Lerner noted that the Commission had already authorized this Office to bring suit to enforce the subpoenas if they were not complied with fully.

On the morning of March 29, you telephoned Jonathan Bernstein of my staff. At that time you explained that you now lacked the authority to produce any materials you had represented would be produced and that a substantial conflict of interest had developed which could require your withdrawal from the matter. You explained that communication was necessary with Robert Johnson, the principal of your corporate clients, and that he was traveling from Japan and was unavailable. Accordingly, you stated that the Commission would likely not receive the letter by 2 p.m. as previously agreed, but that you would communicate with this Office before close of business on March 29, by which time you said the question of whether you would continue as counsel for the corporations would be resolved. You also stated that under these circumstances you understood the Commission would have to decide on its course of action.

On the afternoon of March 29, Holly Schadler of your office contacted Mr. Bernstein. She explained that Mr. Johnson's travel would place him back in Arizona by the morning of March 30, that the question of your authority and whether you would withdraw as counsel would not be resolved before then, and that the Commission could not expect a letter on the substance of subpoena compliance before March 30, 1989. She also reiterated your statement that in view of these circumstances, you understood the Commission would have to proceed as it deemed necessary.

We agreed to production of the responsive documents at your clients' offices for the convenience of your clients, and expected that all the responsive documents would be presented

9504367033O

for production. Although the Commission's subpoenas were issued on November 29, 1989 and February 6, 1990 respectively, your clients still have not complied fully with them. Under the circumstances, please be advised that the Commission intends to bring judicial proceedings for the enforcement of its subpoenas in federal district court.

If you have any questions relating to this matter, please contact Robert W. Bonham, Acting Assistant General Counsel, at 376-5690.

Sincerely,

Lawrence M. Noble
General Counsel

95043670331

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 2, 1990

BY TELECOPIER AND FIRST CLASS MAIL

D. Randall King, Esquire
Merchant & Gould
1000 Norwest Center
55 East Fifth Street
Saint Paul, MN 55101

RE: MUR 2984
Robert Johnson
E. Kenneth Twichell

Dear Mr. King:

This is in regard to the Commission's subpoenas dated November 29, 1989 and February 6, 1990 addressed to your clients in this matter. By the Commission's letter dated February 7, 1989, complete responses to these subpoenas were due in the Commission's offices no later than March 2, 1990.

By letter dated March 20, 1990, I discussed the failure of your clients to respond timely and fully to the Commission's subpoenas and confirmed the receipt of certain of the responsive documents. That letter pointed out specific documents of Mr. Robert Johnson which had not been produced. The letter also noted that the Commission had already authorized summary judicial proceeding to enforce the subpoenas if your clients did not comply with them fully.

By letter dated March 23, 1990, forwarded by telecopier, I provided you with a list of Messrs. Johnson's and Twichell's documents required to be produced but which your clients had not yet submitted; that letter also requested production of Robert Johnson's original check register due to the illegibility of the copy produced. With the exception of that original check register and Mr. Twichell's check register for the period 6/25/88 - 7/3/88, no additional documents have been produced. Please note that the subpoenas call for the production of all documents in your clients' possession or available to them; thus, records available to your clients from their financial institutions are required to be produced.

9504367033 2

We have received no further indication that your clients intend to make any effort to come forward with the missing documents. Indeed, our recent review of certain documents held by Mr. Johnson's corporations has disclosed yet another account of Mr. Johnson for which no information responsive to the subpoenas has thus far been provided.

Although the Commission's subpoenas were issued on November 29, 1989 and February 6, 1990 respectively, your clients still have not complied fully with them. Under the circumstances, please be advised that the Commission intends to bring judicial proceedings in federal court for the enforcement of its subpoenas.

If you have any questions about this matter, please contact Robert W. Bonham, Acting Assistant General Counsel, at (202) 376-5690.

Sincerely,

Lawrence M. Noble
General Counsel

9504367033 3

PERKINS COIE

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

April 2, 1990

Mr. Jonathan Bernstein
Office of the General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 2984, National Association of Real Estate Appraisers, Inc.; National Association of Review Appraisers and Mortgage Underwriters, Inc.; and International Association Managers, Inc.

Dear Mr. Bernstein:

I am writing to inform you that I have resigned, effective today, as counsel to the companies National Association of Real Estate Appraisers, Inc., National Association of Review Appraisers and Mortgage Underwriters, Inc. and International Association Managers, Inc. in the Matter Under Review 2984 before the Federal Election Commission. As a consequence, the companies will be seeking alternative counsel to represent them in this matter.

Sincerely,

Robert F. Bauer

1522C

9504336703334

Telex: 44-0277 Pcso Ui • Facsimile (202) 223-2088
Anchorage • Bellevue • Los Angeles • Portland • Seattle

FEDERAL ELECTION COMMISSION
WASHINGTON D C 20463

April 6, 1990

VIA TELECOPIER AND FIRST CLASS MAIL

Joel Rothfus, Esquire
Merchant & Gould
1000 Norwest Center
55 East Fifth Street
Saint Paul, Minnesota 55101

RE: MUR 2984
E. Kenneth Twichell
Robert Johnson

Dear Mr. Rothfus:

This confirms the substance of your telephone conversation today with Robert Raich of this Office.

The depositions of Messrs. Johnson and Twichell are now rescheduled to begin on April 16, 1990 at 9:30 a.m. in Room 3449 of the Federal Building in Phoenix, Arizona. Mr. Twichell's deposition will commence after the conclusion of Mr. Johnson's deposition.

If this does not comport with your understanding, please contact Mr. Raich immediately at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

Jonathan Bernstein

BY: Jonathan Bernstein
Assistant General Counsel

9504367033 5

OGC 5874

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

90 APR -9 PM 4:0

MERCHANT & GOULD

Merchant, Gould, Smith, Edell, Welter & Schmidt
Professional Association
Patent, Trademark & Copyright Lawyers

1000 Norwest Center
55 East Fifth Street
Saint Paul, Minnesota
U.S.A. 55101
FAX 612/298-1160
Telex 297470 MANDG Stp
612/298-1055

John D. Gould
Phillip H. Smith
Robert T. Edell
Paul A. Welter
Cecil C. Schmidt
John S. Sumners
Alan G. Carlson
Micheal L. Schwegman
Earl D. Reiland
Charles E. Golla
Douglas J. Williams
Douglas A. Strawbridge
Albert L. Underhill
D. Randall King
Norman P. Friederichs
Michael B. Lasky
Curtis B. Hamre
Michael D. Schumann
Michael L. Mau
John A. Clifford
Mark J. DiPietro
Steven W. Lundberg
Warren D. Woessner
...
Alan W. Kowalchyk
Michael S. Sherrill
Timothy R. Conrad
Daniel W. McDonald
R. Carl Moy
Robert C. Freed
Daniel J. Kluth
Wendy M. McDonald
Linda M. Byrne
Mark D. Schuman
Randall A. Hillson
John P. Sumner
Brian H. Batzli
David K. Tellekson
Hallie A. Finnegan
John J. Gresens
Steven J. Keough
Paul E. Lacy
John L. Knobie
Michelle M. Michel
Philip P. Caspers
Gregory A. Sebald
Jane H. Arrett
A. James Nelson
Robert C. Beck
George H. Gates
John M. Kelly
Gregory M. Taylor
Kristine M. Strodthoff
Thomas E. Jurgensen
Steven C. Bruess
Joel A. Rothfus
Mark A. Krull

April 3, 1990

SENT BY FACSIMILE
(Confirmation Copy to Follow)

90 APR -9 AM 10:10

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

RE: Your Ref.: MUR 2984
Our Ref.: M&G 3230.23-US-AA

Dear Mr. Noble:

This letter is in response to your letter of April 2, 1990, regarding the Commission's subpoenas dated November 29, 1989 and February 6, 1990, addressed to Messrs. Johnson and Twichell. It would appear to be your position that our clients have not fully complied with the subpoenas.

Our clients have taken all reasonable measures to comply with the Commission's subpoenas. They have produced all of the documents in their possession, and Mr. Johnson made his check register, in its original form, available to Mr. Raich for inspection. There are simply no further relevant documents available for production at this time which are in the possession of our clients.

You indicate that you believe the subpoenas cover documents which are retained by other financial institutions. We simply disagree that our client has an obligation to incur the expense necessary to obtain documents over which our clients have no control. If you have requests for documents which are retained by financial institutions, the prudent approach would seem to be for you to serve subpoenas on those institutions.

9504336703336

In your letter you mentioned, "yet another account of Mr. Johnson". Please provide further details regarding this account so that we may be responsive to your inquiry.

Your letter indicated that the Commission will be bringing judicial proceedings for the enforcement of its subpoenas. As our clients have fully, and in good faith, complied with the Commission's subpoenas to the best of their ability, such proceedings would appear to be a waste of time and money for all involved. If the sole reason for instituting judicial proceedings relates to the records retained by certain financial institutions and not in the possession of our clients, we are most willing to contact said institutions requesting that they produce the records for your inspection at our client's offices.

If you have any questions about this matter, please do not hesitate to contact me.

Sincerely,

D. Randall King

DRK/JAR/lmd

9504367033 7

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 9, 1990

VIA TELECOPIER AND FIRST CLASS MAIL

Bruce A. Pelkey, Esquire
Teilborg, Sanders & Parks
3030 North Third Street, Suite 1500
Phoenix, Arizona 85012

RE: MUR 2984

Dear Mr. Pelkey:

This confirms the substance of telephone messages left for you on April 6 and 9, 1990 by Robert Raich of this Office.

The deposition of Timothy Cloud will take place on April 17, 1990 at 10:00 a.m. in Room 3449 of the Federal Building in Phoenix, Arizona.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

9504336703338

OGC 589

LAW OFFICES

TEILBORG, SANDERS & PARKS

PROFESSIONAL CORPORATION

FRANK A. PARKS
ROBERT J. BRUNO
WINN L. SAMMONS
RICHARD A. KENT
JAMES M. MARLAR
ALISON LEWIS
JAMES W. KAUCHER
JOHN A. BLACK
STEPHEN C. BAKER
GARRICK L. GALLAGHER
R. COREY HILL
MARY G. ISBAN
PAUL D. FRIEDMAN

RICHARD B. SANDERS
NEIL C. ALDEN
J. CLAYTON BERGER
DAVID J. DAMRON
BRIAN R. BURT
STEVEN PLITT
GERALD T. HICKMAN
JEAN E. HUFFINGTON
MONTE M. SIMPSON
MARK WORISCHECK
RICK N. BRYSON
EDYTHE H. KELLY

JAMES A. TEILBORG
JOHN C. GEMMILL
STEPHEN PAUL FORREST
BRADLEY R. JARDINE
BRUCE A. PELKEY
CONI RAE GOOD
TIMOTHY W. HOLT
SCOTT H. HOUSTON
MELINDA S. BARNETT
KEITH R. BEVAN
SCOTT J. HERGENROETHER
BRUCE C. SMITH

3030 NORTH THIRD STREET
SUITE 1300
PHOENIX, ARIZONA 85012
(602) 230-5600

FACSIMILE (602) 230-5693

WRITER'S DIRECT LINE

April 4, 1990

602-230-5774

90 APR 10 PM 1:44

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

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

Re: MUR 2984; Tim Cloud

Dear Mr. Noble:

This letter is in response to yours of March 29, 1990 regarding the production of documents by my client, Mr. Tim Cloud.

As I have explained in previous communications with the Federal Election Commission, both verbally and in writing, my client, Mr. Tim Cloud, has made extremely diligent efforts in attempting to comply fully with the Commission's subpoenas. In particular, he has indicated that he does not have the check registers for the year 1988. In addition, the only financial transactions which Mr. Cloud has had with any of the "specified persons" were the receipt of periodic paychecks from his employer and the single $10,000.00 check which Mr. Cloud received from the National Association of Real Estate Appraisers dated July 19, 1988. As indicated previously, Mr. Cloud does not retain either paycheck stubs or bank deposit slips.

Nevertheless, I have spoken with Mr. Cloud once again and requested that he search for the requested documents yet another time. I will, of course, inform your office in the event that any additional documents should turn up.

Sincerely,

Bruce A. Pelkey
For the firm

BAP:ei
cc: Mr. Tim Cloud

90 APR 10 AM 10:43

9504367033 9

JGC 5898

MERCHANT & GOULD

Merchant, Gould, Smith, Edell, Welter & Schmidt
Professional Association
Patent, Trademark & Copyright Lawyers

1000 Norwest Center
55 East Fifth Street
Saint Paul, Minnesota
U.S.A. 55101
FAX 612/298 1160
Telex 297470 MANDG Stp
612/298 1055

John D. Gould
Phillip H. Smith
Robert T. Edell
Paul A. Welter
Cecil C. Schmidt
John S. Sumners
Alan G. Carlson
Micheal L. Schwegman
Earl D. Reiland
Charles E. Golla
Douglas J. Williams
Douglas A. Strawbridge
Albert L. Underhill
D. Randall King
Norman P. Friederichs
Michael B. Lasky
Curtis B. Hamre
Michael D. Schumann
Michael L. Mau
John A. Clifford
Mark J. DiPietro
Steven W. Lundberg
Warren D. Woessner
...
Janet R. Westrom
David G. Johnson
Alan W. Kowalchyk
Michael S. Sherrill
Timothy R. Conrad
Daniel W. McDonald
R. Carl Moy
Robert C. Freed
Daniel J. Kluth
Wendy M. McDonald
Linda M. Byrne
Mark D. Schuman
Randall A. Hillson
John P. Sumner
Brian H. Batzli
David K. Tellekson
Hallie A. Pinucane
John J. Gresens
Steven J. Keough
Paul E. Lacy
John L. Knoble
Michelle M. Michel
Philip P. Caspers
Gregory A. Sebald
Jane H. Arrett
A. James Nelson
Robert C. Beck
George H. Gates
John M. Kelly
Gregory M. Taylor
Kristine M. Strodthoff
Thomas E. Jurgensen
Steven C. Bruess
Joel A. Rothfus
Mark A. Krull

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 APR 11 AM 10:07

90 APR 11 AM 9:23

April 6, 1990

SENT BY FACSIMILE
(Confirmation Copy to Follow)

Mr. Lawrence M. Noble
General Counsel
Federal Election Commission
Washington, D.C. 20563

RE: Your Ref.: MUR 2984
Our Ref.: M&G 3230.23-US-AA

Dear Mr. Noble:

This letter is in response to your letter of March 30, 1990, to Robert F. Bauer of Perkins Coie regarding the Commission's subpoenas dated November 29, 1989 and February 6, 1990, addressed to National Association of Real Estate Appraisers, Inc., National Association of Review Appraisers and Mortgage Underwriters, Inc., and International Association of Managers, Inc. Due to the events of the week of March 26, 1990, described in your letter of March 30, as well as the resignation of Mr. Bauer and his firm, we are for the time being representing these entities. From your letter of March 30, 1990, it would appear to be your position that our clients have not fully complied with the subpoenas.

As a preliminary matter, we would like to point out that our clients did not receive the list of March 27, 1990 of "missing documents" from their former counsel. Therefore, we cannot address the alleged deficiencies that that list is supposed to identify. Additionally, there had been no request or subpoena for any general membership list prior to the events of last week. To have provided such a list in the manner requested and in the time frame suggested would have resulted in a tremendous and extraordinary disruption in the business of our clients.

9504336703340

Our clients have taken all reasonable measures to comply with the Commission's subpoenas. Literally thousands of documents which were within our client's possession and which were responsive to the Commission's subpoenas, have been produced. We believe that there are simply no further documents responsive to the Commission's subpoenas which our clients possess.

You also indicate that you believe the subpoenas cover documents which are retained by various financial institutions. We disagree that our client has an obligation to incur the expense necessary to obtain documents over which they have no control. If you have requests for documents which are retained by other financial institutions, it would appear that the prudent approach would be for you to serve subpoenas on these institutions. However, your letter indicated the Commission will be bringing judicial proceedings for the enforcement of its original subpoenas. Such proceedings are unnecessary. Our clients have fully complied with the Commission's subpoenas in good faith and to the best of their ability. If the sole reason for instituting judicial proceedings relates to the records retained by certain financial institutions and not in the possession of our clients, we are most willing to contact said institutions requesting that they produce the records for your inspection at our client's offices. Therefore, we believe that for the Commission to bring judicial proceedings to enforce its subpoenas would be a waste of time and money for all involved.

If you have any questions about this matter, please do not hesitate to contact me.

Sincerely,

Joel A. Rothfus

JAR/lmd

9504367034 1

OGC 5924

MERCHANT & GOULD

Merchant, Gould, Smith, Edell, Welter & Schmidt
Professional Association
Patent, Trademark & Copyright Lawyers

1000 Norwest Center
55 East Fifth Street
Saint Paul, Minnesota
U.S.A. 55101
FAX 612/298-1160
Telex 297470 MANDG Stp
612/298-1055

John D. Gould
Phillip H. Smith
Robert T. Edell
Paul A. Welter
Cecil C. Schmidt
John S. Sumners
Alan G. Carlson
Micheal L. Schwegman
Earl D. Beiland
Charles E. Golla
Douglas J. Williams
Douglas A. Strawbridge
Albert L. Underhill
D. Randall King
Norman P. Friederichs
Michael B. Lasky
Curtis B. Hamre
Michael D. Schumann
Michael L. Mau
John A. Clifford
Mark J. DiPietro
Steven W. Lundberg
Warren D. Woessner
* * *
Janet R. Westrom
David G. Johnson
Alan W. Kowalchyk
Michael S. Sherrill
Timothy R. Conrad
Daniel W. McDonald
R. Carl Moy
Robert C. Freed
Daniel J. Kluth
Wendy M. McDonald
Linda M. Byrne
Mark D. Schuman
Randall A. Hillson
John P. Sumner
Brian H. Batzli
David K. Tellekson
Hallie A. Finucane
John J. Gresens
Steven J. Keough
Paul E. Lacy
John L. Knoble
Michelle M. Michel
Philip P. Caspers
Gregory A. Sebald
Jane H. Arrett
A. James Nelson
Robert C. Beck
George H. Gates
John M. Kelly
Gregory M. Taylor
Kristine M. Strodthoff
Thomas E. Jurgensen
Steven C. Bruess
Joel A. Rothfus
Mark A. Krull

CONFIRMATION COPY

90 APR 13 AM 10: 10

April 9, 1990

SENT BY FACSIMILE
(Confirmation Copy to Follow)

Mr. Robert Raich
Federal Election Commission
Washington, D.C. 20563

RE: Your Ref.: MUR 2984
Our Ref.: M&G 3230.23-US-AA

Dear Bob:

This letter is to confirm our telephone conversations of April 6, 1990 regarding scheduling of depositions for Messrs. Johnson and Twichell in the above-identified matter.

It is my understanding that you anticipate the depositions will take approximately two (2) hours for Mr. Johnson and approximately two (2) hours for Mr. Twichell. We then agreed that the depositions would begin with Mr. Johnson on April 16, 1990 starting at 9:30 a.m. in Room 3449 of the Federal Building in Phoenix, Arizona. I also informed you of the need for Mr. King to depart Phoenix during the evening of April 16th to meet other commitments.

It is also my understanding the Commission will not file any District Court actions in this matter before the depositions of Messrs. Johnson and Twichell occur.

Also, enclosed you will find four (4) Statements of Designation of Counsel for National Association of Real Estate Appraisers, Inc., National Association of Review Appraisers and Mortgage Underwriters, Inc., and International Association of Managers, Inc.

90 APR 13 AM 9:15

9504367034 2

If you have any questions, please contact me.

Sincerely,

Joel A. Rothfus

JAR:lmd

Enc.: Statement of Designation of Counsel (4)

9504367034 3

STATEMENT OF DESIGNATION OF COUNSEL

MUR 2984

NAME OF COUNSEL: D. Randall King, Esq.

ADDRESS: Merchant, Gould, Smith, Edell,
Welter & Schmidt, P.A.
1000 Norwest Center
St. Paul, Minnesota 55101

TELEPHONE: (612) 298-1055

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.

April 6, 1990
Date

Signature: Robert G. Johnson
Officer

RESPONDENT'S NAME: Robert G. Johnson

ADDRESS: Officer
International Association
of Managers, Inc.
8383 East Evans Road
Scottsdale, Arizona 85260-3614

HOME PHONE: (602) 971-0927

BUSINESS PHONE: (602) 948-8000

9504336703344

STATEMENT OF DESIGNATION OF COUNSEL

MUR 2984

NAME OF COUNSEL: D. Randall King, Esq.

ADDRESS: Merchant, Gould, Smith, Edell,
Welter & Schmidt, P.A.
1000 Norwest Center
St. Paul, Minnesota 55101

TELEPHONE: (612) 298-1055

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.

April 6, 1990
Date

Signature: Robert G. Johnson
Officer

RESPONDENT'S NAME: Robert G. Johnson
Officer
National Association of Review
Appraisers and Mortgage
Underwriters, Inc.

ADDRESS: 8383 East Evans Road
Scottsdale, Arizona 85260-3614

HOME PHONE: (602) 971-0927

BUSINESS PHONE: (602) 948-8000

9504367034 5

STATEMENT OF DESIGNATION OF COUNSEL

MUR 2984

NAME OF COUNSEL: D. Randall King, Esq.

ADDRESS: Merchant, Gould, Smith, Edell,
Welter & Schmidt, P.A.
1000 Norwest Center
St. Paul, Minnesota 55101

TELEPHONE: (612) 298-1055

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.

April 6, 1990
Date

Signature: Robert G. Johnson
Executive Director

RESPONDENT'S NAME: Robert G. Johnson

ADDRESS: Executive Director
National Association of Real Estate Appraisers, Inc.
8383 East Evans Road
Scottsdale, Arizona 85260-3614

HOME PHONE: (602) 971-0927

BUSINESS PHONE: (602) 948-8000

9504336703346

STATEMENT OF DESIGNATION OF COUNSEL

MUR 2984

NAME OF COUNSEL: D. Randall King, Esq.

ADDRESS: Merchant, Gould, Smith, Edell,
Welter & Schmidt, P.A.
1000 Norwest Center
St. Paul, Minnesota 55101

TELEPHONE: (612) 298-1055

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.

April 6, 1990
Date

Signature: E. Kenneth Twichell
Managing Director

RESPONDENT'S NAME: E. Kenneth Twichell

ADDRESS: Managing Director
National Association of Real
Estate Appraisers, Inc.
8383 East Evans Road
Scottsdale, Arizona 85260-3614

HOME PHONE: (602) 971-0927

BUSINESS PHONE: (602) 948-8000

9504367003347

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 12, 1990

VIA TELECOPIER AND FIRST CLASS MAIL

Joel Rothfus, Esquire
Merchant & Gould
1000 Norwest Center
55 East Fifth Street
Saint Paul, Minnesota 55101

Re: MUR 2984
National Association of Real Estate Appraisers, Inc.
National Association of Review Appraisers and Mortgage Underwriters, Inc.
International Association Mangers, Inc.
E. Kenneth Twichell
Robert Johnson

Dear Mr. Rothfus:

This is to acknowledges receipt of your letters of April 6 and 9, 1990, as well as the Designation of Counsel forms accompanying the April 9 correspondence.

On March 27, 1990, this Office provided your corporate clients' then-designated counsel with a list of categories of documents, which would fall within the purview of the subpoena but had not been produced. Your April 6, 1990 letter states that such counsel, who has since withdrawn from this matter, did not provide that list to your clients. Therefore, as an accommodation to you, I am enclosing a copy of that list. Your letter also notes that you do not believe your clients have an obligation to produce documents retained by other financial institutions in response to the subpoena. Under the language of the subpoena, your clients must produce all responsive documents within their control. It is our position that such documents are within your control and, therefore, must be produced.

9504367034 8

Your April 9 letter, which encloses forms designating you as counsel for the corporate respondents, notes your understanding that the Commission will not file any district court actions in this matter before the upcoming depositions of Messrs. Johnson and Twichell. That understanding is based on telephone conversations with Robert Raich of this Office. Please be advised that because those conversations occurred prior to our receipt of the forms designating you as counsel for the corporations, Mr. Raich's remarks were necessarily limited to action by the Commission concerning the individual respondents in this matter in their personal capacities, not the corporate respondents.

In addition, although Mr. Raich gave his best estimate that the depositions of Messers. Johnson and Twichell would each last about two hours, you may recall that he also advised you that the depositions could take longer due to various factors. Therefore, we, of course, reserve our right to continue the depositions beyond April 16 if necessary.

If you have any questions, please contact Mr. Raich, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

9504367034 9

4
3-22-89
1 of 1

IRE I

Valley Natl Bk of AZ

Natl Asst of Values Inc
Money Market Savings - Personal
[redacted]

Missing
Statement Ending Date
2-28-88
3-31-88
4-30-88
5-31-88
8-31-88
10-31-88

Natl Asst of Values, Inc.
Seminar Acct
Business Natural Chg
[redacted]

Missing
1-1-88
↓
11-4-88

Natl Asst of Values Inc
Money Mkt Savings - Business
[redacted]

Missing
Statement Ending Date
2-28-88
4-30-88
5-31-88
8-31-88
10-31-88

9504336703350

VARA

3-26-90

Valley National BK

Money Book Records Page 2 of 2

National Assoc of Review
Appraisers
Seminar Acct
Money Market Savings - Bus.
[redacted]

Statement Ending Date 1-31-88
4-30-88
6-30-88

Nat'l Assoc of Review
Appraisers Mortgage
Underwriters
Seminar Acct
[redacted]

Statement Ending Date 1-31-88
↓
Through
↓
10-21-88

The First National BK of Keystone (WVA)
National Association of
Review Appraisers A/R
Flow Account
[redacted]

Statement Ending Date 1-31-88
2-29-88
4-30-88

9504336703351

NARA
3-24-92
JFK

Valley National Bank

Missing Bank Records 1 of 2

National Assn of Review Appraisers
Money Market Savings - Personal
[redacted]

Statement Date Ending 1-31-88
4-30-88
6-30-88

National Assn of Review
Appraisers
Seminar Acct
[redacted]
Money Market Savings

Statement ending date 1-31-88
4-30-88
6-30-88

National Assn of Review
Appraisers
Membership Acct
Money Market Savings
[redacted]

Statement Ending Date 1-31-88
4-30-88
6-30-88

9504367035 2

IAM
Todd Pub.

Valley National Bank of AZ

Add'l Acct Managers Inc
Business Mutual Chrg
[redacted]

Needed - Confirmation
that the acct opened
4/88
Plus
statement for the
period 12/21/88
to yr end

Valley National Bank of AZ
Todd Publishing Inc
Analyses Chrg
[redacted]

Statements Ending Date
6-27-88

Plus
Jan 89 statement covering
the period
12/28/88 to
12/31/88

OK
Reid
3-27-89
Approx 4 pm

95043670353

NAREA

BR Statements Missing

Valley National BK of AZ

Nat'l Assn of RE Appraisers Seminar Host Barnes Mutual Chg [redacted]	Statement Ending Date
	1-19-88
	2-19-88
	3-19-88
	4-19-88
	5-19-88
	6-19-88
	7-19-88
	8-19-88

Nat'l Assn of RF Appraisers Money Mkt Seminar Barnes [redacted]	Statement Ending Date
	1-30-88 Through 5-30-88

9504367035 4

Missing Records

Back-up for disbursements
Advices for electronic transfers
W-2s, 1099s

IAM Financial Statements: April - July 1988

Todd Publishing Financial Statements: Jan. '88
Feb. '88
Mar. '88
Apr. '88
May '88

IREI* Financial Statements: December 1988

Prof. Women's App. Asso. - all financial records for whole year (except deposit slips)

Robert Johnson & Asso. - all financial records for whole year

* aka "International Institute of Values" from 1/88 - 10/88.

9504336703555

OGC 5935

MERCHANT & GOULD

Merchant, Gould, Smith, Edell, Welter & Schmidt
Professional Association
Patent, Trademark & Copyright Lawyers

1000 Norwest Center
55 East Fifth Street
Saint Paul, Minnesota
U.S.A. 55101
FAX 612/298-1160
Telex 297470 MANDG Stp
612/298-1055

John D. Gould
Phillip H. Smith
Robert T. Edell
Paul A. Welter
Cecil C. Schmidt
John S. Sumners
Alan G. Carlson
Micheal L. Schwegman
Earl D. Reiland
Charles E. Golla
Douglas J. Williams
Douglas A. Strawbridge
Albert L. Underhill
D. Randall King
Norman P. Friederichs
Michael B. Lasky
Curtis B. Hamre
Michael D. Schumann
Michael L. Mau
John A. Clifford
Mark J. DiPietro
Steven W. Lundberg
Warren D. Woessner
• • •
Janet R. Westrom
David G. Johnson
Alan W. Kowalchyk
Michael S. Sherrill
Timothy B. Conrad
Daniel W. McDonald
R. Carl Moy
Robert C. Preed
Daniel J. Kluth
Wendy M. McDonald
Linda M. Byrne
Mark D. Schuman
Randall A. Hillson
John P. Sumner
Brian H. Batzli
David K. Tellekson
Hallie A. Pinucane
John J. Gresens
Steven J. Keough
Paul E. Lacy
John L. Knoble
Michelle M. Michel
Philip P. Caspers
Gregory A. Sebald
Jane H. Arrett
A. James Nelson
Robert C. Beck
George H. Gates
John M. Kelly
Gregory M. Taylor
Kristine M. Strodthoff
Thomas E. Jurgensen
Steven C. Bruess
Joel A. Rothfus
Mark A. Krull

CONFIRMATION COPY

April 12, 1990

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 APR 16 PM 3:23
RECEIVED
FEDERAL ELECTION COMMISSION
90 APR 16 AM 9:39

SENT BY FACSIMILE
(Confirmation Copy to Follow)

Mr. Robert Raich
Federal Election Commission
Washington, D.C. 20563

RE: Your Ref.: MUR 2984
Robert G. Johnson
E. Kenneth Twichell
Our Ref.: M&G 3230.23-US-AA

Dear Bob:

Pursuant to the letter from Mr. King to Mr. Noble of April 3, 1990, our clients are in the process of obtaining bank statements from financial institutions as identified in Mr. Noble's letter of March 23, 1990. Enclosed you will find documents which Mr. Johnson has taken the trouble to obtain from the Valley National Bank of Arizona at personal time and expense.

Mr. Johnson's statements enclosed include:

Valley National Bank - Acct. [redacted] - covering 12/22/87 - 6/27/88 and 11/29/88 - 12/27/88.

Valley National Bank - Acct. [redacted] - statements for 1/1/88 - 3/31/88. This account was opened on 1/21/88.

Valley National Bank - Acct. [redacted] - statements covering 12/31/87 - 6/30/88.

Valley National Bank - Acct. [redacted] - statements covering 1/1/88 - 7/29/88. This account was opened on 1/4/88.

9504336703556

Valley National Bank - Acct. [redacted] statements covering 2/29/88 - 3/31/88, 5/31/88 - 6/30/88, 8/31/88 - 9/30/88. A request was made for documents covering the period 1/1/88 through 7/29/88. The bank ordered copies of documents for the first three quarters of 1988, and the above-mentioned statements constitute the totality of the bank's production.

Additionally, Norwest Bank statements for the periods of 1/1/88 - 6/28/88 and 8/26/88 - 9/29/88 have been ordered and are expected shortly. These will be forwarded to you upon receipt. Finally, statements from Shearson, Lehman & Hutton have been ordered from New York. However, receipt of these records within the next month is not certain. These, too, will be forwarded upon receipt.

Mr. Twichell has also ordered checking account statements to cover his financial activity for the period of 1/1/88 - 3/9/88. The savings account statements mentioned in Mr. Noble's letter of March 23, 1990 concern a savings account which is the sole property of Mrs. Twichell and beyond the scope of the subpoenas. Therefore, no further statements will be produced.

The production of the enclosed documents was not incumbent upon our clients. Nevertheless, they have endeavored to be cooperative in expending the time and money to alleviate your need to subpoena such documents from various financial institutions. Such actions obviously indicate that it is wholly unnecessary for the Commission to file any actions in the Federal District Court in this matter, and that such an action, if filed, would have no effect other than to waste the time and money of all parties involved.

If you have any questions, please contact me.

Sincerely,

Joel A. Rothfus

JAR/lmd

Enc.: Valley National Bank statements - Accts. [redacted]

9504367035 7

OGC 5954

MERCHANT & GOULD

Merchant, Gould, Smith, Edell, Welter & Schmidt
Professional Association
Patent, Trademark & Copyright Lawyers

1000 Norwest Center
55 East Fifth Street
Saint Paul, Minnesota
U.S.A. 55101
FAX 612/298-1160
Telex 297470 MANDG Stp
612/298-1055

John D. Gould
Phillip H. Smith
Robert T. Edell
Paul A. Welter
Cecil C. Schmidt
John S. Sumners
Alan G. Carlson
Micheal L. Schwegman
Earl D. Reiland
Charles E. Golla
Douglas J. Williams
Douglas A. Strawbridge
Albert L. Underhill
D. Randall King
Norman P. Friederichs
Michael B. Lasky
Curtis B. Hamre
Michael D. Schumann
Michael L. Mau
John A. Clifford
Mark J. DiPietro
Steven W. Lundberg
Warren D. Woessner

Janet R. Westrom
David G. Johnson
Alan W. Kowalchyk
Michael S. Sherrill
Timothy R. Conrad
Daniel W. McDonald
R. Carl Moy
Robert C. Preed
Daniel J. Kluth
Wendy M. McDonald
Linda M. Byrne
Mark D. Schuman
Randall A. Hillson
John P. Sumner
Brian H. Batzli
David K. Tellekson
Hallie A. Finucane
John J. Gresens
Steven J. Keough
Paul E. Lacy
John L. Knoble
Michelle M. Michel
Philip P. Caspers

Gregory A. Sebald
Jane H. Arrett
A. James Nelson
Robert C. Beck
George H. Gates
John M. Kelly
Gregory M. Taylor
Kristine M. Strodthoff
Thomas E. Jurgensen
Steven C. Bruess
Joel A. Rothfus
Mark A. Krull

CONFIRMATION

April 13, 1990

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 APR 18 AM 10:09

90 APR 18 AM 9:11

SENT BY FACSIMILE
(Confirmation Copy to Follow)

Mr. Lawrence M. Noble
General Counsel
Federal Election Commission
Washington, D.C. 20563

RE: Robert G. Johnson
E. Kenneth Twichell
National Association of Real Estate Appraisers, Inc.
National Association of Review Appraisers and Mortgage Underwriters, Inc.
International Association of Managers, Inc.
Your Ref.: MUR 2984
Our Ref.: M&G 3230.23-US-AA

Dear Mr. Noble:

This letter acknowledges receipt of your letter of April 12, 1990, including its attached lists of missing records and confirms my telephone conversation with Mr. Raich on April 12, 1990.

A comment on that list is necessary. That list requests documents pertaining to the financial activity of the following entities:

National Association of Real Estate Appraisers, Inc.
National Association of Review Appraisers and Mortgage Underwriters, Inc.
International Association of Managers, Inc.
Professional Women's Appraisers Association, Inc.
Todd Publishing, Inc.
International Institute of Valuers, Inc.
Robert Johnson & Associates

9504336703358

The Committee's subpoenas were directed only to documents pertaining to the financial activity of National Association of Real Estate Appraisers, Inc., National Association of Review Appraisers and Mortgage Underwriters, Inc., and International Association of Mangers, Inc. Documents relating to the financial activity of the remaining organizations are beyond the scope of the Committee's subpoenas and will not be produced.

While it is our position that documents maintained by various financial institutions are beyond our clients' control, in order to cooperate with you, our clients are willing to request that their banks prepare copies of missing documents pertaining to their financial activity. No such requests will be made for those entities which are beyond the scope of the Committee's subpoenas.

From my discussion with Mr. Raich on April 12, 1990, it is my understanding that your inquiry during the depositions of Messrs. Johnson and Twichell on Monday, April 16, 1990, will focus primarily on them as individuals. Mr. Raich also indicated that there will be some inquiry in their capacity as the individuals at the named corporations who are most knowledgeable of the subject matter of the current investigation.

In light of your statements regarding the length of depositions scheduled for April 16, 1990, the following must be emphasized. It is imperative that Mr. King be in St. Paul on the morning of April 17, 1990, and therefore, must leave Phoenix, Arizona on a flight scheduled for 4:55 p.m. This was explained to Mr. Raich when he demanded that the depositions be taken the week of April 16 rather than attempting to arrive at a schedule that was more mutually convenient. If there is any possibility that the depositions will not conclude in time for Mr. King to meet his outgoing flight, such depositions will have to be rescheduled. If this is indeed the case, please let me know immediately.

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

Sincerely,

Joel Rothfus

Joel A. Rothfus

JAR/lmd

cc: Robert G. Johnson
E. Kenneth Twichell

9504367035 9

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
E. Kenneth Twichell	)	
Robert Johnson	)	
National Association of Real Estate Appraisers, Inc.	)	MUR 2984
National Association of Review Appraisers and Mortgage Underwriters, Inc.	)	
International Association Managers, Inc.	)	

GENERAL COUNSEL'S REPORT

I. BACKGROUND

The Commission approved Subpoenas dated September 29, 1989 to respondents E. Kenneth Twichell and Robert Johnson, and a Subpoena dated November 15, 1989 to nonrespondent witness Timothy Cloud. Attachment 1. All three Subpoenas required the recipients to appear for depositions in Phoenix, Arizona, and to produce certain documents prior to their depositions.[1] Thereafter, the depositions were postponed after the corporate respondents retained separate counsel.[2] Copies of correspondence between counsel since this Office's last report to the Commission are attached as Attachment 2.

Starting on March 2, 1990, this Office received the first

9504367036O

1. In response to Affidavits from Messrs. Twichell and Johnson which essentially denied the existence of the documents requested in the September 29 Subpoenas, the Commission approved Subpoenas to Produce Documents dated November 29, 1989 to Twichell, Johnson, Cloud, and the three corporate respondents.

2. The Commission subsequently approved additional Subpoenas to Produce Documents dated February 6, 1990 to Twichell, Johnson, Cloud, and the corporate respondents. The Commission also authorized this Office to institute a civil action for subpoena enforcement in the event the November 29 and February 6 Subpoenas were not complied with.

of sporadic document productions on behalf of the individuals. From March 26 through March 29, 1990, a Commission attorney and a Commission auditor inspected certain documents produced at the corporate respondents' offices in Scottsdale, Arizona. The documents produced by all recipients of the subpoenas did not fully comply with the Subpoenas to Produce Documents;[3] moreover, the respondents' attorneys would not state when the responsive documents would be made available for inspection.[4] Accordingly, the General Counsel's Office is now filing suit for subpoena enforcement against the three corporate respondents. The General Counsel decided to delay filing suit against Messrs. Twichell, Johnson, and Cloud until after taking their depositions.

The depositions of Johnson and Twichell were scheduled for April 16 and the deposition of Cloud was scheduled for April 17, in Phoenix. When two Commission attorneys arrived on April 16 in the room arranged for Mr. Johnson's deposition, Mr. Cloud's

9504367036 1

---

3. The respondents have produced some bank statements and some check registers for the applicable period. But, for example, the personal check register for Mr. Twichell covering the period August through December 1988 has still not been produced. More seriously missing are all documents relating to transactions between certain persons and the corporate entities (included within the definition of "Specified Persons" in the Subpoenas). Such documents would include IRS forms W-2 and 1099 which would show the total income received from the entities. Other crucial documents are those that may have accompanied payments coming from the entities. These would include documentation for services provided or costs incurred, such as expense reimbursement forms, bills for services, check authorization forms, invoices, receipts, contracts, leases, and purchase orders.

4. Counsel for the corporate respondents thereafter withdrew from the case.

attorney was present. Although counsel for Mr. Cloud was informed of the April 17 deposition on April 6 and 9 by telephone, and on April 9 by telecopier and first class mail, counsel stated that Cloud would not be attending his deposition as scheduled due to alleged long-standing scheduling conflicts. Instead, counsel said that Cloud would only be available for his deposition for two and one-half hours that morning. Because that was during the time scheduled for Johnson's deposition, Cloud did not give a deposition. Thereafter, the depositions of Johnson and Twichell did not take place because each man refused to submit to deposition without the presence of the other, an arrangement wholly unacceptable to this Office. Attachment 3.

In light of the foregoing discussion, this Office requests authorization to file a civil suit for relief in United States District Court to enforce compliance with the September 29, 1989 subpoenas to Robert Johnson and E. Kenneth Twichell, and the November 15, 1989 subpoena to Timothy Cloud.

II. RECOMMENDATIONS

1. Authorize the Office of the General Counsel to institute a civil action for subpoena enforcement in United States District Court against Robert Johnson and E. Kenneth Twichell, to enforce Subpoenas dated September 29, 1989, and against Timothy Cloud, to enforce a Subpoena dated November 15, 1989.

2. Approve and send the attached letters.

4/19/90
Date

Lawrence M. Noble
General Counsel

Attachments

95043670362

Attachments
1. Subpoenas
2. Correspondence between counsel
3. Transcript
4. Proposed letters

Staff Member: R. Raich

9504367003633

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
E. Kenneth Twichell	)	MUR 2984
Robert Johnson	)	
National Association of Real Estate Appraisers, Inc.	)	
National Association of Review Appraisers and Mortgage Underwriters, Inc.	)	
International Association Managers, Inc.	)	

9504336703664

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on April 24, 1990, do hereby certify that the Commission decided by a vote of 5-0 to take the following actions in MUR 2984:

1. Authorize the Office of the General Counsel to institute a civil action for subpoena enforcement in United States District Court against Robert Johnson and E. Kenneth Twichell, to enforce Subpoenas dated September 29, 1989, and against Timothy Cloud, to enforce a Subpoena dated November 15, 1989.

(continued)

2. Approve and send the letters attached to the General Counsel's report dated April 19, 1990.

Commissioners Aikens, Elliott, Josefiak, McGarry, and Thomas voted affirmatively for the decision. Commissioner McDonald was not present.

Attest:

4-25-90
Date

Marjorie W. Emmons
Secretary of the Commission

9504367003365

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

April 26, 1990

CERTIFIED MAIL -- RETURN RECEIPT REQUESTED

D. Randall King, Esquire
Merchant & Gould
1000 Norwest Center
55 East Fifth Street
Saint Paul, Minnesota 55101

RE: MUR 2984
E. Kenneth Twichell
Robert Johnson

Dear Mr. King:

You were previously notified that the Federal Election Commission authorized the General Counsel to institute a civil action for subpoena enforcement in United States District Court in connection with two sets of Subpoenas to Produce Documents addressed to your clients Robert Johnson and E. Kenneth Twichell.

On April 16, 1990, you appeared with your clients for their administrative depositions, in response to Commission subpoenas issued September 29, 1989. You were previously notified that the deposition of Mr. Johnson would begin at 9:30 a.m. and that the deposition of Mr. Twichell would commence upon the conclusion of Mr. Johnson's deposition. The Commission's representatives requested that Mr. Twichell leave the room so that the deposition of Mr. Johnson could begin. On your advice, Mr. Twichell refused to do so. You further stated that neither Mr. Johnson nor Mr. Twichell would give testimony without the attendance at such deposition of the other.

Be advised that on April 24, 1990, the Commission also authorized the General Counsel to institute a civil action for subpoena enforcement in connection with the two Subpoenas to your clients dated September 29, 1989.

If you wish to settle this matter, please contact Robert Bonham, Acting Assistant General Counsel, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

9504367003666

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 26, 1990

CERTIFIED MAIL -- RETURN RECEIPT REQUESTED

Bruce A. Pelkey, Esquire
Teilborg, Sanders & Parks
3030 North Third Street, Suite 1300
Phoenix, Arizona 85012

RE: MUR 2984

Dear Mr. Pelkey:

By letter dated March 29, 1990, you were notified that Timothy Cloud's previously scheduled deposition would be rescheduled for a later date.

On April 6, 1990, Robert Raich of this Office called your office and was told that you were not in the office but that you were calling in for your messages. Mr. Raich left his name and telephone number, asked that you call him, and stated that we wanted to schedule Timothy Cloud's deposition.

After receiving no response from you, on April 9, 1990 Mr. Raich again called your office. He was again told that you were not in your office but that you were calling in for your messages, whereupon Mr. Raich again left his name and number and the following message: "The deposition of Tim Cloud is scheduled for Tuesday, April 17 at 10:00 a.m. in Room 3449 of the Federal Building in Phoenix, Arizona. Please call me to confirm this."

Because you did not return the call, later in the day on April 9, 1990 this Office sent you a letter, by telecopier and first class mail, confirming that the deposition of Timothy Cloud would take place on April 17 at 10:00 a.m. in Room 3449 of the Federal Building in Phoenix.

You did not respond. Indeed, the next time we received any communication from you was at approximately 9:15 a.m. on April 16, at which time you knew Robert Johnson's deposition was scheduled. You appeared with your client and stated that Timothy Cloud would not appear for his deposition on April 17, and that the only time he would be available was until noon on that morning of April 16. Your reason for Cloud's noncompliance was that he wanted to attend a three-day computer show. Attorneys from this Office advised you that it would be necessary for Mr. Cloud to miss part of the first day of the computer show in order to attend his deposition. However, in an

9504367037

effort to accommodate you, they even offered to conduct Mr. Cloud's deposition on the evening of April 16, prior to the beginning of the show.

You then met with Robert Johnson, E. Kenneth Twichell, and their attorney, D. Randall King, and finally stated that Mr. Cloud would not appear for his scheduled deposition on April 17 and that he would also not appear for a deposition on the evening of April 16. The Commission attorneys advised you that the Commission could therefore be compelled to seek judicial enforcement of its Subpoena.

Timothy Cloud was previously notified that the Federal Election Commission authorized the General Counsel to institute a civil action for subpoena enforcement in United States District Court in connection with two Subpoenas to Produce Documents. Be advised that on April 24, 1990, the Commission also authorized the General Counsel to institute a civil action for subpoena enforcement in connection with the deposition Subpoena issued on November 15, 1989. If your client is willing to submit to a deposition, attended only by you and your client, we may be able to stipulate to a Consent Order resolving that aspect of this matter. If you would like to discuss this possibility or pursue any other approaches to settlement of this matter, please contact Robert Bonham, Acting Assistant General Counsel, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

9504367036 8

066 6074

MERCHANT & GOULD

Merchant, Gould, Smith, Edell, Welter & Schmidt
Professional Association
Patent, Trademark & Copyright Lawyers

1000 Norwest Center
55 East Fifth Street
Saint Paul, Minnesota
U.S.A. 55101
FAX 612/298-1160
Telex 297470 MANDG Stp
612/298-1055

John D. Gould
Phillip H. Smith
Robert T. Edell
Paul A. Welter
Cecil C. Schmidt
John S. Sumners
Alan G. Carlson
Micheal L. Schwegman
Earl D. Reiland
Charles E. Golla
Douglas J. Williams
Douglas A. Strawbridge
Albert L. Underhill
D. Randall King
Norman P. Friederichs
Michael B. Lasky
Curtis B. Hamre
Michael D. Schumann
Michael L. Mau
John A. Clifford
Mark J. DiPietro
Steven W. Lundberg
Warren D. Woessner
* * *
Janet R. Westrom
David G. Johnson
Alan W. Kowalchyk
Michael S. Sherrill
Timothy R. Conrad
Daniel W. McDonald
R. Carl Moy
Robert C. Freed
Daniel J. Kluth
Wendy M. McDonald
Linda M. Byrne
Mark D. Schuman
Randall A. Hillson
John P. Sumner
Brian H. Batzli
David K. Tellekson
Hallie A. Pinucane
John J. Gresens
Steven J. Keough
Paul E. Lacy
John L. Knoble
Michelle M. Michel
Philip P. Caspers
Gregory A. Sebald
Jane H. Arrett
A. James Nelson
Robert C. Beck
George H. Gates
John M. Kelly
Gregory M. Taylor
Kristine M. Strodthoff
Thomas E. Jurgensen
Steven C. Bruess
Joel A. Rothfus
Mark A. Krull

CONFIRMATION

April 25, 1990

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 APR 30 PM 3:37

SENT BY FACSIMILE
(Confirmation Copy to Follow)

Mr. Lawrence M. Noble
General Counsel
Federal Election Commission
Washington, DC 20463

RE: Your Ref.: MUR 2984
Our Ref.: M&G 3230.23-US-AA

Dear Mr. Noble:

This letter is to describe the events which have occurred during your office's above-identified investigation of our clients. You will also find enclosed copies of financial records which were made available to various respondents in this matter.

The above-identified investigation has been characterized by our clients attempts to cooperate with the Commission, which attempts have been met with unreasonable demands and high-handed behavior on the part of the staff attorneys working on the case.

As you know, it was our position that the scope of the Commission's subpoenas issued on November 29, 1989 were overly broad and were directed towards confidential and proprietary financial information which in no way relates to the current investigation. Nonetheless, our clients, while trying to negotiate a more reasonable scope of these subpoenas, were cooperative in producing documents which directly related to the Commission's investigation.

When the Commission declined to modify the scope of its subpoenas and issued new subpoenas on February 6, 1990, our clients, with the misunderstanding outlined in my letter of March 9, 1990 to Mr. Bernstein, supplied all documents in their possession subject to

9504367036 9

the subpoenas of February 6, 1990. After that mistake was clarified, our clients produced all documents in their possession subject to the Commission's subpoenas of both November 29, 1989 and February 6, 1990. Our clients have also requested that their various financial institutions make available to them copies of financial documents which you have indicated are missing. These documents are being produced as they are received by our clients.

On April 6, 1990, I worked with Mr. Raich to schedule depositions of Messrs. Johnson and Twichell. These depositions were to focus primarily on them as individuals, but inquiry was also scheduled to take place into their knowledge as representatives of the corporations who may be most knowledgeable of the subject matter of the current investigation. When we initially proposed, due to scheduling difficulties and to the apparent need for the scheduling of a block of two days, that the depositions take place during the week of May 14, 1990, Mr. Raich was completely uncooperative and demanded that the depositions take place on or about April 17 and 18, 1990. His unreasonable demands were yet again met by rearranging our schedules to meet Mr. Raich's, and the depositions of Messrs. Johnson and Twichell were scheduled to begin at 9:30 a.m. on April 16, 1990 in Phoenix, Arizona.

It was obvious that Mr. King would be forced to leave his family on Easter Sunday, April 15, 1990, to fly to Phoenix, Arizona in order to prepare for the scheduled depositions. This is indeed what happened. Therefore, due to the unyielding scheduling demands of Mr. Raich, Messrs. King, Johnson and Twichell were forced to prepare for the depositions on Easter Sunday; indeed, Mr. King was forced to be away from his family on that important day.

On Monday morning, April 16, 1990, Messrs. King, Johnson and Twichell were present at the Federal Building at 9:30 a.m. for the scheduled depositions. The record was opened, and Mr. Raich demanded that Mr. Twichell leave the room during the deposition of Mr. Johnson. On advice of counsel, that demand was refused for the following reasons:

1. Mr. Twichell is a named respondent,

2. Parties have a right to be present during depositions in civil litigation under the Federal Rules of Civil Procedure,

3. Administrative proceedings often take direction from the Federal Rules of Civil Procedure,

9504367037/0

4. He was subpoenaed for a deposition which had been scheduled on April 16, 1990,

5. He is the Managing Director of another named respondent, inquiry into which respondent was scheduled to occur during Mr. Johnson's deposition,

6. There has been no protective order or any agreement among the parties which would limit the attendance at the depositions during the investigation, and

7. Neither Mr. Bernstein nor Mr. Raich were able to provide any authority for excluding a party to an investigation during depositions.

Mr. Raich refused to proceed with the depositions. Messrs. King, Johnson and Twichell then left the room in view of such refusal by Mr. Raich.

We are astounded that Messrs. Bernstein and Raich could be so adamant regarding the scheduling of the deposition and yet refuse to depose the respondents when they stood ready, willing and able to testify. This behavior on the part of Messrs. Bernstein and Raich has cost our clients significant amounts of money, expenses and attorneys fees as well as taking all individuals involved away from their families on Easter Sunday with no furtherance of the FEC's investigation in this matter. The termination of the deposition was solely the fault of the staff attorneys' refusal to proceed with questioning. Therefore, the expenses incurred by our clients were rendered unnecessary solely by the actions of the Commission's personnel, and they are expenses which the Commission should reimburse.

The present investigation has been in progress for over two years at this point. Our clients have attempted to cooperate with the staff attorneys assigned to this case. These attempts have been met with unreasonable demands and high-handed behavior culminating in the actions of April 16, 1990 outlined above. Such behavior appears to us to be an attempt to browbeat the respondents and to focus attention in the investigation on collateral issues. It would appear that the heavy-handed attempts by Messrs. Bernstein and Raich to force the respondents to be subject to their unauthorized whims and wishes are intended to disguise the fact that they cannot prove that our clients have violated the Federal Elections statute.

We therefore, request that you reimburse our clients for their expenses incurred during the period of April 15-16, 1990, and that you either impress upon Messrs. Bernstein and Raich the importance

9504367037/1

of focusing their investigation on whether our clients have violated the Federal Elections Campaign Act in any manner or terminate the investigation. If the focus were properly restricted to that issue, it can only soon become clear, with little more waste of our clients and the taxpayer's money, that there has been no such violation by our clients.

The following documents are being produced:

1. Mr. Johnson's Shearson Lehman Hutton account statements for August 29, 1988 through December 31, 1988, [redacted]

2. Valley National Bank of Arizona Acct. No. [redacted] statements dated 1/29/88, 4/29/88 and 6/30/88 for National Association of Review Appraisers and Mortgage Underwriters, Inc.,

3. Valley National Bank of Arizona Acct. No. [redacted] statements dated 1/29/88, 4/29/88 and 6/30/88 for National Association of Review Appraisers and Mortgage Underwriters, Inc.,

4. Valley National Bank of Arizona Acct. No. [redacted] statements dated 1/29/88, 4/29/88 and 6/30/88 for National Association of Review Appraisers and Mortgage Underwriters, Inc.,

5. Valley National Bank of Arizona Acct. No. [redacted] statements covering 1/1/88 through 5/31/88 for National Association of Real Estate Appraisers, Inc., and

6. A letter verifying the fact that Valley National Bank Acct. No. [redacted] in the name of International Association of Managers, Inc. was opened on April 22, 1988.

There are no documents for Valley National Bank Acct. No [redacted] prior to 10/21/88 as the account was opened on that day. You will also see that our client, National Association of Review Appraisers

9504367037/2

and Mortgage Underwriters, Inc. has not yet received documents pertaining to Valley National Bank Acct. No. [redacted] as they were unavailable from the branch contacted.

Sincerely,

Joel A. Rothfus

JAR/lmd

Enc: Financial Records

9504367033

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

April 27, 1990

BY TELECOPIER AND FIRST CLASS MAIL

D. Randall King, Esquire
Merchant & Gould
1000 Norwest Center
55 East Fifth Street
Saint Paul, MN 55101

Re: MUR 2984
National Association of Real Estate Appraisers, Inc.
National Association of Review Appraisers and Mortgage Underwriters, Inc.
International Association Managers, Inc.
Robert G. Johnson
E. Kenneth Twichell

Dear Mr. King:

I am writing in response to Mr. Rothfus' letters dated April 13, 1990 and April 25, 1990. By separate certified letter dated April 26, 1990, you will receive notice of the Commission's authorization of this Office to bring suit against your clients, Messrs. Johnson and Twichell, regarding their failure to properly appear for deposition.

In his April 13 letter Mr. Rothfus states that documents relating to financial activity of other related entities are not within the scope of the Commission's subpoenas to the corporations and will not be produced. The subpoenas, however, call for all documents relating to financial activity between the respondent corporations and all "Specified Persons," including the non-respondent entities. Therefore, the position set forth in the April 13 letter reflects a misreading of the subpoenas.

The April 25, 1990 letter begins by characterizing your clients as cooperative in the Commission's investigation and accusing my staff of "high-handed behavior." In my view, your repeated expressions of cooperation have not been accompanied by consistent action. Contrary to your description, your clients'

9504367037 4

responses to the Commission's investigative requests in this matter have been evasive, equivocal and incomplete. Even partial compliance with the Commission's subpoenas has been grudging and now, months after the issuance of the Commission's November 29, 1989 and February 6, 1990 subpoenas, basic documents supporting payments by your corporate clients to the individual employees (responsive to question 2 of the subpoenas), still have not been produced.

Mr. Rothfus' letter further states that your clients "were cooperative" in producing certain documents while requests to modify the scope of the November 29, 1989 subpoenas were pending. In fact, such production took place only because my staff specifically pointed out that there was no reasonable basis for resisting production of at least those types of documents to which you had not objected in the pending requests to modify. Even so, it now appears that this production was incomplete even under your representation of what your clients would produce.

Once the Commission denied your request to narrow the November 29, 1989 subpoenas, it notified you of such denial and required full compliance by March 2, 1990. Nonetheless, Messrs. Johnson and Twichell still failed to comply with these subpoenas. Indeed, absent the insistence of my staff, it appears that no further compliance with the November subpoenas would have taken place. Although you have described this failure as a "misunderstanding," as I explained to you in my March 20, 1990 letter, the express language of the Commission's notification letter left no room for ambiguity.

Mr. Rothfus' letter accuses Mr. Raich of being "completely uncooperative" and of making "unreasonable demands" when you agreed to the scheduled depositions of Messrs. Johnson and Twichell on April 16, 1990. In fact, upon Mr. Raich's suggestion for deposition dates on April 17-18, 1990, Mr. Rothfus informed him that you would be unavailable from April 17 through the rest of the month, and that Mr. Johnson would be unavailable for another two weeks thereafter. Mr. Raich reasonably resisted putting off the depositions for nearly 6 weeks until the third week in May, and settled on the April 16th date to depose both men as an accommodation to your schedule.

The April 25th letter also attempts to justify your refusal to comply with my staff's request that Mr. Twichell leave the room during the deposition of Mr. Johnson on April 16, 1990 in Phoenix, Arizona. It argues in part that "administrative proceedings often take direction from the Federal Rules of Civil Procedure," under which parties may attend depositions in civil litigation. It also states that "neither Mr. Bernstein nor Mr. Raich were able to provide any authority for excluding a party to an investigation during depositions." As Mr. Bernstein specifically told you at the deposition, however, SEC v. Jerry T. O'Brien, Inc., 467 U.S. 735 (1984), establishes that, unlike discovery in civil litigation, federal agencies conducting law enforcement

9504367037 5

investigations may exclude respondents from interviews or depositions of other witnesses and that no right conferred by statute, regulation, or the Constitution compels a contrary result. It is our position that such exclusion is essential in order to avoid compromising the integrity of the Commission's investigations. Even after my staff clearly explained the Commission's position, and on my express authority advised you that the Commission would not permit a respondent or any individual other than counsel to attend the investigative deposition of another, you still refused to go forward with the depositions unless your clients were permitted to attend each others' depositions. In light of these circumstances, I find quite remarkable your request that the Commission reimburse your clients for their expenses. To the contrary, it is the government that has been put to tremendous expense by your clients' lack of cooperation.

Finally, I totally disagree with your characterization of the behavior of Mr. Bernstein and Mr. Raich. As far as I am concerned, they have responded appropriately under the circumstances. It is apparent that your clients have a far different view than does the Commission about the seriousness of this matter and about the meaning of full, timely compliance with Commission subpoenas. Given all of the above, the Commission has no alternative but to seek resolution of these matters through the the federal courts.

Sincerely,

LMNoble (FAX)

Lawrence M. Noble
General Counsel

9504367037 6

006113

MERCHANT & GOULD

Merchant, Gould, Smith, Edell, Welter & Schmidt
Professional Association
Patent, Trademark & Copyright Lawyers

1000 Norwest Center
55 East Fifth Street
Saint Paul, Minnesota
U.S.A. 55101
FAX 612/298-1160
Telex 297470 MANDG Stp
612/298-1055

John D. Gould
Phillip H. Smith
Robert T. Edell
Paul A. Welter
Cecil C. Schmidt
John S. Sumners
Alan G. Carlson
Micheal L. Schwegman
Earl D. Reiland
Charles E. Golla
Douglas J. Williams
Douglas A. Strawbridge
Albert L. Underhill
D. Randall King
Norman P. Friederichs
Michael B. Lasky
Curtis B. Hamre
Michael D. Schumann
Michael L. Mau
John A. Clifford
Mark J. DiPietro
Steven W. Lundberg
Warren D. Woessner
• • •
Janet R. Westrom
David G. Johnson
Alan W. Kowalchyk
Michael S. Sherrill
Timothy R. Conrad
Daniel W. McDonald
R. Carl Moy
Robert C. Preed
Daniel J. Kluth
Wendy M. McDonald
Linda M. Byrne
Mark D. Schuman
Randall A. Hillson
John P. Sumner
Brian H. Batzli
David K. Tellekson
Hallie A. Finucane
John J. Gresens
Steven J. Keough
Paul E. Lacy
John L. Knoble
Michelle M. Michel
Philip P. Caspers
Gregory A. Sebald
Jane H. Arrett
A. James Nelson
Robert C. Beck
George H. Gates
John M. Kelly
Gregory M. Taylor
Kristine M. Strodthoff
Thomas E. Jurgensen
Steven C. Bruess
Joel A. Rothfus
Mark A. Krull

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 MAY -3 PM 2:30

May 1, 1990

Federal Election Commission
Attn: Robert Raich
999 E Street, N.W.
Washington, D.C. 20463

RE: Federal Election Commission v. NAREA
E. Kenneth Twichell and Robert G. Johnson
MUR 2984
Our Ref: M&G 3230.23-US-AA

Dear Mr. Raich:

Enclosed you will find documents which our clients have recently received from their banks. Production of these documents has been delayed as they had not been in the possession of our clients. The following documents are enclosed:

1. Mr. Twichell's checking account statements covering the period 1/1/88 through 2/9/88;

2. First National Bank of Keystone (W.V.A.) account [redacted] statements dated 1/31/88, 2/29/88 and 5/1/88 for the National Association of Review Appraisers and Mortgage Underwriters, Inc.

These are the only documents received from the respective banks. In yet another effort to satisfy your demands, our clients will again request from the financial institutions the balance of the documents which you have requested.

Sincerely,

Joel A. Rothfus

JAR/lmd

Enc: Bank Statements

90 MAY -3 PM 2:02

OGC 6140

FEDERAL ELECTION COMMISSION
90 MAY -7 AM 10:36

MERCHANT & GOULD

Merchant, Gould, Smith,
Edell, Welter & Schmidt
Professional Association
Patent, Trademark &
Copyright Lawyers

1000 Norwest Center
55 East Fifth Street
Saint Paul, Minnesota
U.S.A. 55101
FAX 612/298-1160
Telex 297470 MANDG Stp
612/298-1055

John D. Gould
Phillip H. Smith
Robert T. Edell
Paul A. Welter
Cecil C. Schmidt
John S. Sumners
Alan G. Carlson
Micheal L. Schwegman
Earl D. Reiland
Charles E. Golla
Douglas J. Williams
Douglas A. Strawbridge
Albert L. Underhill
D. Randall King
Norman P. Friederichs
Michael B. Lasky
Curtis B. Hamre
Michael D. Schumann
Michael L. Mau
John A. Clifford
Mark J. DiPietro
Steven W. Lundberg
Warren D. Woessner
...
David G. Johnson
Alan W. Kowalchyk
Michael S. Sherrill
Timothy R. Conrad
Daniel W. McDonald
R. Carl Moy
Robert C. Preed
Daniel J. Kluth
Wendy M. McDonald
Linda M. Byrne
Mark D. Schuman
Randall A. Hillson
John P. Sumner
Brian H. Batzli
David K. Tellekson
Hallie A. Finucane
John J. Gresens
Steven J. Keough
Paul E. Lacy
John L. Knoble
Michelle M. Michel
Philip P. Caspers
Gregory A. Sebald
Jane H. Arrett
A. James Nelson
Robert C. Beck
George H. Gates
John M. Kelly
Gregory M. Taylor
Kristine M. Strodthoff
Thomas E. Jurgensen
Steven C. Bruess
Joel A. Rothfus
Mark A. Krull

May 2, 1990

SENT BY FACSIMILE
(CONFIRMATION COPY TO FOLLOW)

90 MAY -7 AM 10:36

Federal Election Commission
Attn: Lawrence M. Noble
General Counsel
Washington, DC 20463

RE: Your Ref.: MUR 2984
Our Ref.: M&G 3230.23-US-AA

Dear Mr. Noble:

I am writing in response to your letter to Mr. King dated April 27, 1990 in which you inform him of your authority to bring suit against Messrs. Johnson and Twichell regarding their alleged failure to properly appear for deposition.

Initially, I would like to clarify our position laid out in my letter of April 13, 1990. The Commission's subpoenas of November 29, 1989 and February 6, 1990 issued to National Association of Real Estate Appraisers, Inc., National Association of Review Appraisers and Mortgage Underwriters, Inc., and International Association of Managers, Inc. covered financial statements of these entities as well as documents relating to financial activity between them and any of the "Specified Persons" in 1988. Obviously, financial statements that Todd Publishing Company, International Institute of Valuers,Inc., Professional Women's Appraisers Association, Inc. and Robert Johnson & Associates received from their various financial institutions are beyond the scope of the Commission's subpoenas. They will not be produced for they do not relate to financial activity between the respondent corporations and all "Specified Persons".

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 MAY -8 AM 11:35

9504336703718

In your letter of April 27, you make a number of broad statements regarding our clients production of documents. First, you indicate that "basic documents supporting the payments by [our] corporate clients to the individual employees...still have not been produced." The only documents which your office has indicated are missing from the corporations are statements from various financial institutions. All such documents in our clients' possession have been forwarded to your office, and copies which you have indicated are missing have repeatedly been requested from their respective banks. Beyond this, we have no way of responding to your above comment without further identification of the documents which you are requesting.

A second vague statement made in your April 27 letter was "it now appears that this production was incomplete even under [our] representation of what [our] clients would produce." Again, there appears to be no basis for this statement since we did, in fact, produce the documents.

I must also take issue with your characterization of our clients' responses as being "evasive, equivocal and incomplete." Faced with the broad and overreaching subpoenas of the Commission, our clients have attempted to comply with the spirit of the investigation while simultaneously protecting their personal and business affairs from unwarranted and overly broad intrusion. In every instance in which the Commission has made any demand of our clients, they have either complied or explained explicitly the basis of their refusal.

As has been made clear numerous times in past correspondence, a misunderstanding existed on our part regarding the November subpoenas. Once your office pointed out this mistake, we reviewed the correspondence and subpoenas and produced all documents subject to the subpoenas in our clients' possession. Further, our clients have gone to the trouble to request copies of those documents which your office insists were subject to the subpoenas and were not in their possession.

The deposition date of April 16, 1990 was proposed by Mr. Raich and was agreed to as a result of his insistence that our schedules be rearranged. Therefore, the agreed upon date was an accommodation to your office's schedule.

The interpretation of SEC v. Jerry T. O'Brien, Inc., 467 U.S. 735 (1984) as laid out in your letter of April 27, represents a misreading of the law of that case. That case simply stands for the proposition that the FEC need not notify the "target" of its investigation in subpoenaing records from the third parties. The case does not address sequestering or isolation of respondent

9504367037 9

witnesses during depositions. Therefore, it remains our position that the exclusion demanded by your staff was beyond the scope of its authority.

Finally, it must be pointed out that, on April 16, 1990, our clients stood ready, willing and able to offer deposition testimony in the FEC's investigation. It was the staff attorneys of the FEC who refused to proceed with the scheduled deposition not Mr. King or the witnesses. In sum, the depositions did not proceed due simply to your staff attorneys' refusal to proceed after failing to provide a legitimate authority for exclusion of a respondent during a co-respondent's deposition testimony.

Our clients fully understand the seriousness of the current investigation and have continually attempted to comply with legitimate areas of inquiry by the Commission. Nonetheless, the Commission has decided to waste further money in bringing such matters before the federal courts.

Sincerely,

Joel A. Rothfus

JAR/lmd

9504367033 0

DGC 6345

LAW OFFICES
TEILBORG, SANDERS & PARKS
PROFESSIONAL CORPORATION

FEDERAL ELECTION COMMISSION
MAIL ROOM
90 MAY 25 PM 2:05

FRANK A. PARKS
ROBERT J. BRUNO
WINN L. SAMMONS
RICHARD A. KENT
BRIAN R. BURT
STEVEN PLITT
GERALD T. HICKMAN
SCOTT H. HOUSTON
GARRICK L. GALLAGHER
R. COREY HILL
MARY G. ISBAN
PAUL D. FRIEDMAN
RICHARD B. SANDERS
NEIL C. ALDEN
J. CLAYTON BERGER
DAVID J. DAMRON
BRUCE A. PELKEY
CONI RAE GOOD
JOHN A. BLACK
STEPHEN C. BAKER
MARK WORISCHECK
RICK N. BRYSON
EDYTHE H. KELLY
JAMES A. TEILBORG
JOHN C. GEMMILL
STEPHEN PAUL FORREST
BRADLEY R. JARDINE
ALISON LEWIS
JAMES W. KAUCHER
JEAN E. HUFFINGTON
MONTE M. SIMPSON
KEITH R. BEVAN
SCOTT J. HERGENROETHER
BRUCE C. SMITH

2800 NORTH THIRD STREET
SUITE 1300
PHOENIX, ARIZONA 85012
(602) 230-5800

FACSIMILE (602) 230-5693

WRITER'S DIRECT LINE

May 3, 1990

602-230-5774

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 MAY 29 PM 3:52

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

Re: MUR 2984

Dear Mr. Noble:

I am in receipt of your letter dated April 26, 1990 regarding the deposition of Mr. Timothy Cloud.

Your letter is correct on certain points; however, it is factually incomplete. In addition, I believe that the facts, as they have been represented to you, are misleading. I would therefore like to set the record straight with respect to the circumstances surrounding Mr. Cloud's aborted deposition.

Let me begin by reiterating a fact which I have made clear repeatedly to counsel for the Federal Election Commission. That is, Mr. Cloud is more than willing to cooperate with the Federal Election Commission in its investigation in this matter and have his deposition taken as appropriate. As I have indicated previously in correspondence and conversations with various members of your staff, Mr. Cloud has attempted to completely comply with all requests or subpoenas by the Federal Election Commission. He has, at my urging, reviewed, re-reviewed and re-reviewed again his records at the Federal Election Commission's insistence. All documentation, regardless of its relevance, which Mr. Cloud has located has in turn been produced to the Federal Election Commission. In short, I believe that Mr. Cloud has been most cooperative, including the circumstances surrounding his deposition.

As you letter points out, I had received certain telephone calls from Mr. Raich on April 6th and again on April 9th. Unfortunately, the message of April 6th was merely that Mr. Raich had called, and the message of April 9th was that Mr. Raich wanted

9504336703381

to discuss Mr. Cloud's deposition. I received those messages on Wednesday, April 11, 1990 -- the first day I was back in my office.

As Mr. Raich knows, I had jury duty on Thursday, April 12th as was therefore unable to make contact with Mr. Raich.

On Friday, April 13, 1990, I received Mr. Raich's letter, indicating that Mr. Cloud's deposition had been scheduled for Tuesday, April 17 at 10:00 a.m. in the Federal Building in Phoenix, Arizona. Obviously, I do not know your office's approach to scheduling depositions; however, it has been my experience, both with opposing counsel located in Arizona and opposing counsel located in other jurisdictions -- such as Washington, D.C. -- that normally we attempt to reach a mutually agreeable date and time for the taking of a deposition. Mr. Raich's "bare bones" messages that he wanted to speak to me do not in my opinion take the place of such good faith efforts.

At any rate, upon receiving Mr. Raich's letter, I immediately attempted to contact Mr. Cloud to arrange to meet prior to his deposition. At that point I was informed by his supervisor that he was out of the office and would be leaving on the evening of Monday, April 16, 1990, for a very important meeting. By the way, I might add that the arrangements for Mr. Cloud's attendance had been made several months in advance and the ticket had been purchased in advance and had cancellation penalties attached.

I spoke with Mr. Cloud several times on Saturday, April 14th, as well as Mr. D. Randall King, counsel for Mr. Twichell and Mr. Johnson. Mr. King informed me that the depositions of Mr. Johnson and Mr. Twichell were scheduled to commence at 9:30 on Monday, April 16th. I suggested to Mr. King that I would offer Mr. Cloud's availability for his deposition prior to the Johnson and Twichell depositions, in light of Mr. Cloud's unavailability the following day. Mr. King whole-heartedly endorsed that suggestion and told me he would attempt to obtain his client's consent to that approach. Mr. Johnson and Mr. Twichell readily consented.

As an aside, I should note that I had attempted to contact the Federal Election Commission on Friday when I learned of Mr. Cloud's unavailability, but was not able to reach anyone.

Needless to say, Mr. Cloud and I spent a considerable portion of the Good Friday/Easter weekend working out these arrangements and preparing him for his deposition.

9504367038 2

9504367033

Mr. Cloud and I arrived at the deposition room shortly after 9:00 a.m. - nearly one-half hour prior to the time that Mr. Johnson's deposition was scheduled to begin. I then met with Mr. Raich and informed him of Mr. Cloud's predicament and offered to have Mr. Cloud's deposition take place at that point. After some consideration, he refused and indicated that Mr. Cloud would have to abort his trip to San Francisco. At such time as Mr. Bernstein arrived, I again explained the situation to him and indicated that Mr. Cloud would be available for his deposition anytime that morning. Mr. Bernstein and Mr. Raich then threatened to bring a civil action against Mr. Cloud for contempt. I informed these gentlemen that I failed to see how Mr. Cloud could be in contempt by ruining his Easter weekend, appearing in a timely manner and offering to wait around and have his deposition taken. At that point, Mr. Bernstein and Mr. Raich set forth an ultimatum: either Mr. Cloud was going to have to disobey his employer's instructions to attend the meeting in San Francisco, thereby causing his employer significant losses and expenses, or he would face a civil contempt action by the Federal Election Commission.

I then stepped outside of the deposition room and asked Mr. King to join me and Mr. Cloud to discuss this matter. Mr. Johnson, as a principal of Mr. Cloud's employer, also joined us to discuss the ramifications of Mr. Cloud's cancelling his trip to San Francisco at the insistence of the Federal Election Commission. We collectively determined that our approach had been reasonable under the circumstances imposed upon us by the Federal Election Commission and that Mr. Cloud should go ahead with his prior arranged business trip.

Let me be quick to add, however, that I reiterated several times to Mr. Bernstein and Mr. Raich that Mr. Cloud would be glad to have his deposition taken that morning, or any other time which would be mutually convenient. These attempts at conciliation were rebuffed by Federal Election Commission counsel.

I believe that the facts as set forth above more accurately reflect the circumstances under which Mr. Cloud's deposition did not occur. I will repeat once again that Mr. Cloud is more than willing to have his deposition taken in this matter, on a date and time which can be satisfactorily arranged in advance.

At your suggestion, I have placed a call to Mr. Bonham

regarding rescheduling Mr. Cloud's deposition. I anticipate hearing from either Mr. Bonham or yourself regarding that matter.

Sincerely,

Bruce A Pelkey

Bruce A. Pelkey
For the firm

BAP:ei
cc: Mr. Timothy Cloud

9504367003384

OGC 6147

MERCHANT & GOULD

Merchant, Gould, Smith, Edell, Welter & Schmidt
Professional Association
Patent, Trademark & Copyright Lawyers

1000 Norwest Center
55 East Fifth Street
Saint Paul, Minnesota
U.S.A. 55101
FAX 612/298-1160
Telex 297470 MANDG Stp
612/298-1055

John D. Gould
Phillip H. Smith
Robert T. Edell
Paul A. Welter
Cecil C. Schmidt
John S. Sumners
Alan G. Carlson
Micheal L. Schwegman
Earl D. Reiland
Charles E. Golla
Douglas J. Williams
Douglas A. Strawbridge
Albert L. Underhill
D. Randall King
Norman P. Friederichs
Michael B. Lasky
Curtis B. Hamre
Michael D. Schumann
Michael L. Mau
John A. Clifford
Mark J. DiPietro
Steven W. Lundberg
Warren D. Woessner

Janet R. Westrom
David O. Johnson
Alan W. Kowalchyk
Michael S. Sherrill
Timothy R. Conrad
Daniel W. McDonald
R. Carl Moy
Robert C. Freed
Daniel J. Kluth
Wendy M. McDonald
Linda M. Byrne
Mark D. Schuman
Randall A. Hillson
John P. Sumner
Brian H. Batzli
David K. Tellekson
Hallie A. Finucane
John J. Gresens
Steven J. Keough
Paul E. Lacy
John L. Knoble
Michelle M. Michel
Philip P. Caspers

Gregory A. Sebald
Jane H. Arrett
A. James Nelson
Robert C. Beck
George H. Gates
John M. Kelly
Gregory M. Taylor
Kristine M. Strodthoff
Thomas E. Jurgensen
Steven C. Bruess
Joel A. Rothfus
Mark A. Krull

90 MAY 7 PM 1:02

CONFIRMATION COPY

May 4, 1990

SENT BY FACSIMILE
(CONFIRMATION COPY TO FOLLOW)

Federal Election Commission
Attn: V. Colleen Miller
General Counsel
Washington, D.C. 20463

RE: Robert G. Johnson & E. Kenneth Twichell
Your Ref.: MUR 2984
Our Ref: M&G 3230.23-US-AA

Dear Ms. Miller:

This letter is to document our telephone conversations of May 1 and 2, 1990. During these telephone conversations, you indicated that "enforcement papers" were being prepared to file against our clients Messrs. Johnson and Twichell regarding their alleged failure to properly appear for deposition.

It is my understanding that your offer was that a Petition for an Order to Show Cause Why the FEC's Subpoenas Should not be Enforced against our clients, an Order for the Enforcement of These Subpoenas against our clients, and a consent agreement settling the enforcement action would be filed concurrently in U.S. District Court in Phoenix, Arizona. The consent agreement would provide that the depositions of Messrs. Johnson and Twichell would proceed with only the individual respondent and his counsel present at each deposition, that documents which may be requested during the depositions would be produced in a reasonable time, and that costs were to be paid by each party. You further indicated that this offer would remain open through Friday, May 4, 1990.

90 MAY -7 PM 1:02

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 MAY -8 AM 11:36

95043670385

I have now had an opportunity to discuss this matter with our clients. We cannot agree with your proposed "consent agreement" because, as described in detail in my letters to Mr. Noble of April 25, 1990 and May 2, 1990:

1. A named respondent, it is our strong belief, has a right to attend depositions taken in this matter--just as they would in a court setting pursuant to the Federal Rules of Civil Procedure, and

2. Administrative proceedings often take direction from the Federal Rules of Civil Procedure, and

3. There has been no protective order or any agreement of the parties to limit the attendance at depositions during the investigation, and

4. SEC v. Jerry T. O'Brien, Inc., 467 U.S. 735 (1984), does not provide any authority for sequestering witnesses or excluding a party to an investigation during depositions, and

5. Apart from their misplaced reference to the above case law, neither Mr. Bernstein nor Mr. Raich were able to provide any authority for excluding a party to an investigation during depositions. To date, we have not been given any additional authority to support your position.

In view of the foregoing, and in particular the fact that the FEC has been unable to provide support for its position on sequestration of named respondents, we find that we must respectfully decline your offer relating to a "consent agreement".

Sincerely,

Joel A. Rothfus

JAR/lmd

9504367033 86

OGC 6296

MERCHANT & GOULD

Merchant, Gould, Smith, Edell, Welter & Schmidt
Professional Association
Patent, Trademark & Copyright Lawyers

1000 Norwest Center
55 East Fifth Street
Saint Paul, Minnesota
U.S.A. 55101
FAX 612/298-1160
Telex 297470 MANDG Stp
612/298-1055

John D. Gould
Phillip H. Smith
Robert T. Edell
Paul A. Welter
Cecil C. Schmidt
John S. Sumners
Alan G. Carlson
Micheal L. Schwegman
Earl D. Reiland
Charles E. Golla
Douglas J. Williams
Douglas A. Strawbridge
Albert L. Underhill
D. Randall King
Norman P. Friederichs
Michael B. Lasky
Curtis B. Hamre
Michael D. Schumann
Michael L. Mau
John A. Clifford
Mark J. DiPietro
Steven W. Lundberg
Warren D. Woessner

Janet R. Westrom
David G. Johnson
Alan W. Kowalchyk
Michael S. Sherrill
Timothy R. Conrad
Daniel W. McDonald
R. Carl Moy
Robert C. Freed
Daniel J. Kluth
Wendy M. McDonald
Linda M. Byrne
Mark D. Schuman
Randall A. Hillson
John P. Sumner
Brian H. Batzli
David K. Tellekson
Hallie A. Pinucane
John J. Gresens
Steven J. Keough
Paul E. Lacy
John L. Knoble
Michelle M. Michel
Philip P. Caspers

Gregory A. Sebald
Jane H. Arrett
A. James Nelson
Robert C. Beck
George H. Gates
John M. Kelly
Gregory M. Taylor
Kristine M. Strodthoff
Thomas E. Jurgensen
Steven C. Bruess
Joel A. Rothfus
Mark A. Krull

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 MAY 21 PM 3:34

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM
90 MAY 21 AM 9:53

May 16, 1990

SENT BY FACSIMILE
(CONFIRMATION W/ENCLOSURES TO FOLLOW)

Federal Election Commission
Attn: Robert Raich
999 E Street, N.W.
Washington, D.C. 20463

RE: Federal Election Commission v. NAREA
MUR 2984
Our Ref: M&G 3230.23-US-AA

Dear Mr. Raich:

Enclosed you will find documents which our clients have recently received from their banks. Production of these documents to you has been delayed in that they were not in the possession of our clients, and the financial institutions have been slow in responding to our clients' requests. The following documents are enclosed:

1. Mr. Twichell's checking account statement dated 3/9/88;

2. Mr. Johnson's Valley National Bank Acct. [redacted] statements dated 1/29/88, 2/29/88, 4/29/88, 5/31/88 and 7/29/88;

3. Mr. Johnson's Valley National Bank Acct. [redacted] statement dated 1/30/89 showing activity in December 1988;

4. Valley National Bank Acct. [redacted] statement dated 1/24/89 for International Association of Managers, Inc. showing activity in December 1988; and

9504367003387

5. A letter from Keystone Bank (WV) stating that there is no record of the June 1988 statement of Acct. [redacted] of National Association of Review Appraisers and Mortgage Underwriters, Inc.

Again, Valley National Bank Acct. [redacted] of National Association of Real Estate Appraisers, Inc. was not opened until September 1, 1988, and there are no earlier statements which can be produced. Also, as explained in the letter from Valley National Bank which was produced with my letter of April 25, 1990, Valley National Bank Acct. [redacted] statements for January, April and June 1988 of National Association of Review Appraisers and Mortgage Underwriters, Inc., are not locatable and, obviously, cannot be produced.

These documents form the balance of the documents subject to the subpoenas of November 29, 1989 and February 6, 1990 which are in the possession and/or control of our clients which you indicated were missing on the list attached to Mr. Noble's letter of April 12, 1990. Again, their production has been delayed because they were not in the possession of our clients, and the financial institutions have been slow in producing them.

Because the above identified subpoenas have been fully complied with, I cannot understand why your office has deemed it necessary to file a petition in federal district court for their enforcement. We request that you reconsider the filing of the petition and thereby avoid considerable expense to both sides.

Sincerely,

Joel A. Rothfus

JAR/lmd

Enc: Bank Statements

9504367038

FEDERAL ELECTION COMMISSION
WASHINGTON D C 20463

May 18, 1990

VIA TELECOPIER AND FIRST CLASS MAIL

Joel Rothfus, Esquire
Merchant & Gould
1000 Norwest Center
55 East Fifth Street
Saint Paul, Minnesota 55101

RE: MUR 2984
National Association of Real Estate Appraisers, Inc.
National Association of Review Appraisers and Mortgage Underwriters, Inc.
International Association Managers, Inc.
E. Kenneth Twichell
Robert Johnson

Dear Mr. Rothfus:

This responds to statements set forth in your May 16 letter to Robert Raich of this Office.

You state that you have now produced all documents responsive to the Commission's outstanding Subpoenas. As you are surely aware, however, many missing documents referenced in my April 12 and March 23 letters have never been produced. These include documents concerning financial activity between your clients and the "Specified Persons" as defined in the Subpoenas. Such documents include, but are not limited to: advices of electronic transfers, W-2 forms, 1099 forms, and back-up for disbursements, such as invoices, receipts, bills, canceled checks, purchase orders, expense account logs, check authorization forms, contracts, and leases. Moreover, your clients refused to permit meaningful copying of any of the documents produced at their offices or the temporary removal of those documents to Washington. Therefore, your latest production does not obviate the need for judicial enforcement of the Commission's Subpoenas.

Sincerely,

Lawrence M. Noble
General Counsel

By: Jonathan A. Bernstein
Assistant General Counsel

9504367003389

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

BY FACIMILE AND FIRST-CLASS MAIL

May 22, 1990

Bruce A. Pelkey, Esq.
Teilborg, Sanders & Parks
3030 North Third Street
Suite 1300
Phoenix, AZ 85012

Re: MUR 2984
Timothy Cloud

Dear Mr. Pelkey:

On May 3, 1990, you informed me that you had sent a letter to this office explaining your position regarding the compliance of your client, Timothy Cloud, with the deposition subpoena issued by the Commission on November 15, 1989. You stated that this letter would explain why Cloud had failed to appear for the deposition on April 16, 1990.

As of this date, we have not received the above letter from you. Additionally, I have been trying for some time to reach you to establish a date for Cloud's appearance for the deposition. You have failed to return my telephone calls and have not responded in any other manner.

Under the circumstances, please be advised that we will institute a civil action against your client, authorized by the Commission on April 24, 1990, for the enforcement of the Commission's subpoenas.

Sincerely,

V. Colleen Miller
Attorney

2504367039O

MUR 2984

MERCHANT & GOULD

Merchant, Gould, Smith, Edell, Welter & Schmidt
Professional Association
Patent, Trademark & Copyright Lawyers

1000 Norwest Center
55 East Fifth Street
Saint Paul, Minnesota
U.S.A. 55101
FAX 612/298-1160
Telex 297470 MANDG Stp
612/298-1055

John D. Gould
Phillip H. Smith
Robert T. Edell
Paul A. Welter
Cecil C. Schmidt
John S. Sumners
Alan G. Carlson
Micheal L. Schwegman
Earl D. Reiland
Charles E. Golla
Douglas J. Williams
Douglas A. Strawbridge
Albert L. Underhill
D. Randall King
Norman P. Friederichs
Michael B. Lasky
Curtis B. Hamre
Michael D. Schumann
Michael L. Mau
John A. Clifford
Mark J. DiPietro
Steven W. Lundberg
Warren D. Woessner
• • •
Janet R. Westrom
David G. Johnson
Alan W. Kowalchyk
Michael S. Sherrill
Timothy R. Conrad
Daniel W. McDonald
R. Carl Moy
Robert C. Freed
Daniel J. Kluth
Wendy M. McDonald
Linda M. Byrne
Mark D. Schuman
Randall A. Hillson
John P. Sumner
Brian H. Batzli
David K. Tellekson
Hallie A. Pinucane
John J. Gresens
Steven J. Keough
Paul E. Lacy
John L. Knoble
Michelle M. Michel
Philip P. Caspers
Gregory A. Sebald
Jane H. Arrett
A. James Nelson
Robert C. Beck
George H. Gates
John M. Kelly
Gregory M. Taylor
Kristine M. Strodthoff
Thomas E. Jurgensen
Steven C. Bruess
Joel A. Rothfus
Mark A. Krull

May 22, 1990

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 MAY 25 AM 10: 12

SENT BY FACSIMILE
(CONFIRMATION TO FOLLOW)

Federal Election Commission
Attn: V. Colleen Miller
General Counsel
Washington, D.C. 20463

RE: Robert G. Johnson & E. Kenneth Twichell
Your Ref.: MUR 2984
Our Ref.: M&G 3230.23-US-AA

Dear Ms. Miller:

Apparently some confusion was caused by the communication made to your office from our local counsel in Phoenix, Alan Sears. As in the past, please continue to direct all correspondence for all named respondents, E. Kenneth Twichell, Robert G. Johnson, National Association of Real Estate Appraisers, Inc., National Association of Review Appraisers and Mortgage Underwriters, and International Association of Managers, Inc. to either D. Randall King or myself at the above address. Alan Sears and the law firm of Snell and Wilmer are presently involved as local counsel for the respondents for the District Court action in Phoenix.

If you have any questions or comments, please do not hesitate to contact me.

Sincerely,

Joel A. Rothfus

JAR/lmd

RECEIVED
FEDERAL ELECTION COMMISSION
90 MAY 25 AM 9: 03

9504336703391

THE DEPOSITION TRANSCRIPTS OF TIMOTHY M. CLOUD, JEAN JOHNSON, ROBERT G. JOHNSON, E. KENNETH TWICHELL AND PATRICIA CURTIS DAVIDSON CAN BE FOUND AT THE END OF THIS CASE FILE.

9504367003992

DOC 6763

LAW OFFICES

TEILBORG, SANDERS & PARKS

PROFESSIONAL CORPORATION

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

90 JUN 28 AM 9:16

3030 NORTH THIRD STREET
SUITE 1300
PHOENIX, ARIZONA 85012
(602) 230-5600

FACSIMILE (602) 230-5693

WRITER'S DIRECT LINE
602-230-5774

FRANK A. PARKS
ROBERT J. BRUNO
WINN L. SAMMONS
RICHARD A. KENT
BRIAN R. BURT
STEVEN PLITT
GERALD T. HICKMAN
SCOTT H. HOUSTON
GARRICK L. GALLAGHER
R. COREY HILL
MARY G. ISBAN
PAUL D. FRIEDMAN

RICHARD B. SANDERS
NEIL C. ALDEN
J. CLAYTON BERGER
DAVID J. DAMRON
BRUCE A. PELKEY
CONI RAE GOOD
JOHN A. BLACK
STEPHEN C. BAKER
MARK WORISCHECK
RICK N. BRYSON
EDYTHE H. KELLY

JAMES A. TEILBORG
JOHN C. GEMMILL
STEPHEN PAUL FORREST
BRADLEY R. JARDINE
ALISON LEWIS
JAMES W. KAUCHER
JEAN E. HUFFINGTON
MONTE M. SIMPSON
KEITH R. BEVAN
SCOTT J. HERGENROETHER
BRUCE C. SMITH

June 22, 1990

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

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 JUN 28 AM 10:47

Re: MUR 2984

Dear Mr. Noble:

As you know, I am the counsel for Mr. Timothy Cloud, who has recently appeared as a witness in the above matter under investigation. Unfortunately, certain matters have occurred which compels me to direct this letter to your attention.

As I have explained to you in earlier correspondence, there was some difficulties and disagreements regarding Mr. Cloud's deposition. Colleen Miller of your office and I were able to get the differences resolved by means of a Stipulation. By the way, I should add that I found Ms. Miller a competent and cooperative person to work with, and we were able to finalize the language of the Stipulation with a minimum of problems.

However, the main thrust of the Stipulation was two-fold; namely, that Mr. Cloud would in fact appear on the date and time agreed upon and secondly that no one other than the witness, his counsel, counsel for the FEC and a court reporter would be present at the deposition. I was most surprised and disappointed when I walked into the deposition room and saw that the FEC was being represented not by one counsel, Robert Raich, but also by a second counsel, Jonathan Bernstein.

This was especially surprising to me in light of the numerous discussions which Colleen Miller and I had over the past several weeks regarding the time, place and expenses involved in the deposition. Originally, Ms. Miller lobbied for the deposition to take place in Washington, D.C., with Mr. Cloud paying not only his own expenses, but my expenses as well. When I objected

9504336703393

strongly to that, two alternatives were suggested. Either Mr. Cloud could come by himself, and not be represented by counsel during his deposition, or there might have been a way whereby the FEC would have paid Mr. Cloud's expenses, but Mr. Cloud would have had to pay my expenses. Again, I objected on Mr. Cloud's behalf, and it was ultimately determined that the deposition would take place in Phoenix and Mr. Raich would travel to Phoenix to take the deposition.

I have two concerns in this regard. First, the FEC was most insistent that costs were of great concern and they attempted to have Mr. Cloud bear those costs, in full or in part. I do not need to remind you that Mr. Cloud is merely a witness in this matter, and is not himself the subject of an investigation. It appears to me that the FEC's concern over expenses was in fact disingenuous, in light of the fact that the FEC saw fit to have two attorneys travel to Phoenix to attend the deposition, when one would suffice. I should add that both Mr. Raich and Mr. Bernstein were most agreeable the day of the deposition and conducted themselves in a very professional manner. However, this just seems like a false economy on the part of the FEC.

Second, and more important, the tenor and spirit of the Stipulation which I negotiated with Ms. Miller was that four people would be present; the witness, his counsel, the FEC counsel and the reporter. On the basis of my understanding, I had to persuade both Mr. Johnson and his counsel, Mr. D. Randall King, that they should refrain from attending. I did this in spite of my deep conviction that they had absolutely every right to attend that deposition and that Mr. King should have an opportunity to ask questions of the witness. Reluctantly, both Mr. King and his client agreed not to attend the deposition in order to help move this matter along. I believe that the FEC violated the spirit, if not the terms, of the Stipulation by having two counsel attend Mr. Cloud's deposition. In retrospect, had I known that the FEC was going to take this approach, I would have instead encouraged Mr. King to attend, and bring his client along.

I also have one complaint with respect to the tactics used during Mr. Cloud's deposition which I believe should be brought to your attention. Apparently, the FEC attorneys were skeptical with respect to Mr. Cloud's testimony, even though Mr. Cloud had been sworn and was testifying under oath. Toward the end of the deposition, FEC counsel gave Mr. Cloud copies of statutes regarding false testimony, false and misleading statements, perjury

9504367039 4

and the criminal sanctions associated with the same. After Mr. Cloud reviewed these statutes, the question was posed as to whether he would like to change any of his testimony. The clear implication was that Mr. Cloud's testimony was in fact false and that he should take this opportunity to avoid the consequences.

I find this conduct to be both shocking and outrageous. As an attorney, I can see and appreciate the need for putting a witness under oath at the beginning of his testimony. However, I believe that the threat of intimidation by making a witness read statutes and the clear implication that he is lying under oath is unconscionable. If this activity is being conducted without your knowledge, I would strongly encourage you to consult with your staff and put an end to this practice. Worse yet, if this conduct is being done with your knowledge and consent, I believe that such is reproachable, and I would encourage you to review this policy and change it immediately. It is my belief that threats and intimidation have absolutely no place in the American Judicial System.

Finally, a question arose in my mind with respect to my obtaining a copy of the transcript of Mr. Cloud's deposition. I was informed by the court reporter at the end of the deposition that he would not send me a copy of the transcript for Mr. Cloud to read and sign, but rather we would have to travel to the court reporter's office to review and sign it. I have now confirmed with him that he is "under orders" not to provide me with a copy of the deposition transcript.

It is my belief that this approach by the FEC is in direct contravention of the Federal Rules of Civil Procedure. I would request that you provide me with authority on two points. First, the reason why Mr. Cloud cannot retain a copy of his deposition, and second, why a party who is under investigation cannot attend the deposition of a witness, or at least by represented by counsel.

On another matter, a request was made during the deposition for Mr. Cloud's W-2 Form and a tax return for the year 1988. Although I do not believe that these documents were covered by the scope of either the subpoena or the document requests which Mr. Cloud had received, I am enclosing copies of the same. This is being done solely to demonstrate to the FEC Mr. Cloud's willingness to fully cooperate in this matter. I would, of course,

9504367039 5

caution you that we consider these documents to be strictly confidential and are to be used only for the purposes of this particular investigation.

I thank you for your prompt attention to this matter.

Sincerely,

Bruce A. Pelkey

Bruce A. Pelkey
For the Firm

BAP:kb
Enclosures

9504367039 96

FEDERAL ELECTION COMMISSION
WASHINGTON D C 20463

July 16, 1990

BY AIRBORNE EXPRESS

Ms. Kelly Rossi
18002 North 31st Street
Phoenix, Arizona 85032

RE: MUR 2984

Dear Ms. Rossi:

As you may know, the Federal Election Commission has filed suit against Robert Johnson, E. Kenneth Twichell, and three of their corporations in connection with a Commission investigation.

We have been informed that the Respondents' attorney intends to subpoena you for that lawsuit. I am writing to let you know that the Commission will move to quash that subpoena. I also want to assure you that nobody at the Commission has informed the Respondents or their attorney that you have ever talked with us, nor will we do so voluntarily.

I would like to remind you that the confidentiality provisions of the Federal Election Campaign Act of 1971, as amended, are still in effect concerning the Commission's investigation.

As soon as you receive this letter, please call Robert Raich, the attorney handling this matter, at (202) 376-8200 or toll-free at (800) 424-9530, to discuss your potential obligations under the subpoena and related issues.

Sincerely,

Lawrence M. Noble
General Counsel

Jonathan Bernstein

By: Jonathan A. Bernstein
Assistant General Counsel

9504367039 7

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 18, 1990

BY AIRBORNE EXPRESS

Ms. Patricia C. Davidson
8450 Cambridge, #1230
Houston, Texas 77054

RE: MUR 2984

Dear Ms. Davidson:

As you may know, the Federal Election Commission has filed suit against Robert Johnson, E. Kenneth Twichell, and three of their corporations in connection with a Commission investigation.

We have been informed that the Respondents' attorney intends to subpoena you for that lawsuit. I am writing to let you know that the Commission will move to quash that subpoena. I also want to assure you that nobody at the Commission has informed the Respondents or their attorney that you have ever talked with us, nor will we do so voluntarily.

I would like to remind you that the confidentiality provisions of the Federal Election Campaign Act of 1971, as amended, are still in effect concerning the Commission's investigation.

As soon as you receive this letter, please call Robert Raich, the attorney handling this matter, at (202) 376-8200 or toll-free at (800) 424-9530, to discuss your potential obligations under the subpoena and related issues.

Sincerely,

Lawrence M. Noble
General Counsel

By: Jonathan A. Bernstein
Assistant General Counsel

9504367039 8

RECEIVED
FEDERAL ELECTION COMMISSION
SECRETARIAT
90 JUL 25 AM 9:44

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SENSITIVE

July 24, 1990

MEMORANDUM

TO: The Commission

FROM: Lawrence M. Noble
General Counsel

SUBJECT: MUR 2984
E. Kenneth Twichell
Robert Johnson
National Association of Real Estate Appraisers, Inc.
National Association of Review Appraisers and Mortgage Underwriters, Inc.
International Association Managers, Inc.

9504367039 9

I. BACKGROUND

On June 20, 1990, attorneys from the General Counsel's Office took the deposition of Timothy Cloud, a non-respondent witness in this matter. At the deposition, Mr. Cloud and his attorney were informed that Mr. Cloud would have the opportunity to review and sign the transcript of his deposition but could not obtain a copy during the pendency of this investigation. Thereafter, counsel sent the Commission a letter in which, inter alia, he complained that he could not retain a copy of the transcript (Attachment 1, p. 3).

II. ANALYSIS

Contrary to the assertion by counsel that the Commission's approach is in contravention of the Federal Rules of Civil Procedure (which govern civil litigation before federal courts), the Commission's confidential administrative investigations are governed by the Commission's Regulations and relevant portions of the Administrative Procedure Act. In pertinent part, that act states, "A person compelled to submit data or evidence is entitled to retain or, on payment of lawfully prescribed costs, procure a copy or transcript thereof, except that in a nonpublic investigatory proceeding the witness may for good cause be limited to inspection of the official transcript of his testimony." 5 U.S.C § 555(c). See Commercial Capital Corporation v. Securities and Exchange Commission, 360 F.2d 856, 858 (7th Cir. 1966).

It is the position of this Office that "good cause" exists for preventing Timothy Cloud from retaining or procuring a copy

of his deposition transcript. Mr. Cloud was, and is currently, an employee of the respondents in this matter. This Office sought unsuccessfully to take the depositions of respondents Twichell and Johnson, which are now the subject of subpoena enforcement litigation. Credibility of witnesses is an issue in this investigation. If Mr. Cloud were given a copy of his deposition transcript, he would almost certainly share it with respondents and their attorneys. Permitting these respondents to compare the questions and answers of another person would seriously diminish the utility of the depositions as an investigatory tool.

Accordingly, this Office recommends that the Commission consider counsel's letter a request for a copy of Timothy Cloud's deposition transcript, and formally deny that request. This Office has prepared a letter (Attachment 2) that notifies counsel of this decision as well as responds to counsel's other concerns.

III. RECOMMENDATIONS

1. Deny the request for a copy of Timothy Cloud's deposition transcript.

2. Approve and send the attached letter.

Attachments
1. Letter from counsel
2. Proposed letter

Staff Member: R. Raich

9504367040 0

FEDERAL ELECTION COMMISSION
WASHINGTON D C 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/ DONNA ROACH
COMMISSION SECRETARY

DATE: JULY 27, 1990

SUBJECT: MUR 2984 - GENERAL COUNSEL'S REPORT
DATED JULY 24, 1990

The above-captioned document was circulated to the Commission on WEDNESDAY, JULY 25, 1990 at 4:00 p.m. .

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

Commissioner Aikens	
Commissioner Elliott	XXXXX
Commissioner Josefiak	
Commissioner McDonald	
Commissioner McGarry	
Commissioner Thomas	

This matter will be placed on the meeting agenda for TUESDAY, AUGUST 14, 1990 .

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

9504367040 1

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 2984
E. Kenneth Twichell; Robert Johnson; National Association of Real Estate Appraisers, Inc.; National Association of Review Appraisers and Mortgage Underwriters, Inc.; International Association Managers, Inc.	)	

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on August 14, 1990, do hereby certify that the Commission decided by a vote of 6-0 to take the following actions in MUR 2984:

1. Deny the request for a copy of Timothy Cloud's deposition transcript.

2. Approve and send the letter attached to the General Counsel's report dated July 24, 1990, subject to amendment as agreed at the meeting.

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

Attest:

8-15-90
Date

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

9504367040 2

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

August 24, 1990

Bruce A. Pelkey, Esquire
Teilborg, Sanders & Parks
3030 North Third Street
Suite 1300
Phoenix, Arizona 85012

RE: MUR 2984

Dear Mr. Pelkey:

This is to respond to your letter dated June 22, 1990 regarding the investigative deposition of your client Timothy Cloud which took place on June 20, 1990. You raise several points, but primarily object to the attendance of two Commission attorneys at the deposition.

As you are aware, the deposition took place pursuant to Commission subpoena and under a stipulation you entered into on behalf of Mr. Cloud. This stipulation in no way purports to limit the number of FEC counsel who would attend the deposition and the stipulation contains an integration clause stating that it is the entire agreement between the parties. You refer to the "tenor and spirit" of the stipulation as a basis for your expectation that one Commission attorney would be present. The sole concern of the stipulation, however, was not whether the FEC was represented by more than one counsel, but ensuring that Mr. Cloud would appear and testify pursuant to the Commission's subpoena and that third parties would not be present. Indeed, you acknowledge that at the deposition both FEC counsel "were most agreeable" and "conducted themselves in a very professional manner," and thus do not claim that the presence of two FEC counsel was in any way annoying, harassing, or oppressive to the witness. In addition, I am sure you recognize that the staffing of our cases is an internal matter.

More difficult to comprehend is your statement that the presence of two Commission attorneys would have justified your invitation of third parties to attend the deposition. Such an invitation would have been in plain violation of the stipulation. As to your request for authority as to "why a party who is under investigation cannot attend the deposition of a witness," we would suggest that you obtain copies of the pleadings in FEC v. Robert Johnson, et al., CIV 90-880-PHX-PGR (D. Ariz.) for further information.

9504367040 03

You also protest my staff's showing the texts of 18 U.S.C. §§ 1001 and 1621 to Mr. Cloud during his deposition. This approach was not intended as a "threat[] and intimidation" as you suggest, but only to remind an inexperienced witness of the gravity of the investigative deposition and to assure that any witness have a last clear chance to clarify any inaccurate testimony with full knowledge of potential sanctions. We apologize if any misunderstanding arose as a result.

Finally, you contend that your client is entitled to a copy of the deposition transcript at this time, invoking the Federal Rules of Civil Procedure. Your client's sworn testimony was not taken pursuant to Rule 30, Fed. R. Civ. P., but rather under a Federal Election Commission subpoena as part of a confidential civil law enforcement investigation. Thus, the Federal Rules apply only to the extent specifically mandated by the Federal Election Campaign Act or the Commission's rules.

Specifically, under Section 111.12(c) of the Commission's Regulations, "the opportunity to review and sign" investigative depositions taken pursuant to Commission subpoena is governed by Fed. R. Civ. P. 30(e), providing that "the deposition shall be submitted to the witness for examination." "Submission" of a transcript, however, does not require physical delivery, but is satisfied where, as here, a court reporter makes the transcript available for review at the court reporter's office. Johnson v. Alcan Aluminum Corporation, 106 F.R.D. 314 (N.D. Ga. 1979).

No other provision of Rule 30, Fed. R. Civ. P., is applicable to the Commission's investigative depositions, and no other procedural, statutory, or constitutional rule compels the Commission to provide copies of a transcript to a witness in its investigation. See SEC v. Jerry T. O'Brien, Inc., 467 U.S. 735 (1984); 5 U.S.C. § 555(c) (for good cause an agency need not provide a copy of investigative testimony to a witness, but may limit the witness to inspection of the transcript).

Be advised that, interpreting your June 22 letter as a request for a copy of Timothy Cloud's deposition transcript, on August 14, 1990 the Commission determined there was good cause not to provide a copy and denied your request.

If you have any further questions, please contact Robert Raich, the attorney handling this matter.

Sincerely,

Lawrence M. Noble
General Counsel

9504367004

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 22, 1990

MEMORANDUM

TO: The Commission

FROM: Lawrence M. Noble
General Counsel

SUBJECT: Additional Subpoenas in MUR 2984

I. Background

The Commission has issued several sets of subpoenas to the individual respondents in this matter as well as to the three corporate respondents, International Association Managers, National Association of Real Estate Appraisers, and National Association of Review Appraisers and Mortgage Underwriters. On January 30, 1990 and April 24, 1990, the Commission authorized this Office to bring suit to enforce these subpoenas and this Office filed suit against the respondents on April 30, 1990 and June 11, 1990. At an August 6, 1990 hearing on the Commission's petitions, the court directed the parties to submit a Stipulation and Order providing for the production of the specific documents covered by the subpoenas.

During this Office's negotiations with counsel over the terms of the draft Stipulation and Order (Attachment 1), respondents' counsel maintained that no financial records of the nonrespondent affiliated entities (described as "Specified Persons" in the subpoenas) would be produced. Counsel took this position because of collateral litigation now ongoing against the organizations. The subpoenas require the production of all responsive documents available to the respondent organizations, including documents relating to financial transactions between the respondent corporations and all "Specified Persons." Moreover, it became clear when staff of this Office visited respondents' offices that all the organizations are closely related and under the control of Robert Johnson. On the other hand, to avoid any question, this Office believes it preferable for the Commission to issue separate subpoenas to these organizations. Counsel then agreed that all the documents would be produced in September at the organizations' offices provided this Office would later seek Commission subpoenas formally addressed to the other entities (Attachment 3).

9504367040 5

Today, this Office learned that this representation made by counsel would not be honored. Accordingly, to avoid putting off any further the necessary document production, but to ensure all the relevant documents are available, this Office recommends the Commission issue subpoenas to Professional Womens Appraisal Association, Robert Johnson and Associates, International Real Estate Institute, and Todd Publishing. The substance of the subpoenas corresponds to the materials specified in the Commission's proposed Order submitted in the subpoena enforcement litigation (a sample subpoena, to Todd Publishing, is attached).

II. Recommendation

Approve subpoenas to Professional Womens Appraisal Association, Robert Johnson and Associates, International Real Estate Institute, and Todd Publishing.

Attachments

9504367040 6

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 2984
National Association of Real Estate Appraisers, et al.	)	
	)	

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on August 23, 1990, do hereby certify that the Commission decided by a vote of 5-0 to approve the subpoenas to Professional Womens Appraisal Association, Robert Johnson and Associates, International Real Estate Institute, and Todd Publishing as recommended in the FEC General Counsel's report dated August 22, 1990.

Commissioners Elliott, Josefiak, McDonald, McGarry, and Thomas voted affirmatively for the decision; Commissioner Aikens was not present.

Attest:

8-23-90
Date

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

9504367040 7

060 7815

MERCHANT & GOULD

Merchant, Gould, Smith, Edell, Welter & Schmidt
Professional Association
Patent, Trademark & Copyright Lawyers

1000 Norwest Center
55 East Fifth Street
Saint Paul, Minnesota
U.S.A. 55101
FAX 612/298-1160
Telex 297470 MANDG Stp
612/298-1055

John D. Gould
Phillip H. Smith
Robert T. Edell
Paul A. Welter
Cecil C. Schmidt
John S. Sumners
Alan G. Carlson
Micheal L. Schwegman
Earl D. Reiland
Charles E. Golla
Douglas J. Williams
Douglas A. Strawbridge
Albert L. Underhill
D. Randall King
Norman P. Friedericks
Michael B. Lasky
Curtis B. Hamre
Michael D. Schumann
Michael L. Mau
John A. Clifford
Mark J. DiPietro
Steven W. Lundberg
Warren D. Woessner
...
Janet R. Westrom
David G. Johnson
Alan W. Kowalchyk
Michael S. Sherrill
Timothy R. Conrad
Daniel W. McDonald
R. Carl Moy
Robert C. Freed
Daniel J. Kluth
Wendy M. McDonald
Linda M. Byrne
Mark D. Schuman
Randall A. Hillson
John P. Sumner
Brian H. Batzli
David K. Tellekson
Hallie A. Finucane
John J. Gresens
Steven J. Keough
Paul E. Lacy
John L. Knoble
Michelle M. Michel
Philip P. Caspers
...
Gregory A. Sebald
Jane H. Arrett
A. James Nelson
Robert C. Beck
George H. Gates
John M. Kelly
Gregory M. Taylor
Kristine M. Strodthoff
Thomas E. Jurgensen
Steven C. Bruess
Joel A. Rothfus
Mark A. Krull

August 31, 1990

VIA FIRST CLASS MAIL

Federal Election Commission
Attn: Robert Raich
999 E Street, N.W.
Washington, D.C. 20463

RE: Federal Election Commission v. NAREA
MUR 2984
Our Ref: M&G 3230.23-US-AA

Dear Mr. Raich:

Pursuant to the agreed upon Stipulation to Produce Documents, please find enclosed the following documents as requested:

1. 1988 W-2 forms for Robert Johnson, Kenneth Twichell, Timothy Cloud, Stephen Schneck and Todd Johnson.

2. 1988 W-3 forms for National Association of Review Appraisers and Mortgage Underwriters, International Association Managers, Inc., and Todd Publishing, Inc.

3. Check No. 10371 issued to "The Presidential Galore", and Check No. 10462 issued to the "Presidential Inaugural Committee".

4. Affidavits of Robert G. Johnson and Rick R. Stout.

Please do not hesitate to contact me if you have any questions or comments.

RECEIVED
FEDERAL ELECTION COMMISSION
90 SEP 10 PM 12:22
OFFICE OF GENERAL COUNSEL

90 SEP 10 AM 10:14

95043367040 8

Very truly yours,

Edward R. Courtney

Edward R. Courtney
Legal Assistant

Enclosures

cc: D. Randall King, Esq.
Robert G. Johnson

9504387040409

Alan Sears, Attorney No. 011702
SNELL & WILMER
3100 Valley Bank Center
Phoenix, AZ 85073
(602)257-7211

D. Randall King
Joel A. Rothfus
MERCHANT & GOULD
1000 Norwest Center
55 East Fifth Street
St. Paul, MN 55101
(602)298-1055

Attorneys for Respondents

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA
PHOENIX DIVISION

FEDERAL ELECTION COMMISSION, a Federal Agency, Petitioner, v. NATIONAL ASSOCIATION OF REAL ESTATE APPRAISERS, INC., an Arizona Corporation, et al., Respondents	Civil Action No.: 90-0701 PHX PGR AFFIDAVIT OF ROBERT G. JOHNSON

STATE OF ARIZONA)
) SS.
COUNTY OF MARICOPA)

Robert G. Johnson, being duly sworn, deposes and says as follows:

1. I am Robert G. Johnson, the executive director of National Association of Real Estate Appraisers, Inc. (hereinafter "NAREA"), and National Association of Review Appraisers and

9504367041O

Mortgage Underwriters, Inc. (hereinafter "NARA/MU), and an officer of International Association Managers, Inc (hereinafter "IAM").

2. I have carefully reviewed the stipulation to produce documents in the above-captioned matter.

3. There are no documents relating to Robert Johnson and Associates for the year 1988, because I did not have ownership interest in the company in 1988.

4. There are no check authorizations forms for the year 1988, pertaining to the issuance of checks written by either "NAREA", "NARA/MU", "IAM", International Real Estate Institute (aka International Institute of Valuers), Professional Womens Appraisal Association, or Todd Publishing, Inc. to Robert Johnson, Kenneth Twichell, Timothy Cloud, Stephen Schneck or Todd Johnson, or to any of the other associations or to any candidate, party or political committee.

5. There are no invoices, bills, receipts, or purchase orders available for the year 1988, pertaining to payments or reimbursements made to Robert Johnson, Kenneth Twichell, Timothy Cloud, Stephen Schneck or Todd Johnson, or to any of the other associations or to any candidate, party or political committee by "NAREA", "NARA/MU", "IAM", International Real Estate Institute (aka International Institute of Valuers), Professional Womens Appraisal Association, or Todd Publishing, Inc.

6. During the year 1988, there were no written contracts or leases between or among "NAREA", "NARA/MU", "IAM",

9504367041

International Real Estate Institute (aka International Institute of Valuers), Professional Womens Appraisal Association, Todd Publishing, Inc., Robert Johnson, Kenneth Twichell, Timothy Cloud, Stephen Schneck or Todd Johnson.

7. There are no documents available for the year 1988, reflecting electronic transfers into or out of the bank accounts of "NAREA", "NARA/MU", "IAM", International Real Estate Institute (aka International Institute of Valuers), Professional Womens Appraisal Association, Todd Publishing, Inc.

Further affiant sayeth not.

ROBERT G. JOHNSON

Subscribed and sworn to before me this 29 day of August, 1990.

Notary Public
Commission Expires 6/30/93

9504367041 2

Alan Sears, Attorney No. 011702
SNELL & WILMER
3100 Valley Bank Center
Phoenix, AZ 85073
(602)257-7211

D. Randall King
Joel A. Rothfus
MERCHANT & GOULD
1000 Norwest Center
55 East Fifth Street
St. Paul, MN 55101
(602)298-1055

Attorneys for Respondents

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA
PHOENIX DIVISION

FEDERAL ELECTION COMMISSION, a Federal Agency, Petitioner, v. NATIONAL ASSOCIATION OF REAL ESTATE APPRAISERS, INC., an Arizona Corporation, et al., Respondents	Civil Action No.: 90-0701 PHX PGR AFFIDAVIT OF RICK R. STOUT

STATE OF MINNESOTA)
) SS.
COUNTY OF HENNEPIN)

Rick R. Stout, being duly sworn, deposes and says as follows:

1. I am Rick R. Stout, a Certified Public Accountant employed by Boyum and Barenscheer at 7800 Metro Parkway, Suite 200, Minneapolis, Minnesota, 55425.

9504336704113

2. I am the Certified Public Accountant for the Respondents.

3. In the above-captioned matter, I have been requested to produce certain records within my control, and I have gathered the following documents:

A. The W-2 Wage and Tax Statement forms for the year 1988, pertaining to Robert Johnson, Kenneth Twichell, Timothy Cloud, Stephen Schneck and Todd Johnson.

B. The W-3 Transmittal of Income and Tax Statement forms for the year 1988, pertaining to National Association of Review Appraisers and Mortgage Underwriters, International Association Managers, Inc., and Todd Publishing, Inc.

4. There were no Form 1099's filed for the year 1988, pertaining to Robert Johnson, Kenneth Twichell, Timothy Cloud, Stephen Schneck and Todd Johnson.

5. There were no W-3 Transmittal of Income and Tax Statement forms for the year 1988, pertaining to either National Association of Real Estate Appraisers, International Real Estate

9504367041 4

Institute (aka International Institute of Valuers), or

Professional Womens Appraisal Association.

Further affiant sayeth not.

Rick R. Stout

RICK R. STOUT
Certified Public Accountant

Subscribed and sworn to before
me this 7th day of August, 1990.

Barbara J. Hillesheim

Notary Public
Commission Expires March 19, 1991

BARBARA J. HILLESHEIM
NOTARY PUBLIC - MINNESOTA
DAKOTA COUNTY
My Comm. Exp. Mar. 19, 1991

9504367041 5

OGC 7780

MERCHANT & GOULD

Merchant, Gould, Smith, Edell, Welter & Schmidt
Professional Association
Patent, Trademark & Copyright Lawyers

1000 Norwest Center
55 East Fifth Street
Saint Paul, Minnesota
U.S.A. 55101
FAX 612/298-1160
Telex 297470 MANDG Stp
612/298-1055

John D. Gould
Phillip H. Smith
Robert T. Edell
Paul A. Welter
Cecil C. Schmidt
John S. Sumners
Alan G. Carlson
Micheal L. Schwegman
Earl D. Reiland
Charles E. Golla
Douglas J. Williams
Douglas A. Strawbridge
Albert L. Underhill
D. Randall King
Norman P. Friederichs
Michael B. Lasky
Curtis B. Hamre
Michael D. Schumann
Michael L. Mau
John A. Clifford
Mark J. DiPietro
Steven W. Lundberg
Warren D. Woessner
• • •
Janet R. Westrom
David G. Johnson
Alan W. Kowalchyk
Michael S. Sherrill
Timothy R. Conrad
Daniel W. McDonald
R. Carl Moy
Robert C. Freed
Daniel J. Kluth
Wendy M. McDonald
Linda M. Byrne
Mark D. Schuman
Randall A. Hillson
John P. Sumner
Brian H. Batzli
David K. Tellekson
Hallie A. Finucane
John J. Gresens
Steven J. Keough
Paul E. Lacy
John L. Knoble
Michelle M. Michel
Philip P. Caspers
Gregory A. Sebald
Jane H. Arrett
A. James Nelson
Robert C. Beck
George H. Gates
John M. Kelly
Gregory M. Taylor
Kristine M. Strodthoff
Thomas E. Jurgensen
Steven C. Bruess
Joel A. Rothfus
Mark A. Krull

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 SEP -7 PM 12: 11

September 5, 1990

BY FACSIMILE

Federal Election Commission
Attn: V. Colleen Miller, Attorney
999 E Street, N.W.
Washington, D.C. 20463

90 SEP -7 PM 11:05

RE: Federal Election Commission v. NAREA
Your Ref: MUR 2984
Our Ref: M&G 3230.23-US-AA

Dear Colleen:

This letter is intended to summarize the chain of events of the last several weeks and delineate the current understanding between the parties. On August 6, 1990, the parties attended a hearing in Phoenix, Arizona, to argue before the District Court why the subpoenas of the Federal Election Commission (FEC) should or should not be enforced. Upon commencement of the hearing, counsel for the FEC presented the court and counsel for respondents with a proposed order that included a definitive list of documents (identified with particularity for the first time).

Following argument on issues regarding the production of documents and the taking of depositions, the Court encouraged the parties to adjourn to a conference room and reach an agreement as to the production of documents identified in the FEC's proposed order. Given the extensive nature of the list, counsel for the parties was unable to execute a stipulation during the adjournment.

Later in the week, counsel for the FEC drafted a proposed Stipulation and Order and forwarded it to counsel for respondents. This document was worded differently than the list that was presented to counsel for respondents on August 6, 1990, and thus, over the course of the next several days, counsel for

9504336704 16

respondents requested that certain changes be made. Counsel for respondents also made it clear that Robert Johnson was out of the country at the time. Accordingly, counsel for respondents agreed to the terms of the revised Stipulation and Order, signed it, and sent it to the attention of Robert Johnson for final review prior to filing with the Court.

On August 10, 1990, Mr. Johnson arranged for the revised Stipulation and Order to be forwarded to the Court for filing, and the document would have been filed in due course, except that it did not conform to local rules, which require that a Stipulation and an Order be filed as separate documents. The document was returned to Mr. Johnson on August 13, 1990, at which time counsel for the parties deliberated how to best resolve the problem. Counsel for the FEC suggested deleting any reference to an order in the revised Stipulation and Order and proceeded to prepare a separate Order, which is believed to have been filed with the Court later in the week of August 13, 1990.

Before the revised Stipulation and Order was edited to delete any reference to an order, a question arose as to whether any non-respondent corporations should produce documents in the absence of a subpoena. General corporate counsel for certain respondent and non-respondent corporations advised against any agreement to produce documents by entities not subject to a subpoena. Accordingly, on August 20, 1990, counsel for respondents advised counsel for the FEC of this problem, and counsel for the parties agreed that the FEC would seek subpoenas for the documents requested of non-respondents.

Believing that it was sufficient that the FEC seek subpoenas for the non-respondents, counsel for respondents agreed to the terms of the revised and edited Stipulation. However, pursuant to advice of general corporate counsel, non-respondent corporations were not to produce any documents in the absence of a subpoena, and thus, respondents could not agree to produce documents of any non-respondent corporations. Counsel for respondents proposed, drafted, and signed a new Stipulation, which distinguishes between the documents requested of respondents and the documents requested of non-respondents, and forwarded it to counsel for the FEC.

On the basis of assurances by counsel for the FEC that there was a better than 90% chance that the subpoenas of the non-respondent corporations would issue, and in the interest of advancing the investigation toward resolution, it was agreed that the non-respondent corporations would immediately initiate the costly and time consuming process of obtaining requested documents that were not presently in the possession of the non-respondent

9504367041 7

corporations. However, it was further stipulated that documents of the non-respondent corporations would not actually be produced until subpoenas were served on them.

As of August 31, 1990, respondents have fully complied with that portion of the document production delineated in the "single-spaced" portion of the Stipulation filed with the Court. With respect to the "double spaced" portion of the Stipulation (on page 4), which includes documents from the non-respondent corporations, counsel for the FEC expressed an interest in reviewing such documents in Scottsdale, Arizona, on September 12 through September 14, 1990. Mr. Johnson changed his travel plans in order to accommodate this request, and all documents that are subject to the subpoenas and within the possession of those entities subpoenaed will be made available during business hours (9:00 a.m. - 5:00 p.m., Monday - Friday).

Counsel for the FEC has been advised that certain of the documents requested are not presently in the possession of the entities subpoenaed, but that the costly process of obtaining such documents has been initiated. Also, counsel for the FEC has been advised that it is not likely that all of the documents that have been "ordered" will arrive on or before September 14, 1990. In fact, this is why the Stipulation provided for up to sixty (60) days in which to produce these documents. Irrespective of quantity, any "late arriving documents" are to be produced in Scottsdale, Arizona. Accordingly, if any "ordered" documents arrive after September 14, 1990, then counsel for the FEC will have to make a second trip to Scottsdale, in order to review and/or copy the "late arriving documents."

We would appreciate your prompt reply. If you have any questions or comments, please do not hesitate to contact me.

Sincerely,

Mark A. Krull

Mark A. Krull

MAK/lmd

9504367041 8

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 5, 1990

David L. Hanna, Treasurer
Arizona Republican Party
3501 North 24th Street
Phoenix, AZ 85016

RE: MUR 2984

Dear Mr. Hanna:

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 requires you to provide certain information in connection with an investigation it is conducting, relating to the Arizona Republican Party's sale of a mailing list during 1988 and two receipts of the Party during 1988. The Commission does not consider you a respondent in this matter, but rather a witness only.

1. Please identify, by title and number of names, each mailing list maintained by the Party during 1988.

2. Please state whether a mailing list was sold or otherwise provided to any of the following persons or entities during 1988:

Robert J. Johnson;
E. Kenneth Twichell;
International Association Managers;
National Association of Real Estate Appraisers;
National Association of Review Appraisers and Mortgage Underwriters;
Professional Womens Appraisal Association;
Robert Johnson and Associates;
International Real Estate Institute (A/K/A International Institute of Valuers);
Todd Publishing.

9504367041 9

If the answer is yes, then for each transaction,

a) please describe the list sold, the person or entity to whom the list was sold, the date of the transaction, and the terms of the sale; and

b) please provide copies of all documents relating in any way to the transaction, including correspondence, notes of telephone conversations, bills or statements, and the check(s) or other written instrument(s) provided in payment for the list(s).

2. On Line 15 of its 1988 April Quarterly Report filed with the Commission, the Party reported a March 18, 1988 refund, rebate or other receipt from Robert G. Johnson in the amount of $493 (a copy of the page is attached). Please describe the specific purpose of this transaction and provide copies of all documents relating to it.

3. Please state whether the Party received a check for $156 from E. Kenneth Twichell on or about May 10, 1988. If the answer is yes, please describe the specific purpose of this transaction and provide copies of all documents relating to it.

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

You may consult with an attorney and have an attorney assist you in the preparation of your responses to these questions. However, please respond to this letter within 30 days of the date of this letter. All answers to questions should be submitted under oath.

The Commission appreciates your cooperation in this matter. If you have any questions, please contact Patty Reilly, the attorney assigned to this matter, at (800) 424-9530.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Attachment

9504367 0420

SCHEDULE A — ITEMIZED RECEIPTS

DEFICIT TO OPERATING EXPENDITURES (POSITIVE) OR SURPLUS (NEGATIVE)

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

NAME OF COMMITTEE (in Full)

ARIZONANS FOR STATE CONSERVATIVE LEADERS

A. Full Name, Mailing Address and ZIP Code
Friends of Scottsdale
4253 N Scottsdale Road Ste 200
Scottsdale, AZ 85251

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

B. Full Name, Mailing Address and ZIP Code
Friends of Scottsdale
(Continued)

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

C. Full Name, Mailing Address and ZIP Code
Hon. Gary Stanford
New River State Box 2870
Phoenix AZ 85029

Receipt For: ☐ Primary ☐ General ☐ Other (specify): Gen. Op. Expenses

D. Full Name, Mailing Address and ZIP Code
Bruce Westmoreland Campaign Fund
7141 N. 51st Ave.
Glendale AZ 85301

Receipt For: ☐ Primary ☐ General ☐ Other (specify): Gen. Op. Expenses

E. Full Name, Mailing Address and ZIP Code
Mr. John F. Huppenthal
3203 N. Ellis Street
Chandler AZ 85224

Receipt For: ☐ Primary ☐ General ☐ Other (specify): Gen. Op. Expenses

02/01/94 $ 150.00
02/01/94 $ 343.00

F. Full Name, Mailing Address and ZIP Code
Mr. Robert G. Johnson
8628 E. Sharon Drive
Scottsdale AZ 85260

Receipt For: ☐ Primary ☐ General ☐ Other (specify): Gen. Op. Expenses

02/16/94 $ 493.00

G. Full Name, Mailing Address and ZIP Code
Committee To Re-elect Killian
4435 E. Broadway #2
Mesa AZ 85206

Receipt For: ☐ Primary ☐ General ☐ Other (specify): Gen. Op. Expenses

SUBTOTAL of Receipts This Page (optional) ..... $ 2882.50

TOTAL This Period (last page this line number only)

95043670421

2984

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

December 6, 1990

D. Randall King, Esquire
Merchant & Gould
100 Northwest Center
55 East Fifth Street
Saint Paul, MN 55101

Re: FEC v. Robert Johnson, (D.Az.) No. CIV 90-880-PHX-PGR
FEC v. National Association of Real Estate Appraisers, (D.Az.) No. CIV 90-701-PHX-PGR

Dear Mr. King:

As we discussed on December 5, 1990, I am writing with regard to some details that have arisen as a result of the recent depositions of your clients. On November 1 and 2, 1990, your clients, Robert Johnson and E. Kenneth Twichell, were deposed regarding the above-captioned matter. As discussed in the context of the depositions, your clients and the organizations with which they are associated have received numerous subpoenas from the Commission. From our review of materials submitted thus far and the deposition transcripts, it appears there may still be outstanding materials responsive to the Commission's subpoenas.

First, the Commission requests all Internal Revenue Service Forms 1099 issued by the organizations in 1988. Although on August 29, 1990, Rick R. Stout, a certified public accountant, stated in his affidavit that "[t]here are no Form 1099's filed for the year 1988, pertaining to Robert Johnson, Kenneth Twichell, Timothy Cloud, Steven Schneck and Todd Johnson," the deposition testimony indicated otherwise. For example, Mr. Twichell testified that he had, in fact, received such a document for 1988 from NAREA. We, therefore, renew our request for the 1099s or an explanation of this apparent confusion.

Second, as you know, Mr. Twichell has not yet produced a complete copy of his check register for 1988. Although Mr. Twichell testified as to his efforts to locate documents generally, it is not clear that Mr. Twichell made any additional efforts to locate the specific missing registers

9504367004 22

covering entries between August and December, 1988. We would appreciate receiving a sworn statement from Mr. Twichell explaining the absense of the registers and the steps taken to locate them.

Third, there appears to be some confusion regarding the total number of Mr. Twichell's savings and other financial accounts in 1988. The November 29, 1989 and February 6, 1990 subpoenas to Mr. Twichell requests production of documents in possession of, known by, or otherwise available to him, with regard to bank and financial statements. There is some indication that production of such is incomplete. The check registers produced make references to a variety of savings, such as "(little) savings," "Ken's savings," "my savings," "reg. savings," "our savings," "'bonus' savings." No documents have been produced from these additional savings accounts. Perhaps a sworn statement from Mrs. Twichell, who apparently maintains the register, would clear up this confusion. I am attaching a list of the register references for your convenience. If these references do, in fact, relate to additional accounts, please produce the required documents. If, on the other hand, the entries do not represent savings accounts, please explain.

Additionally, during the deposition, Mr. Twichell discussed a check he may have written to the Arizona Republican Party (check number 814 of May 10, 1988 for $156). Although the subpoenas required the production of all 1988 checks to specified persons, including any political party, we have not yet received this check. Therefore, please provide either the original or a legible copy (front and back) of such check.

Finally, as Mr. Twichell pointed out in his deposition, a few pages of the produced register photocopy are difficult to read. We request, therefore, that you produce either the original register, as required by the subpoena, or legible copies of pages 14, 18 and 25-32 of Twichell deposition exhibit #3.

Please contact me or Patty Reilly at (202) 376-5690 on your receipt of this letter so that we can make arrangements for the production of this information. Thank you for your continued cooperation.

Sincerely,

V. Colleen Miller
Attorney

attachment

9504367042 3

SAVINGS ACCOUNT REFERENCES

1/21/88	"Deposit from savings"
1/23/88	"Deposit from jeep and savings"
3/17/88	"Deposit from (little) savings"
4/8/88	"Deposit from Ken's savings"
5/9/88	"Deposit-from savings"
5/23/88	"Deposit (my check- current money- Ken's B/D"
6/7/88	"Deposit my check plus 11.00 from Current"
6/18/88	"Deposit from savings"
7/9/88	"Deposit from savings (Ken's bonus)"
7/18/88	"Deposit - from my savings"
7/20/88	"Deposit (to pay off bills)"
7/22/88	"Deposit Ken's check" " 120 from reg. savings"
7/29/88	"Deposit from our savings"
8/1/88	"Deposit from 'my' savings"
8/5/88	"Deposit from 'bonus' savings"
12/30/88	"Deposit from savings"

9504367042 4

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 6, 1990

Delwyn Olson, Treasurer
Durenberger for Senate Volunteer Committee
1103 Plymouth Building
Minneapolis, MN 55402

RE: MUR 2984

Dear Mr. Olson:

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 requires you to provide certain information in connection with an investigation it is conducting relating to certain individual contributions received by the Durenberger Committee during 1988. The Commission does not consider you a respondent in this matter, but rather a witness only.

Please answer the following questions:

1. a) Provide the date(s) of all 1988 fundraisers for the Durenberger Committee held at the home of D. Randall King in St. Paul, Minnesota.

b) List the name, address, and occupation of each person who made a contribution in connection with each such fundraiser, as well as the place on the Committee's reports (report name, page, and line number) where each contribution was disclosed.

c) Identify all persons involved in planning, arranging, hosting, or otherwise assisting in each event.

2. Please provide copies of the checks or other written instruments evidencing the following contributions received by the Durenberger Committee:

Date	Name	Amount
3/9/88	Robert G. Johnson	$500
3/9/88	Stephen Schneck	$500
3/9/88	E. Kenneth Twichell	$500
5/27/88	Robert G. Johnson	$500
5/27/88	E. Kenneth Twichell	$500

9504336704 25

Pages of the Committee's reports disclosing receipt of these contributions are attached for your information.

3. The Committee reported the following transaction on its 1988 July Quarterly Report (the page disclosing this payment is also attached):

Payee	Purpose	Date	Amount
Arizona Club 3550 N. Central Ave. Phoenix, AZ 85012	Fundraiser	4/25/88	$626.69

With regard to the event connected to this transaction:

a) Provide the date of the event.

b) Identify all persons involved in planning, arranging, hosting, or otherwise assisting in this event.

c) Provide copies of invitations, correspondence, invoices, and all other documents relating to the event.

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

You may consult with an attorney and have an attorney assist you in the preparation of your responses to these questions. However, please respond to this letter within 30 days of the date of this letter. All answers to questions should be submitted under oath.

The Commission appreciates your cooperation in this matter. If you have any questions, please contact Patty Reilly, the attorney assigned to this matter, at (800) 424-9530.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosures

9504336700426

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

December 17, 1990

Creative Litho
2741 West Palm Lane
Phoenix, AZ 85009

RE: MUR 2984

Dear Sir:

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. Pursuant to 2 U.S.C. § 437g, the Federal Election Commission is conducting a confidential investigation in the above-captioned matter. The Commission does not consider you a respondent in this matter, but rather a witness only.

In furtherance of this investigation, the Commission requires certain information regarding materials or services you may have provided to any of the following persons or entities: the International Association Managers, Inc.; the National Association of Real Estate Appraisers, Inc.; Todd Publishing, Inc.; National Association of Review Appraisers and Mortgage Underwriters, Inc.; Professional Women's Appraisal Association, Inc.; International Real Estate Institute, Inc. (a.k.a. International Institute of Valuers), E. Kenneth Twichell and Robert Johnson.

Specifically, the Commission requests information about all materials or services referring or relating to any federal political candidates or committees that your company may have provided to the entities or persons listed above between January 1, 1988 and June 1, 1988. Please provide all documents relating to these materials or services, including but not limited to: copies of these materials, all correspondence between your company and the persons and entities identified above, checks evidencing payment, and all invoices.

State whether you or any employee was solicited for contributions to any federal political candidates or committees by Robert Johnson or E. Kenneth Twichell. If so, state the date of this solicitation and describe the circumstances under which it occurred. State whether a contribution was made. Additionally, if a contribution was solicited or made, please provide all

9504367042 7

documents and materials relating to it, including but not limited to: all solicitation materials, check copies, and materials received from the recipient committees. Please have your response sworn and notarized.

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.

The Commission appreciates your cooperation in responding to these questions and request for materials. Please contact Patty Reilly, the attorney assigned to this matter at (800) 424-9530 regarding your response.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

9504367042 8

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 17, 1990

International Minute Press
13610 North Scottsdale Road
Scottsdale, AZ 85257

RE: MUR 2984

Dear Sir:

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. Pursuant to 2 U.S.C. § 437g, the Federal Election Commission is conducting a confidential investigation in the above-captioned matter. The Commission does not consider you a respondent in this matter, but rather a witness only.

In furtherance of this investigation, the Commission requires certain information regarding materials or services you may have provided to any of the following persons or entities: the International Association Managers, Inc.; the National Association of Real Estate Appraisers, Inc.; Todd Publishing, Inc.; National Association of Review Appraisers and Mortgage Underwriters, Inc.; Professional Women's Appraisal Association, Inc.; International Real Estate Institute, Inc. (a.k.a. International Institute of Valuers), E. Kenneth Twichell and Robert Johnson.

Specifically, the Commission requests information about all materials or services referring or relating to any federal political candidates or committees that your company may have provided to the entities or persons listed above between January 1, 1988 and June 1, 1988. Please provide all documents relating to these materials or services, including but not limited to: copies of these materials, all correspondence between your company and the persons and entities identified above, checks evidencing payment, and all invoices.

State whether you or any employee was solicited for contributions to any federal political candidates or committees by Robert Johnson or E. Kenneth Twichell. If so, state the date of this solicitation and describe the circumstances under which it occurred. State whether a contribution was made. Additionally, if a contribution was solicited or made, please provide all

9504367042 9

documents and materials relating to it, including but not limited to: all solicitation materials, check copies, and materials received from the recipient committees. Please have your response sworn and notarized.

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.

The Commission appreciates your cooperation in responding to these questions and request for materials. Please contact Patty Reilly, the attorney assigned to this matter at (800) 424-9530 regarding your response.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

9504367043O

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

December 17, 1990

The Complete Print Shop
4234 East University
Phoenix, AZ 85034

RE: MUR 2984

Dear Sir:

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. Pursuant to 2 U.S.C. § 437g, the Federal Election Commission is conducting a confidential investigation in the above-captioned matter. The Commission does not consider you a respondent in this matter, but rather a witness only.

In furtherance of this investigation, the Commission requires certain information regarding materials or services you may have provided to any of the following persons or entities: the International Association Managers, Inc.; the National Association of Real Estate Appraisers, Inc.; Todd Publishing, Inc.; National Association of Review Appraisers and Mortgage Underwriters, Inc.; Professional Women's Appraisal Association, Inc.; International Real Estate Institute, Inc. (a.k.a. International Institute of Valuers), E. Kenneth Twichell and Robert Johnson.

Specifically, the Commission requests information about all materials or services referring or relating to any federal political candidates or committees that your company may have provided to the entities or persons listed above between January 1, 1988 and June 1, 1988. Please provide all documents relating to these materials or services, including but not limited to: copies of these materials, all correspondence between your company and the persons and entities identified above, checks evidencing payment, and all invoices.

State whether you or any employee was solicited for contributions to any federal political candidates or committees by Robert Johnson or E. Kenneth Twichell. If so, state the date of this solicitation and describe the circumstances under which it occurred. State whether a contribution was made. Additionally, if a contribution was solicited or made, please provide all documents and materials relating to it, including but not limited

9504336704 31

to: all solicitation materials, check copies, and materials received from the recipient committees. Please have your response sworn and notarized.

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.

The Commission appreciates your cooperation in responding to these questions and request for materials. Please contact Patty Reilly, the attorney assigned to this matter at (800) 424-9530 regarding your response.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

9504336704 32

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 17, 1990

The Arnold Corporation
7855 South River Parkway
Suite 106
Tempe, AZ 85284

RE: MUR 2984

Dear Sir:

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. Pursuant to 2 U.S.C. § 437g, the Federal Election Commission is conducting a confidential investigation in the above-captioned matter. The Commission does not consider you a respondent in this matter, but rather a witness only.

In furtherance of this investigation, the Commission requires certain information regarding materials or services you may have provided to any of the following persons or entities: the International Association Managers, Inc.; the National Association of Real Estate Appraisers, Inc.; Todd Publishing, Inc.; National Association of Review Appraisers and Mortgage Underwriters, Inc.; Professional Women's Appraisal Association, Inc.; International Real Estate Institute, Inc. (a.k.a. International Institute of Valuers), E. Kenneth Twichell and Robert Johnson.

Specifically, the Commission requests information about all materials or services referring or relating to any federal political candidates or committees that your company may have provided to the entities or persons listed above between January 1, 1988 and June 1, 1988. Please provide all documents relating to these materials or services, including but not limited to: copies of these materials, all correspondence between your company and the persons and entities identified above, checks evidencing payment, and all invoices.

State whether you or any employee was solicited for contributions to any federal political candidates or committees by Robert Johnson or E. Kenneth Twichell. If so, state the date of this solicitation and describe the circumstances under which it occurred. State whether a contribution was made. Additionally,

9504367043 3

if a contribution was solicited or made, please provide all documents and materials relating to it, including but not limited to: all solicitation materials, check copies, and materials received from the recipient committees. Please have your response sworn and notarized.

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.

The Commission appreciates your cooperation in responding to these questions and request for materials. Please contact Patty Reilly, the attorney assigned to this matter at (800) 424-9530 regarding your response.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

95043670434

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 17, 1990

Arizona Mailing Services
4215 North Winfield
Scottsdale, AZ 85251

RE: MUR 2984

Dear Sir:

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. Pursuant to 2 U.S.C. § 437g, the Federal Election Commission is conducting a confidential investigation in the above-captioned matter. The Commission does not consider you a respondent in this matter, but rather a witness only.

In furtherance of this investigation, the Commission requires certain information regarding materials or services you may have provided to any of the following persons or entities: the International Association Managers, Inc.; the National Association of Real Estate Appraisers, Inc.; Todd Publishing, Inc.; National Association of Review Appraisers and Mortgage Underwriters, Inc.; Professional Women's Appraisal Association, Inc.; International Real Estate Institute, Inc. (a.k.a. International Institute of Valuers), E. Kenneth Twichell and Robert Johnson.

Specifically, the Commission requests information about all materials or services referring or relating to any federal political candidates or committees that your company may have provided to the entities or persons listed above between January 1, 1988 and June 1, 1988. Please provide all documents relating to these materials or services, including but not limited to: copies of these materials, all correspondence between your company and the persons and entities identified above, checks evidencing payment, and all invoices.

State whether you or any employee was solicited for contributions to any federal political candidates or committees by Robert Johnson or E. Kenneth Twichell. If so, state the date of this solicitation and describe the circumstances under which it occurred. State whether a contribution was made. Additionally, if a contribution was solicited or made, please provide all

9504336704335

documents and materials relating to it, including but not limited to: all solicitation materials, check copies, and materials received from the recipient committees. Please have your response sworn and notarized.

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.

The Commission appreciates your cooperation in responding to these questions and request for materials. Please contact Patty Reilly, the attorney assigned to this matter at (800) 424-9530 regarding your response.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

9504367043 6

OGC 9036

Arizona Republican Party

BURTON S. KRUGLICK
State Chairman

KURT R. DAVIS
Executive Director

3501 North 24th Street
Phoenix, Arizona 85016-6607
(602) 957-7770
AZ (800) 224-2884
Fax (602) 224-0932

December 14, 1990

MUR 2984

90 DEC 18 AM 10:44

90 DEC 18 PM 12:18

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

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

Dear Mr. Noble:

Following are the answers to your questions in relation to MUR 2984:

1. The Arizona Republican Party maintains a voter list on file. It includes each and every registered voter in Arizona. In 1988 the list would have had approximately 1.4 million voters.

2. Yes, Mr. Robert J. Johnson and E. Kenneth Twichell.

2a. In 1988 two mailing lists were sold to Jean Johnson (copies enclosed). The first list was paid for by a check from Mr. Robert Johnson of 8628 E. Sharon Drive, Scottsdale, Arizona, 85260. The second list was paid for by a check from E. Kenneth Twichell or Tamara Twichell of 3867 East Everett Drive, Phoenix, Arizona, 85032.

The cost of the first order was $493.00 and the order consisted of mailing labels to 41,075 voting households in Scottsdale, Yuma County, Santa Cruz County and Coconino County. The order date of the transaction was March 15, 1988 and payment was March 18, 1988.

The cost of the second order was $156.00 and consisted of mailing labels to 12,954 voting households in Coconino County. The order date is unknown but the payment date was May 5, 1988.

The are no other records for these individuals or the other associations you requested.

2b. Enclosed as requested.

2. See 2a.

3. See 2a.

Sincerely,

Burton S. Kruglick
State Chairman

9504367043 7

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

90 DEC 18 AM 10:46

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 5, 1990

David L. Hanna, Treasurer
Arizona Republican Party
3501 North 24th Street
Phoenix, AZ 85016

RE: MUR 2984

Dear Mr. Hanna:

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 requires you to provide certain information in connection with an investigation it is conducting, relating to the Arizona Republican Party's sale of a mailing list during 1988 and two receipts of the Party during 1988. The Commission does not consider you a respondent in this matter, but rather a witness only.

1. Please identify, by title and number of names, each mailing list maintained by the Party during 1988.

2. Please state whether a mailing list was sold or otherwise provided to any of the following persons or entities during 1988:

- Robert J. Johnson;
- E. Kenneth Twichell;
- International Association Managers;
- National Association of Real Estate Appraisers;
- National Association of Review Appraisers and Mortgage Underwriters;
- Professional Womens Appraisal Association;
- Robert Johnson and Associates;
- International Real Estate Institute (A/K/A International Institute of Valuers);
- Todd Publishing.

9504367043 8

If the answer is yes, then for each transaction,

a) please describe the list sold, the person or entity to whom the list was sold, the date of the transaction, and the terms of the sale; and

b) please provide copies of all documents relating in any way to the transaction, including correspondence, notes of telephone conversations, bills or statements, and the check(s) or other written instrument(s) provided in payment for the list(s).

2. On Line 15 of its 1988 April Quarterly Report filed with the Commission, the Party reported a March 18, 1988 refund, rebate or other receipt from Robert G. Johnson in the amount of $493 (a copy of the page is attached). Please describe the specific purpose of this transaction and provide copies of all documents relating to it.

3. Please state whether the Party received a check for $156 from E. Kenneth Twichell on or about May 10, 1988. If the answer is yes, please describe the specific purpose of this transaction and provide copies of all documents relating to it.

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

You may consult with an attorney and have an attorney assist you in the preparation of your responses to these questions. However, please respond to this letter within 30 days of the date of this letter. All answers to questions should be submitted under oath.

The Commission appreciates your cooperation in this matter. If you have any questions, please contact Patty Reilly, the attorney assigned to this matter, at (800) 424-9530.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Attachment

9504367043 9

SCHEDULE A — ITEMIZED RECEIPTS

Offsets to Operating Expenditures (Returns, Refunds, etc.)

NAME OF COMMITTEE (in Full)

REPUBLICAN STATE COMMITTEE OF ARIZONA

	Name of Employer / Occupation	Date (month, day, year)	Amount of Each Receipt this Period
A. Full Name, Mailing Address and ZIP Code Friends of Scottsdale 4253 N Scottsdale Road Ste 200 Scottsdale AZ 85251 Receipt For: ☐ Primary ☐ General ☒ Other (specify):		03/27/86	$ 30.00
B. Full Name, Mailing Address and ZIP Code Friends of Scottsdale (Continued) Receipt For: ☐ Primary ☐ General ☒ Other (specify): Gen. Op. Expenses		03/27/86	$ 210.00
	Aggregate Year-to-Date > $	240.00	
C. Full Name, Mailing Address and ZIP Code Hon. Gary Giordano New River Stage Box 2896 Phoenix AZ 85029 Receipt For: ☐ Primary ☐ General ☒ Other (specify): Gen. Op. Expenses		01/19/86	$ 275.00
	Aggregate Year-to-Date > $	275.00	
D. Full Name, Mailing Address and ZIP Code Bruce Westwole Campaign Funds 7141 N. 51st Ave. Glendale AZ 85301 Receipt For: ☐ Primary ☐ General ☒ Other (specify): Gen. Op. Expenses		02/01/86 02/03/86	$ 485.00 $ 237.00
	Aggregate Year-to-Date > $	722.00	
E. Full Name, Mailing Address and ZIP Code Mr. John F. Huccenthal 3203 N. Ellis Street Chandler AZ 85224 Receipt For: ☐ Primary ☐ General ☒ Other (specify): Gen. Op. Expenses		02/01/86 02/01/86	$ 190.00 $ 145.00
	Aggregate Year-to-Date > $	335.00	
F. Full Name, Mailing Address and ZIP Code Mr. Robert G. Johnson 8625 E. Sharon Drive Scottsdale AZ 85260 Receipt For: ☐ Primary ☐ General ☒ Other (specify): Gen. Op. Expenses		03/18/86	$ 493.00
	Aggregate Year-to-Date > $	493.00	
G. Full Name, Mailing Address and ZIP Code Committee To Re-elect Killian 4435 E. Broadway #2 Mesa AZ 85206 Receipt For: ☐ Primary ☐ General ☒ Other (specify): Gen. Op. Expenses		03/16/86	$ 286.00
	Aggregate Year-to-Date > $	286.00	
SUBTOTAL of Receipts This Page (optional)			$ 2832.50
TOTAL This Period (last page this line number only)			

95043670440

Arizona Republican Party

BURTON S. KRUGLICK
State Chairman

3501 North 24th Street
Phoenix, Arizona 85016-6607
(602) 957-7770

Job Number 88132

Quantitiy Provided	Item		Amount
_____	( ) Phone List	@ 9.00/m	_____
_____	( ) Walking List	@ 9.00/m	_____
12954	(X) P/S Labels	@ 12.00/m	152.00
	(CRS)	@ 15.00/m	
_____	( ) Cheshire Labels	@ 9.00/m	_____
	(CRS)	@ 12.00/m	
_____	( ) Post Cards (one)	@ 13.00/m	_____
_____	( ) Post Cards (two)	@ 17.00/m	_____
_____	( ) 3x5 Cards	@ 15.00/m	_____
_____	( ) PC Labels	@ 12.00/m	_____
_____	( ) PC Lists	@ 9.00/m	_____
_____	( ) Demo (CD or STWD)	50.00	_____
_____	( ) Demo (LD or less)	35.00	_____
_____	( ) Personalized letters	.15	_____
	envelopes	.05	
_____	( ) Other _____		

5-16-88

TOTAL $ 152.00

Candidate Bush

Purpose Texas Johnson

Collected by _____ Date: _____

250433670441

ARIZONA REPUBLICAN PARTY
COMPUTER SERVICES
ORDER FORM

Invoice Number 88152

Order Date _____

Req. Del'y Date 3-24-88

Customer GEORGE BUSH

Contact JEAN JOHNSON Phone 948-8000

Address _____ Zip ____

Delivery: CPU BUS UPS MAIL (circle one)

VOTER CATEGORY
- (X) Republican
- ( ) Democrat
- ( ) Independent
- ( ) Others
- ( ) All Voters

DETAIL DESIRED
- ( ) All voters
- (X) One per Household

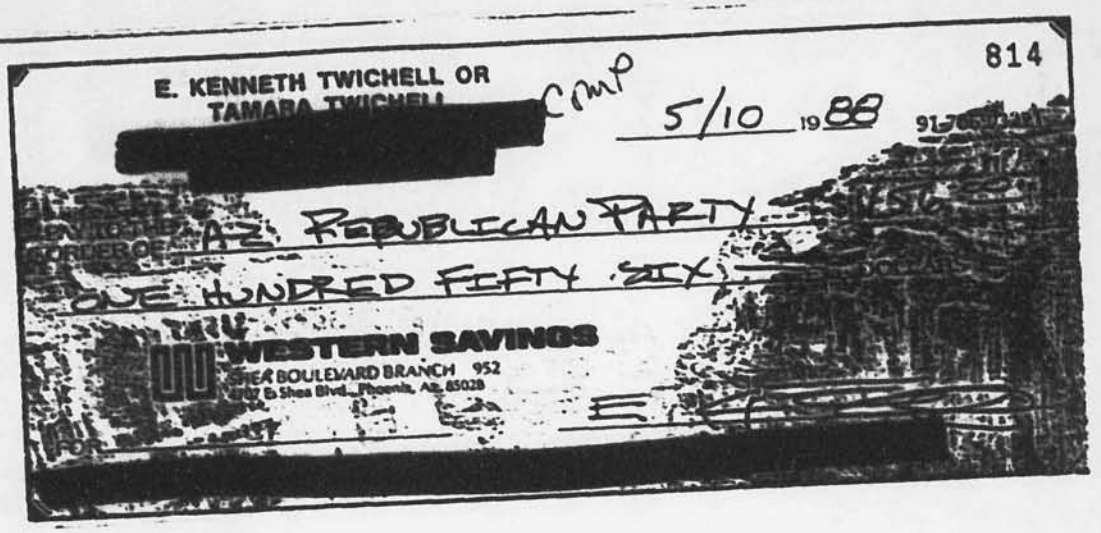
PRODUCT
- ( ) Phonelist ( ) all names
- ( ) Walking List
- (X) Pressure Sensitive Labels
- ( ) Cheshire Labels
- ( ) 3x5 cards
- ( ) 4x6 post cards
- ( ) Random Names
- ( ) Demographics
- ( ) Personalized letters
- ( ) Voter history

OUTPUT SORT
- ( ) Last Name
- ( ) Zip Code
- ( ) CRS
- ( ) Precinct
- ( ) Other _____

SPECIAL INSTRUCTIONS

COCONINO COUNTY

9504336704442


E. KENNETH TWICHELL OR
TAMARA TWICHELL
[redacted]
814
CMP
5/10 1988
AZ. REPUBLICAN PARTY
ONE HUNDRED FIFTY SIX
WESTERN SAVINGS
SHEA BOULEVARD BRANCH 952
9502 E Shea Blvd., Phoenix, AZ 85028

95043670443

Arizona Republican Party

BURTON S. KRUGLICK
State Chairman

3501 North 24th Street
Phoenix, Arizona 85016-6607
(602) 957-7770

Job Number 88122

Quantitiy Provided	Item		Amount
_____	( ) Phone List	@ 9.00/m	_____
_____	( ) Walking List	@ 9.00/m	_____
41075	(x) P/S Labels	@ 12.00/m	493 00
	(CRS)	@ 15.00/m	
_____	( ) Cheshire Labels	@ 9.00/m	_____
	(CRS)	@ 12.00/m	
_____	( ) Post Cards (one)	@ 13.00/m	_____
_____	( ) Post Cards (two)	@ 17.00/m	_____
_____	( ) 3x5 Cards	@ 15.00/m	_____
_____	( ) PC Labels	@ 12.00/m	_____
_____	( ) PC Lists	@ 9.00/m	_____
_____	( ) Demo (CD or STWD)	50.00	_____
_____	( ) Demo (LD or less)	35.00	_____
_____	( ) Personalized letters	.15	_____
	envelopes	.05	
_____	( ) Other _____		

3-18-87

TOTAL $493 00

==========

Candidate BUSH

Purpose RESOLUTION

Collected by _____ Date: _____

551
551
1102

551
551
1118

9504336704444

ARIZONA REPUBLICAN PARTY
COMPUTER SERVICES
ORDER FORM

Invoice Number 88122 GS

Order Date 3-15

Req. Del'y Date 3-18

Customer GEORGE BUSH

Contact JEAN JOHNSON Phone 948-8000

Address _____ Zip ____ Call w/Amt

Delivery: CPU BUS UPS MAIL (circle one)

VOTER CATEGORY
- (X) Republican
- ( ) Democrat
- ( ) Independent
- ( ) Others
- ( ) All Voters

DETAIL DESIRED
- ( ) All voters
- (✓) One per Household

PRODUCT
- ( ) Phonelist ( ) all names
- ( ) Walking List
- (X) Pressure Sensitive Labels
- ( ) Cheshire Labels
- ( ) 3x5 cards
- ( ) 4x6 post cards
- ( ) Random Names
- ( ) Demographics
- ( ) Personalized letters
- ( ) Voter history

OUTPUT SORT
- ( ) Last Name
- ( ) Zip Code
- ( ) CRS
- ( ) Precinct
- ( ) Other _____

9504336704445

92107S

88122.21.HH - 1287
88122.24.HH - 412
88122.26.HP - 413
88122.28.HH - 2417

SPECIAL INSTRUCTIONS

$493.00

(A) SCOTTSDALE NO FAMILY → USE ALAN FORMAT

(B) YUMA 5 (L) 88122.5.LAB PRINT # 7

(C) SANTA CRUZ 9 88122.9.HH - 180 88122.9.HH - 1556 (L) PRINT # 4

✓ = HHOLD

(D) COCONINO 2 3

ROBERT G. JOHNSON
[redacted]

5581

Com. Purr.

3/16 19 88 91-2/1221

PAY TO THE ORDER OF Arizona Republican Party $ 493.00

Four Hundred Ninety Three and no/100 DOLLARS

VALLEY BANK PLAZA OFFICE (100)
P.O. Box 1767
Scottsdale, Arizona 85252

ROBERT G. JOHNSON

FOR Labels

[redacted]

9504336701446

RECEIVED
FEDERAL ELECTION COMMISSION
SECRETARIAT

90 DEC 14 PM 4:32

BEFORE THE FEDERAL ELECTION COMMISSION **SENSITIVE**

In the Matter of)
National Real Estate Appraisers,)
Et. al.) MUR 2984
)

COMPREHENSIVE INVESTIGATIVE REPORT # 1

This matter arose from a complaint and a referral from the Department of Labor alleging that the National Association of Real Estate Appraisers, Inc., may have violated 2 U.S.C. § 441b(a) by using corporate facilities to solicit persons for the Bush for President Committee, and may have impermissibly reimbursed contributions. On September 19, 1989, the Commission found reason to believe two of the corporation's employees, Robert Johnson and E. Kenneth Twichell violated 2 U.S.C. §§ 441b(a) and 441f. The Commission also found reason to believe the National Association of Real Estate Appraisers, the National Association of Review Appraisers and Mortgage Underwriters, and the International Association Managers violated 2 U.S.C. §§ 441b(a) and 441f.

Also on September 19, 1989 the Commission approved subpoenas for respondents, Johnson and Twichell, as well as another subpoena for a non-respondent witness, Timothy Cloud. Additionally, on November 29, 1989 the Commission approved a number of subpoenas, including additional subpoenas to respondents Johnson and Twichell.[1] On January 30, 1990 the Commission denied respondents' request to limit the scope of the November 29, 1990

9504367044 7

1. The Commission approved subpoenas for National Association of Real Estate Appraisers, the National Association of Review Appraisers and Mortgage Underwriters, and the International Association Managers.

subpoenas. Also on that date, the Commissions approved additional subpoenas for respondents and authorized this Office to file a subpoena enforcement action in the event respondents failed to comply with these subpoenas. Numerous other subpoenas have also been issued in the course of this matter.[2]

Following negotiations with counsel, depositions were set for respondents Johnson and Twichell on April 16, 1990. These depositions were not held, however, because each respondent insisted upon the presence of the other during his respective deposition. Consistent with the Act's confidentiality provisions and the Commission's investigatory privilege, this Office would not agree to such a condition.

On April 30, 1990 and June 11, 1990, this Office filed civil suit to enforce subpoenas. At an August 6, 1990 hearing on the Commission's subpoenas, the court directed the parties to submit stipulation and order for the specific documents covered by the subpoenas. This stipulation was filed on August 28, 1990.

On November 1, 1990, Robert Johnson was deposed in this matter. E. Kenneth Twichell was deposed the following day. The testimony of a non-respondent witness, Jean Johnson, was also taken under oath. Ms. Johnson is not related to Robert Johnson.

9504367044 8

---

2. These include subpoenas to National Association of Real Estate Appraisers, the National Association of Review Appraisers and Mortgage Underwriters, and the International Association Managers, approved by the Commission at its January 30, 1990 meeting. Other subpoenas to the Professional Women's Appraisal Association, Robert Johnson and Associates, International Real Estate Institute, and Todd Publishing were approved at the August 23, 1990 executive session.

At this juncture, there is unresolved conflicting testimony regarding the alleged amount of corporate activity undertaken in support of the Bush For President Committee. Additionally, a review of the evidence collected and analyzed suggests that additional reason to believe recommendations may be necessary regarding other individuals who may have been reimbursed for contributions purportedly made to political committees. This Office is continuing the investigation by seeking vendor invoices for the political solicitations paid for by the corporations. Also, as a result of the deposition, this Office has contacted counsel to request production of additional documents responsive to the subpoenas. This Office is also reviewing the deposition transcripts and will report to the Commission shortly.

12/14/90
Date

Lawrence M. Noble
General Counsel

Staff assigned: Patty Reilly

9504367044 9

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

MEMORANDUM

TO: LAWRENCE NOBLE
GENERAL COUNSEL

FROM: **MARJORIE W. EMMONS/DELORES HARRIS**
SECRETARY OF THE COMMISSION

DATE: DECEMBER 18, 1990

SUBJECT: MUR 2984 - COMPREHENSIVE INVESTIGATIVE REPORT FROM GENERAL COUNSEL DATED DECEMBER 14, 1990.

The above-captioned matter was received in the Commission Secretariat at 4:32 p.m. on Friday, December 14, 1990 **and circulated on a 24-hour no-objection basis at** 11:00 a.m. on Monday, December 17, 1990.

There were no objections were no objections to the above-captioned matter.

9504367045O

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 27, 1990

Southwest Typesetting
1722 E. Aurelius Avenue
Phoenix, AZ 85020

RE: MUR 2984

Dear Sir:

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. Pursuant to 2 U.S.C. § 437g, the Federal Election Commission is conducting a confidential investigation in the above-captioned matter. The Commission does not consider you a respondent in this matter, but rather a witness only.

In furtherance of this investigation, the Commission requires certain information regarding materials or services you may have provided to any of the following persons or entities: the International Association Managers, Inc.; the National Association of Real Estate Appraisers, Inc.; Todd Publishing, Inc.; National Association of Review Appraisers and Mortgage Underwriters, Inc.; Professional Women's Appraisal Association, Inc.; International Real Estate Institute, Inc. (a.k.a. International Institute of Valuers), E. Kenneth Twichell and Robert Johnson.

Specifically, the Commission requests information about all materials or services referring or relating to any federal political candidates or committees that your company may have provided to the entities or persons listed above between January 1, 1988 and June 1, 1988. Please provide all documents relating to these materials or services, including but not limited to: copies of these materials, all correspondence between your company and the persons and entities identified above, checks evidencing payment, and all invoices.

State whether you or any employee was solicited for contributions to any federal political candidates or committees by Robert Johnson or E. Kenneth Twichell. If so, state the date of this solicitation and describe the circumstances under which it occurred. State whether a contribution was made. Additionally, if a contribution was solicited or made, please provide all documents and materials relating to it, including but not limited

9504367045 1

to: all solicitation materials, check copies, and materials received from the recipient committees. Please have your response sworn and notarized.

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.

The Commission appreciates your cooperation in responding to these questions and request for materials. Please contact Patty Reilly, the attorney assigned to this matter at (800) 424-9530 regarding your response.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

9504367004552

06C9777

Senator Dave Durenberger

1103 Plymouth Building, 12 South Sixth Street, Minneapolis, MN 55402 (612) 339-5577

January 3, 1991

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM
91 JAN 10 AM 11:03

Lawrence M. Noble
General Counsel
Federal Election Commission
Washington, D.C. 20436

RE: MUR 2984

Dear Mr. Noble:

I am writing in regards to your December 6, 1990 letter.

The answers to your questions are as follows:

1. a) A fundraiser was held at the home of D. Randall King on May 21, 1988.

   b) Please find attached documents relating to this matter.

   c) Kay Weinstock was the Durenberger fundraiser responsible for this event. Kay's phone number is [redacted]. Her address is 7440 Plymouth Ave North Golden Valley, MN 55427

2. a) Please find attached documents relating to this matter.

3. a) The event was held March 6, 1988

   b) Kay Weinstock was the Durenberger fundraiser responsible for this event.

   c) Please find attached documents relating to this matter.

Please contact Eric Gustafson if there are any further questions. Eric's number is 612-339-5577.

Sincerely,

Del Olson
Treasurer
Durenberger '94 Committee

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
91 JAN 10 PM 12:25

95043670453

Paid for by Durenberger Volunteer Committee

95043670454

20068-0 "X"

R.S.V.P. 500 KW98

☒ YES, I will be attending and enclosed is my $100 contribution.

☐ I'm sorry I cannot attend May 21st, however, I have enclosed my $100 contribution.

NAME E. KENNETH MITCHELL

ADDRESS 3867 E. EVERETT

CITY PHOENIX STATE AZ ZIP 85016

TELEPHONE [redacted] SIGNATURE E. K[redacted]

CONTRIBUTIONS MUST BE IN THE FORM OF A PERSONAL CHECK

9504367045 5

Δ address

191680 X

R.S.V.P.

Xw98

☒ YES, I will be attending and enclosed is my ~~$100~~ contribution. $500

☐ I'm sorry I cannot attend May 21st, however, I have enclosed my $100 contribution.

NAME ROBERT G. JOHNSON

ADDRESS 8383 EAST EVANS ROAD

CITY SCOTTSDALE STATE AZ ZIP 85260

TELEPHONE [redacted]NATURE [signature]

CONTRIBUTIONS MUST BE IN THE FORM OF A PERSONAL CHECK

Name of committee (in Full): DURENBERGER '88 RE-ELECT COMM

Full name, mailing address	Business, Occupation	Date	Amount
HUBBARD, R D 18200 VON CARMAN S 7 IRVINE CA 92715	CONDUIT: NRSC	88/06/20	1000.00
Receipt for: PRIMARY	Aggregate Year-to-date:		1000.00
Full name, mailing address	Business, Occupation	Date	Amount
HUFFINGTON, ROY M BOX 4455 HOUSTON TX 77210	CONDUIT. NRSC	88/06/16	1000.00
Receipt for: PRIMARY	Aggregate Year-to-date:		1000.00
Full name, mailing address	Business, Occupation	Date	Amount
HUSBY, OSCAR J 2400 PASCAL ST N ROSEVILLE MN 55113		88/05/27	200.00
Receipt for: PRIMARY	Aggregate Year-to-date:		500.00
Full name, mailing address	Business, Occupation	Date	Amount
HYATT, HENRY 1324 MT CURVE AV MINNEAPOLIS MN 55403		88/04/19	300.00
Receipt for: PRIMARY	Aggregate Year-to-date:		300.00
Full name, mailing address	Business, Occupation	Date	Amount
JOHNSON, CRAIG 6555 47TH AV SE ST CLOUD MN 56304		88/06/25	250.00
Receipt for: PRIMARY	Aggregate Year-to-date:		250.00
Full name, mailing address	Business, Occupation	Date	Amount
JOHNSON, ROBERT W 1950 BAYARD AV ST PAUL MN 55116		88/05/12	500.00
Receipt for: PRIMARY	Aggregate Year-to-date:		500.00

SUBTOTAL of receipts this page $3,250.00

9504367056

Schedule A — Itemized receipts — for line number 11A

Name of committee (in Full): DURENBERGER '88 RE-ELECT COMM

Full name, mailing address	Business, Occupation	Date	Amount
BACHMAN, LAWRENCE W 5915 COLFAX AV S MINNEAPOLIS MN 55419		88/05/18	50.00
Receipt for: PRIMARY	Aggregate Year-to-date: 250.00		
Full name, mailing address	Business, Occupation	Date	Amount
BAENEN, RICHARD A 1526 34TH ST NW WASHINGTON DC 20007		88/04/22	1000.00
Receipt for: PRIMARY	Aggregate Year-to-date: 1000.00		
Full name, mailing address	Business, Occupation	Date	Amount
BAILEY, JOHN M 19350 CEDARHURST WAYZATA MN 55391		88/04/27	500.00
Receipt for: PRIMARY	Aggregate Year-to-date: 500.00		
Full name, mailing address	Business, Occupation	Date	Amount
BAKER, ROGER L 3200 CALHOUN PY W MINNEAPOLIS MN 55416		88/04/21	250.00
Receipt for: PRIMARY	Aggregate Year-to-date: 250.00		
Full name, mailing address	Business, Occupation	Date	Amount
BANNIGAN, JOHN F 2020 PORTLAND AV ST PAUL MN 55104		88/04/20 88/05/27	50.00 200.00
Receipt for: PRIMARY	Aggregate Year-to-date: 250.00		
Full name, mailing address	Business, Occupation	Date	Amount
BARKER, JOHN M 5100 FRANCE AV S A 301 MINNEAPOLIS MN 55410	RETIRED	88/06/30	250.00
Receipt for: PRIMARY	Aggregate Year-to-date: 250.00		

SUBTOTAL of receipts this page $2,300.00

Schedule A — Itemized receipts — Page 48 of — for line number 11A

Name of committee (in Full): DURENBERGER '88 RE-ELECT COMM

Full name, mailing address	Business, Occupation	Date	Amount
STEENSLAND, JOHN E 3378 BUCKBEE RD WHITE BEAR LK MN 55110		88/05/27	1000.00
Receipt for: PRIMARY	Aggregate Year-to-date:	1000.00	
Full name, mailing address	Business, Occupation	Date	Amount
STEIGER, T R BOX 768 HIBBING MN 55746		88/05/11	700.00
Receipt for: PRIMARY	Aggregate Year-to-date:	700.00	
Full name, mailing address	Business, Occupation	Date	Amount
STOLTZE, GRACE 536 STAGECOACH TR S AFTON MN 55001	HOMEMAKER	88/05/11	250.00
Receipt for: PRIMARY	Aggregate Year-to-date:	250.00	
Full name, mailing address	Business, Occupation	Date	Amount
SULLIVAN, FRANCIS 3800 LONDON RD A 210 DULUTH MN 55804	ATTORNEY	88/04/20 88/06/20	100.00 100.00
Receipt for: PRIMARY	Aggregate Year-to-date:	300.00	
Full name, mailing address	Business, Occupation	Date	Amount
SUTLIFF, G.L. BOX 1307 HARRISBURG PA 17105	CONDUIT: NRSC AUTO DEALER	88/05/16	1000.00
Receipt for: PRIMARY	Aggregate Year-to-date:	1000.00	
Full name, mailing address	Business, Occupation	Date	Amount
SWANSON, JAMES B 8554 HIDDEN BAY TR N LAKE ELMO MN 55042		88/05/18	500.00
Receipt for: PRIMARY	Aggregate Year-to-date:	500.00	

SUBTOTAL of receipts this page $3,650.00

9504364038

Schedule A — Itemized receipts — Page 50 of — for line number 11A

Name of committee (in Full): DURENBERGER '88 RE-ELECT COMM

Full name, mailing address	Business, Occupation	Date	Amount
THOMAS, JAMES 1401 OAKWOOD DR ANOKA MN 55303		88/06/02	500.00
Receipt for: PRIMARY	Aggregate Year-to-date:	500.00	
Full name, mailing address	Business, Occupation	Date	Amount
TOINTON, ROBERT G 6305 26TH ST GREELEY CO 80634	PRESIDENT	88/05/24	500.00
Receipt for: PRIMARY	Aggregate Year-to-date:	500.00	
Full name, mailing address	Business, Occupation	Date	Amount
TOWER, CHARLES H 600 MARYLAND AV SW WASHINGTON DC 20025	Proceeds from joint fundraiser "QN Comm." See memo entry line 12	88/06/25	571.42
Receipt for: PRIMARY	Aggregate Year-to-date:	571.42	
Full name, mailing address	Business, Occupation	Date	Amount
TURNER, LESLIE 6701 PARKWOOD LN EDINA MN 55436		88/06/01	250.00
Receipt for: PRIMARY	Aggregate Year-to-date:	250.00	
Full name, mailing address	Business, Occupation	Date	Amount
TWITCHELL, KENNETH 3867 EVERETT E PHOENIX AZ 85016		88/05/27	500.00
Receipt for: PRIMARY	Aggregate Year-to-date:	500.00	
Full name, mailing address	Business, Occupation	Date	Amount
UELAND, ARNULF JR 2013 ROE CREST DR NORTH MANKATO MN 56001		88/06/16	750.00
Receipt for: PRIMARY	Aggregate Year-to-date:	1000.00	

SUBTOTAL of receipts this page $3,071.42

95043670460

LLEY NATIONAL BANK OF ARIZONA

MC CORMICK RANCH OFFICE
SCOTTSDALE, ARIZONA

PAY TO THE ORDER OF R. KENNETH TEICHELL DATE MAY 25, 1988 55244

$ 500.00***

• • *DURENBERGER '88 REELECTION COMMITTEE* • • • VOID IF ALTERED

[signature]
Authorized Signature

CASHIER'S CHECK

(Two Signatures Required For Check Over $10,000)

⑈0055244⑈ ⑆122100024⑆ 1522-7371⑈

LLEY NATIONAL BANK OF ARIZONA

MC CORMICK RANCH OFFICE
SCOTTSDALE, ARIZONA

PAY TO THE ORDER OF ROBERT G. JOHNSON DATE MAY 25, 1988 55243

$ 500.00***

• • *DURENBERGER '88 REELECTION COMMITTEE* • • • VOID IF ALTERED

[signature]
Authorized Signature

CASHIER'S CHECK

(Two Signatures Required For Check Over $10,000)

⑈0055243⑈ ⑆122100024⑆ 1522-7371⑈

(2)

Valley National Bank of Ari[zona]

MC CORMICK RANCH OFFICE
SCOTTSDALE, ARIZONA

51289

91-0/1221

FOR STEPHEN L. SCHENCK

DATE MARCH 4, 1988

PAY TO THE ORDER OF

VALLEY NATIONAL BANK 500 dls 00 cts

[. . . . *DURENBERGER FOR U. S. SENATE 88* *500.00*

VOID IF ALTERED

AUTHORIZED SIGNATURE

jo

⑈051289⑈ ⑆122100024⑆ 1522-7371⑈

CASHIER'S CHECK

9504367046 2

ROBERT G. JOHNSON
[redacted]
SCOTTSDALE, AZ [redacted]

5574

3/3 19 68

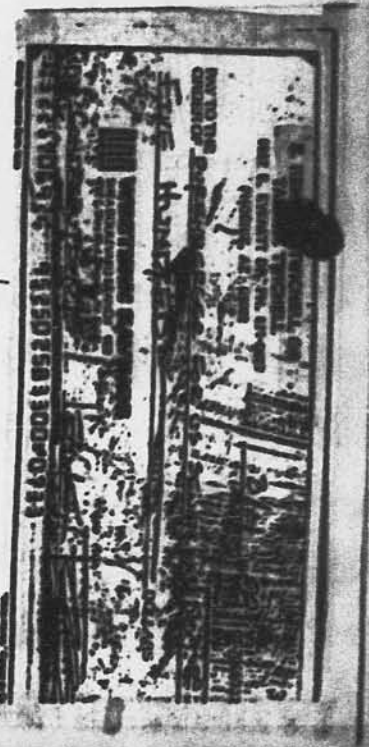
PAY TO THE ORDER OF Duerenberger for U.S. Senate 68 $ 500.00

Five Hundred and no/100 DOLLARS

VALLEY BANK PLAZA OFFICE (100)
[redacted]

FOR Contrib

⑈005574⑈ ⑆122100024⑆ 0653-3131⑈



(3)

RIM - Registered International Member
SCV - Senior Certified Valuer
RPM - Registered Property Manager
CPI - Certified Property Investor

Robert G. Johnson
Executive Director

International Real Estate Institute

8715 Via De Commercio
Scottsdale, Arizona 85258 USA
(602) 998-8267
Telex 165092

March 3, 1988

Ms. Kay Weinstock
Durenberger for U.S. Senate 88
8120 Penn Avenue South
Suite 156
Minneapolis, Minnesota 55431

KPOW

Dear Kay:

Enclosed are three checks, each for $500.00 for the Sunday, March 6th fund raiser here in Phoenix. The funds are for myself (Robert G. & Deborah S. Johnson), E. Kenneth Twichell, and Stephen & Mary Schneck.

The wheels are already in process for a fund raiser in St. Paul for Senator Durenberger. A Thursday night in May would be excellent. We would charge $100.00 per head, and we would intend to have 75 or more people at the reception. Let's see how this one goes, and if it proceeds without any problems perhaps we can consider doing one or two others during the summer in other cities, such as Deluth or Alexandria, Minnesota.

I will keep in touch, and I look forward to working with you on these events.

Sincerely,

INTERNATIONAL REAL ESTATE INSTITUTE

Robert G. Johnson
Executive Director

RGJ/kar

enclosure

$500
Robert G. Johnson
Executive Director
International Real
Estate Institute

191680-X

9504367046 3

(3)

NATIONAL ASSOCIATION OF REAL ESTATE APPRAISERS

8715 Via De Commercio Scottsdale, Arizona 85258 U.S.A.

(602) 948-8000

E. Kenneth Twichell
Managing Director

March 4, 1988

Ms. Kay Weinstock
Durenberger for U.S. Senate '88
8120 Penn Avenue, South
Minneapolis, Minnesota 55431

KPOW

Dear Ms. Weinstock:

The enclosed check for $500.00 is a contribution for Senator David F. Durenberger. In conjunction with this check was my recent participation in a Durenberger for U.S. Senate '88 Fundraiser here in Phoenix, Arizona.

For your records, I have listed the following information:

E. Kenneth Twichell 19184-0-X
Managing Director
National Association of Real Estate Appraisers

Wishing Durenberger a successful campaign.

Sincerely,

KPOW

NATIONAL ASSOCIATION OF REAL ESTATE APPRAISERS

E. Kenneth Twichell
Managing Director

19188-0-X $500

Occupation → director public relations

Stephen Schneck
10418 N 67th St
Scottsdale AZ 85254
998-9115

9504367004 64

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

January 29, 1991

Ms. Patricia C. Davidson
4580 Elm Street
Bellaire, TX 77401

Re: MUR 2984

Dear Ms. Davidson:

This is to confirm your January 22, 1991 telephone conversation with Patty Reilly of this Office regarding the Commission's deposition in the above-captioned matter. Pursuant to the Commission's subpoena, your deposition is scheduled for Thursday, February 21, 1991 at the Federal Building located at 515 Rusk Street, Houston, Texas. The third floor receptionist will direct you to the deposition room. Please advise us of the distance you will travel to the deposition site in order that we may pay you witness and mileage fees.

The Commission again thanks you for your cooperation and reminds you that the Act's confidentiality provisions preclude you from discussing this matter.

If you have any questions, please contact Patty Reilly, the attorney assigned to this matter, at (800) 424-9530.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Jonathan Bernstein
Assistant General Counsel

9504336704465

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

February 7, 1991

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Arizona Mailing Services
4215 North Winfield
Scottsdale, AZ 85251

RE: MUR 2984

Dear Sir:

By letter dated December 17, 1990, the Office of the General Counsel of the Federal Election Commission requested certain information from your company relating to a confidential Commission investigation. A copy of this letter is enclosed for your convenience. To date, we have received no response to this request.

Although this Office would prefer to resolve this matter informally, please be advised that the Commission has the authority to issue subpoenas compelling testimony and the production of documents, as well as to enforce such subpoenas in federal court. See 2 U.S.C. §§ 437d(a)(4) and 437d(b). In order to avoid the need for compulsory process in this matter, we again ask that you respond to the enclosed request within ten days of your receipt of this letter.

This Office again reminds you that the information sought is part of a confidential Commission investigation. Pursuant to 2 U.S.C. § 437g(a)(12)(A), you are prohibited by statute from discussing any aspect of the Commission's information request with any person.

Upon your receipt of this letter, please contact Patty Reilly, the attorney assigned to this matter, at (800) 424-9530.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosure

9504367004666

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 7, 1991

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

International Minute Press
13610 North Scottsdale Road
Scottsdale, AZ 85257

RE: MUR 2984

Dear Sir:

By letter dated December 17, 1990, the Office of the General Counsel of the Federal Election Commission requested certain information from your company relating to a confidential Commission investigation. A copy of this letter is enclosed for your convenience. To date, we have received no response to this request.

Although this Office would prefer to resolve this matter informally, please be advised that the Commission has the authority to issue subpoenas compelling testimony and the production of documents, as well as to enforce such subpoenas in federal court. See 2 U.S.C. §§ 437d(a)(4) and 437d(b). In order to avoid the need for compulsory process in this matter, we again ask that you respond to the enclosed request within ten days of your receipt of this letter.

This Office again reminds you that the information sought is part of a confidential Commission investigation. Pursuant to 2 U.S.C. § 437g(a)(12)(A), you are prohibited by statute from discussing any aspect of the Commission's information request with any person.

Upon your receipt of this letter, please contact Patty Reilly, the attorney assigned to this matter, at (800) 424-9530.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosure

9504336704467

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 7, 1991

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Creative Litho
2741 West Palm Lane
Phoenix, AZ 85009

RE: MUR 2984

Dear Sir:

By letter dated December 17, 1990, the Office of the General Counsel of the Federal Election Commission requested certain information from your company relating to a confidential Commission investigation. A copy of this letter is enclosed for your convenience. To date, we have received no response to this request.

Although this Office would prefer to resolve this matter informally, please be advised that the Commission has the authority to issue subpoenas compelling testimony and the production of documents, as well as to enforce such subpoenas in federal court. See 2 U.S.C. §§ 437d(a)(4) and 437d(b). In order to avoid the need for compulsory process in this matter, we again ask that you respond to the enclosed request within ten days of your receipt of this letter.

This Office again reminds you that the information sought is part of a confidential Commission investigation. Pursuant to 2 U.S.C. § 437g(a)(12)(A), you are prohibited by statute from discussing any aspect of the Commission's information request with any person.

Upon your receipt of this letter, please contact Patty Reilly, the attorney assigned to this matter, at (800) 424-9530.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosure

9504336704068

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

February 7, 1991

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

The Complete Print Shop
4234 East University
Phoenix, AZ 85034

RE: MUR 2984

Dear Sir:

By letter dated December 17, 1990, the Office of the General Counsel of the Federal Election Commission requested certain information from your company relating to a confidential Commission investigation. A copy of this letter is enclosed for your convenience. To date, we have received no response to this request.

Although this Office would prefer to resolve this matter informally, please be advised that the Commission has the authority to issue subpoenas compelling testimony and the production of documents, as well as to enforce such subpoenas in federal court. See 2 U.S.C. §§ 437d(a)(4) and 437d(b). In order to avoid the need for compulsory process in this matter, we again ask that you respond to the enclosed request within ten days of your receipt of this letter.

This Office again reminds you that the information sought is part of a confidential Commission investigation. Pursuant to 2 U.S.C. § 437g(a)(12)(A), you are prohibited by statute from discussing any aspect of the Commission's information request with any person.

Upon your receipt of this letter, please contact Patty Reilly, the attorney assigned to this matter, at (800) 424-9530.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosure

9504367004 69

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 7, 1991

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

The Arnold Corporation
7855 South River Parkway
Suite 106
Tempe, AZ 85284

RE: MUR 2984

Dear Sir:

By letter dated December 17, 1990, the Office of the General Counsel of the Federal Election Commission requested certain information from your company relating to a confidential Commission investigation. A copy of this letter is enclosed for your convenience. To date, we have received no response to this request.

Although this Office would prefer to resolve this matter informally, please be advised that the Commission has the authority to issue subpoenas compelling testimony and the production of documents, as well as to enforce such subpoenas in federal court. See 2 U.S.C. §§ 437d(a)(4) and 437d(b). In order to avoid the need for compulsory process in this matter, we again ask that you respond to the enclosed request within ten days of your receipt of this letter.

This Office again reminds you that the information sought is part of a confidential Commission investigation. Pursuant to 2 U.S.C. § 437g(a)(12)(A), you are prohibited by statute from discussing any aspect of the Commission's information request with any person.

Upon your receipt of this letter, please contact Patty Reilly, the attorney assigned to this matter, at (800) 424-9530.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosure

9504367047O

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 14, 1991

Ms. Patricia C. Davidson
4580 Elm Street
Bellaire, TX 77401

Re: MUR 2984

Dear Ms. Davidson:

This is to confirm your February 11, 1991 telephone conversation with Patty Reilly of this Office regarding the rescheduling of the Commission's deposition in the above-captioned matter. Your deposition is scheduled for 9 a.m. on Friday, February 22, 1991 at the Federal Building located at 515 Rusk Street, Houston, Texas. The third floor receptionist will direct you to the deposition room. Please advise us of the distance you will travel to the deposition site in order that we may pay you witness and mileage fees.

The Commission again thanks you for your cooperation and reminds you that the Act's confidentiality provisions preclude you from discussing this matter.

If you have any questions, please contact Patty Reilly, the attorney assigned to this matter, at (800) 424-9530.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Jonathan Bernstein
Assistant General Counsel

9504336704711

ARIZONA MAILING SER' CE

4215 N. WINFIELD SCOTT #2
SCOTTSDALE, AZ 85251
946-9210

COMPLETE LETTER SHOP SERVICE | William R. Schadeberg | MAILING LISTS - COMPILERS & BROKERS

Federal election commission
Washington, DC 20463

2-20-91

Lawrence M. Nable, Gen Counsel

RE: MUR 2984

Dear Sir,

This is a responce to your letter of 2-7-91.

1. We are a mailing service (A sole proprietorship - not a corporation).

2. We process mail for many businesses, (folding, inserting, labeling etc.) The company you are interested in - N.A.R.A (thru Mr Ken Twitchell only) was a customer of ours in 1987 & early 1988. However we were not the only mailing service they used. I don't know who else did their mailings.

3. Our customers supply all materials to be processed for First or Third class mail, and any left over materials are returned to them - so - we have no record of specific materials.

However the type of things we mailed for them were Statements - Directories - News Letters.

4. We cannot recall processing any mail for N.A.R.A. -etc - that involved anything political in any way.

We hope this answers your questions.

Very truly yours,

William R. Schadeberg

William R. Schadeberg

19th of Feb. 1991

Linda Baker
NOTARY

My Commission Expires Oct. 31, 1992

91 FEB 25 PM 3:42

PAYABLE UPON RECEIPT OF INVOICE

NOTE: CUSTOMER'S LEFT OVER MATERIAL WILL BE HELD 45 DAYS ONLY.

OGC 0150

THE COMPLETE PRINT SHOP, Inc.

February 21, 1991

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

RE: MUR 2984

Dear Sir:

In response to your request for information letters dated December 17, 1990 and February 7, 1991; the following is offered in answer to your investigation.

Enclosed are three items which serve as examples of the type of printing services rendered to the organizations and/or entities mentioned in paragraph two of the December 17th letter. At no time did we print any literature that contained political or candidate related material.

No solicitation for contributions to political organizations or candidates were received from the above mentioned organizations or entities, nor from the individuals named paragraph four of the December 17th letter.

In accordance with your letter dated February 7th, a phone call was made to Patty Reilly. On the basis of that telephone conversation, the enclosed materials should serve to satisfy your office's request for information.

Both letters received from you office are quite vague as to the reason for requesting this information. We have no reason to believe our relationship with the above mentioned organizations and/or entities was anything other than for the purpose of producing printed materials related to those organizations publishing activities. At no time did we find the materials we printed were specifically oriented toward political candidates or campaigns.

Sincerely,

Lam Bui.

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM
91 FEB 25 PM 12:39

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
91 FEB 25 PM 3:42

4234 East University Phoenix, Arizona 85034 Phone (602) 437-0207

9504370473

OGC 0125

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

91 FEB 26 AM 9:14

Creative Litho Inc.

February 22, 1991

RECEIVED
FEDERAL ELECTION COMMISSION
91 FEB 26 AM 9:50

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

Re: MUR 2984

Dear Mr. Noble:

We have been doing printing for the International Real Estate Institute for a number of years and have a very good relationship with management. So when asked by Ken Twichell if I would be interested in donating to the Bush campaign, I was more than willing as I am a strong Bush supporter, and was glad to be involved in the future progress of our country.

A copy of my cashier's check is enclosed. The conversation took place in late January or early February, 1988. There are no documents or correspondence regarding this matter.

Sincerely,

Allan P. Winquist
President

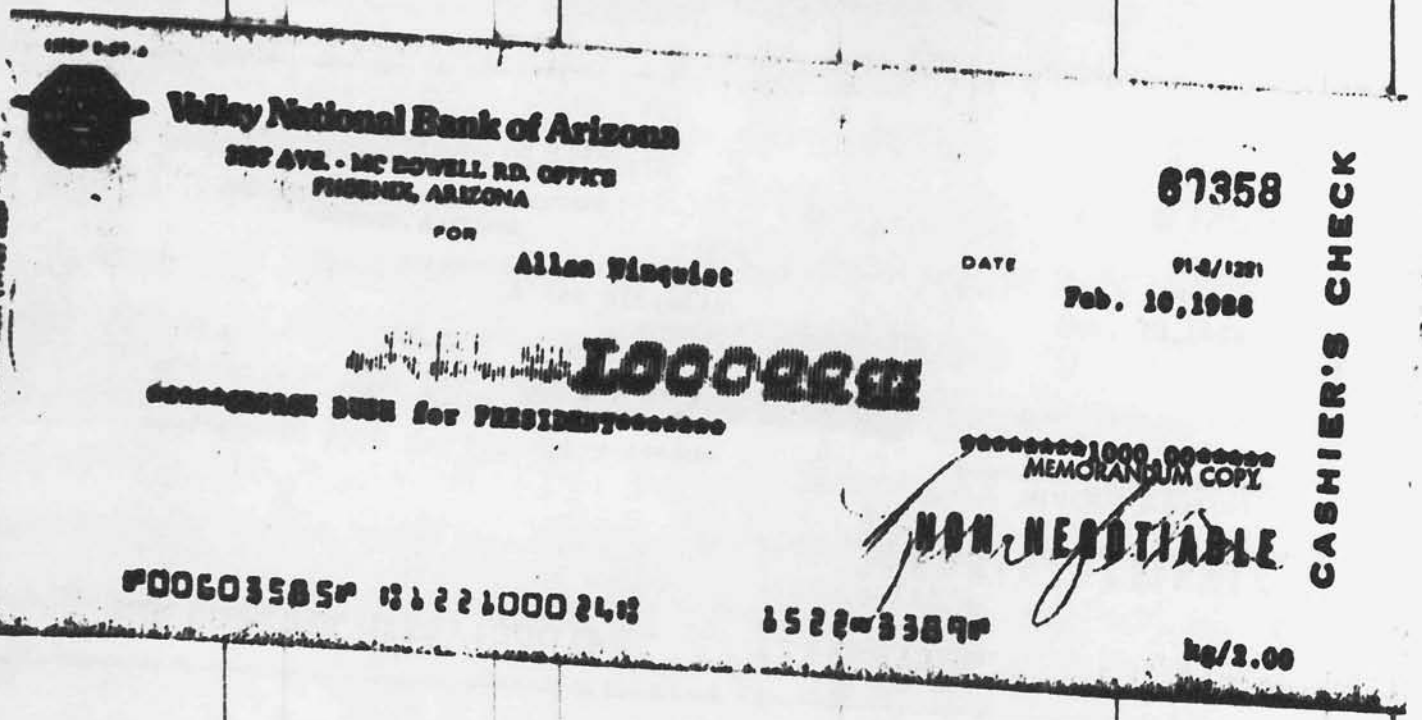
enc.

My Commission Expires ... 30, 1994

Rosie Kane
Notary Public

9504367044

Commercial Trade Printer
2741 West Palm Lane Phoenix, Arizona 85009-2602 (602) 233-1833



Valley National Bank of Arizona
3RD AVE. - MC DOWELL RD. OFFICE
PHOENIX, ARIZONA

67358

FOR Allan Winquist

DATE Feb. 10,1988

CASHIER'S CHECK

MEMORANDUM COPY

NON-NEGOTIABLE

bg/2.00

9504367047 5

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
National Real Estate Appraisers,)
Et. al.)
)

SENSITIVE

MUR 2984

RECEIVED
FEDERAL ELECTION COMMISSION
91 MAR 20 PM 4:03

9504367047 6

GENERAL COUNSEL'S REPORT

I. BACKGROUND

This matter arose from a complaint and a referral from the Department of Labor alleging that the National Association of Real Estate Appraisers, Inc., may have violated 2 U.S.C. § 441b(a) by using corporate facilities to solicit persons for the Bush for President Committee, and may have also impermissibly reimbursed certain employee contributions. On September 19, 1989, the Commission found reason to believe two of the corporation's officers or directors, Robert Johnson and E. Kenneth Twichell, violated 2 U.S.C. §§ 441b(a) and 441f. The Commission also found reason to believe the National Association of Real Estate Appraisers, the National Association of Review Appraisers and Mortgage Underwriters, and the International Association Managers violated 2 U.S.C. §§ 441b(a) and 441f.

Also on September 19, 1989 the Commission approved subpoenas for respondents, Johnson and Twichell, as well as another subpoena for a non-respondent witness, Timothy Cloud. Additionally, on November 29, 1989 the Commission approved a number of subpoenas, including additional subpoenas to respondents Johnson and

Twichell.[1] On January 30, 1990 the Commission denied respondents' request to limit the scope of the November 29, 1989 subpoenas. Additionally, the Commission approved additional subpoenas for respondents and authorized this Office to file a subpoena enforcement action in the event respondents failed to comply with these subpoenas. Numerous other subpoenas have also been issued in the course of this matter.[2]

Depositions were set for respondents Johnson and Twichell on April 16, 1990. These depositions were not held because each respondent insisted upon the presence of the other during his respective deposition. Consequently, on April 30, 1990 and June 11, 1990, this Office filed civil suit to enforce subpoenas. At an August 6, 1990 hearing on the Commission's subpoenas, the court directed the parties to submit a stipulation and order for the specific documents covered by the subpoenas. This stipulation was filed on August 28, 1990.

On November 1, 1990, Robert Johnson was deposed in this matter. E. Kenneth Twichell was deposed the following day. The

9504367047 7

---

1. The Commission approved subpoenas for National Association of Real Estate Appraisers, Inc.; the National Association of Review Appraisers and Mortgage Underwriters, Inc.; and the International Association Managers Inc.

2. These include subpoenas to National Association of Real Estate Appraisers, Inc.; the National Association of Review Appraisers and Mortgage Underwriters, Inc.; and the International Association Managers, Inc. These were approved by the Commission at its January 30, 1990 meeting. Other subpoenas to the Professional Women's Appraisal Association, Inc.; Robert Johnson and Associates, Inc.; International Real Estate Institute, Inc.; and Todd Publishing Inc.; were approved at the August 23, 1990 executive session. All of these organizations are directed by respondent Robert Johnson. We refer to these organizations collectively as "the associations".

testimony of a non-respondent witness, Jean Johnson, was also taken under oath. Ms. Johnson is not related to Robert Johnson and has cooperated in the Commission's investigation. Most recently, another non-respondent witness, Patricia Davidson, was deposed on February 22, 1991.

As discussed below, based upon deposition testimony and further documentary evidence, this Office now recommends that the Commission find reason to believe other violations of the Act occurred. These recommendations address other possible violations of 2 U.S.C. §§ 441f and 441b(a).

Consequently, this report is divided into three parts. First, we briefly address the most recent developments in respondents' court proceedings with the Department of Labor. Next, we present evidence demonstrating that there is reason to believe other respondents may have been reimbursed for their political contributions and that another association may have violated the Act. Third, we provide further evidence to support the knowing and willful nature of the principal respondents' violations.

9504367047 8

II. STATUS OF LITIGATION ACTIONS

On January 28, 1991 the Commission authorized this Office to take appropriate actions to protect the interests of the Commission in response to a motion to compel filed in DOL v. International Association Managers et al., No. 90-0219-PHX RCB (D. AZ.). Underlying this action was information that respondents were seeking to obtain the identities of persons who are cooperating in the Commission's investigation through the

discovery process in the unrelated Department of Labor suit. Thus, the Commission filed a Motion to Intervene or in the Alternative To File an Amicus Response, a memo in support of this motion, and Opposition to the Motion to Compel.

On February 11, 1991, the court held a hearing on the various pending motions. It appears that the Commission's intervention was warranted in that the Department of Labor's enabling statute does not contain a confidentiality provision analogous to the one at 2 U.S.C. § 437g. This Office argued that the identities of witnesses was protected by the Act's confidentiality provisions. The court took the matter under advisement, and on February 24, 1991 the court granted the Commission's motion to intervene and participate in the litigation. The court also issued protective orders precluding respondents from inquiring into witnesses' cooperation with the Commission and with the Department of Labor. (Attachment One)

On March 8, 1991 respondents filed a motion entitled "Motion for an Order to Show Cause Why the Federal Election Commission cannot conclude its Investigation Within a Reasonable Time" in the FEC subpoena enforcement action. (CIV 90-0701 PHX PGR) A memorandum of points and authorities supporting this motion was also filed on this date. Essentially, respondents argue that they have been injured by the length of the Commission's investigation, and thus request a court order requiring the Commission to proceed to probable cause briefs within thirty days or to show cause why this requested deadline cannot be met. Without reaching the lack of merit of this motion, it appears that there is not a

9504367049

jurisdictional basis for it. Consequently, we will move to dismiss it.[3] A hearing has been scheduled for April 15, 1991.

III. ADDITIONAL REASON TO BELIEVE DETERMINATIONS

The Commission's previous reason to believe determinations in this matter encompassed certain contributions said to be made in the name of another. Specifically, after receiving an initial complaint regarding mailings the associations were said to sent supporting the Bush for President Committee, the Office of General Counsel received a referral from the Department of Labor. Based upon information received from Barbara Hemmerick, a former employee, the referral indicated that two of the associations' employees, E. Kenneth Twichell and Timothy Cloud may have been reimbursed for their $10,000 contributions to organizations associated with the Bush for President Committee. On September 19, 1989, based upon information in the referral, the Commission found reason to believe E. Kenneth Twichell and Robert Johnson violated 2 U.S.C. §§ 441b(a) and 441f. Also on that date, the Commission determined that there was reason to believe the National Association of Real Estate Appraisers Inc.; National Association of Review Appraisers and Mortgage Underwriters, Inc.; and the International Associations Managers, Inc. violated 2 U.S.C. §§ 441b(a) and 441f regarding these reimbursed

9504367004 80

---

3. The genesis of this motion is that respondent Robert Johnson wishes to assist in the re-election efforts of the President and feels that he is precluded from doing so due to the pendency of the Commission's investigation. Given that respondents have steadfastly resisted the discovery in this matter (including requiring judicial intervention before depositions could proceed) it does not appear that they are well positioned to argue that the delay in this matter is the responsibility of the Commission.

contributions. Further reason to believe determinations were forestalled pending additional investigation. At this juncture, based upon deposition testimony, interviews, and a review of documentary evidence, it appears additional reason to believe determinations are warranted for other persons in this matter. There are two distinct factual bases for these recommendations.

The first concerns patterns of contributions indicating that shortly after receiving funds from the associations, certain individuals made contributions to political committees. All of these persons have ties to the associations in question, or are married to persons who are tied to the associations.[4] As detailed below, there are eight sets of such contributions.[5]

	Contributions	Corporate Activity	Donor Activity
1	a. $1,000, E. Kenneth Twichell, Bush for President Committee, 1/28/88	NAREA check to E. Kenneth Twichell "outside services", $2,400, 1/25/88	Twichells deposit $2,280 as "bonus check" 1/26/88
	b. $1,000, Tamara Twichell, Bush for President Committee, 1/28/88		

2504367048 1

---

4. Tamara Twichell is married to E. Kenneth Twichell. Steve Schneck is Robert Johnson's former brother-in-law and has been employed by the associations on various occasions. He is married to Mary Schneck. John Steensland is a member of the Board of Directors of NAREA. Todd Johnson is Robert Johnson's son. Timothy Cloud is an employee of International Association Managers.

5. The dates listed in the Contributions Category is from the date of receipt by the reporting political entity, except for contributions 6, 7, and 8. The dates for those three contributions are taken from the check copies or check register. The dates listed in the Corporate Activity Category are taken from the checkbook registers of the associations. The information in the Donor Activity category is drawn from information produced by the respondents.

	Contributions	Corporate Activity	Donor Activity
2	a. $500, Steve Schneck, Bush for President Committee, 1/28/88	International Institute of Valuers(a.k.a. International Real Estate Institute check to Steve Schneck, $1,150, 1/26/88	
	b. $500, Mary Schneck, Bush for President Committee, 1/28/88		
3.	$1,000, Todd Johnson, Bush for President Committee, 1/29/88	Todd Publishing check to Todd Johnson for "reimbursement of printing", $1,155 1/26/88	
4.	$500, E. Kenneth Twichell, Durenberger for Senate Committee 3/4/88	NAREA check to E. Kenneth Twichell "seminar expenses" for $520, 3/4/88	Twichells deposit $1,533.03 as "Ken's paycheck and $500 to cover check" 3/6/88
5.	$1,000, John Steensland, Durenberger for Senate Committee, 5/27/88	NAREA check to John Steensland "seminar expense" for $1,000 5/25/88	
6.	$156, E. Kenneth Twichell, 5/10/88, Arizona Republican Party	NAREA check to E. Kenneth Twichell, $156, 5/10/88	Twichells deposit $156 as "deposit from NAREA to cover a check" 5/11/88
7.	$10,000, Tim Cloud, Presidential Trust, 7/19/88	NAREA check to Tim Cloud for "moving expenses" $10,000 7/19/88	Cloud checking account balance at time of $10,000 deposit: [redacted]
8.	$10,000, E. Kenneth Twichell, Presidential Trust, 7/19/88	NAREA check to E. Kenneth Twichell for "moving expenses" 7/19/88	$10,000 recorded in Twichell register as "from Ken's Boss"

9504367048 2

As illustrated above, there appears to be a systematic pattern of individuals receiving payments from the associations in question and then making contributions in the same amount or close to the same amount to political committees. Respondents Twichell and Johnson have denied reimbursements occurred. Timothy Cloud

has also made such a denial. As further illustrated in the next section, their denials do not appear to be credible.

Pursuant to 2 U.S.C. § 441f, no person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such contribution. The Act further prohibits corporations from making contributions in connection with a federal election. 2 U.S.C. § 441b(a). A contribution is defined to include any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for federal office. 2 U.S.C. § 431(8)(A)(i). See also 2 U.S.C. § 441b(b)(2).

Therefore this Office recommends that the Commission find reason to believe Tamara Twichell, Steve Schneck, Mary Schneck, Todd Johnson, John Steensland and Timothy Cloud violated 2 U.S.C. § 441f. Because these individuals were not the principal actors in this scheme, we do not make knowing and willfull recommendations at this time. We further recommend that the Commission find reason to believe two of the associations not previously named in reason to believe recommendations, International Real Estate Institute (a.k.a Institute of Valuers, Inc.) and Todd Publishing Inc., violated 2 U.S.C. §§ 441b(a) and 441f regarding these contributions. Given the pattern of illegality and the apparent efforts of respondents to hide this activity, this Office further recommends that these determinations be knowing and willful. This Office further recommends that the Commission approve the attached sample subpoena and order for the

9504367048 3

individual respondents.[6]

The second set of facts leading to additional reason to believe recommendations looks to the activities of the Professional Women's Appraisal Association ("PWAA"). This corporation is also associated with the named respondents and was founded by Robert Johnson. It is the smallest of the associations, with its 1988 membership estimated by E. Kenneth Twichell at 500 persons or less.

Based on information uncovered during the course of its supervisory responsibilities, the Commission previously found reason to believe various organizations violated the Act regarding letters soliciting funds for the Bush for President Committee.[7] It was alleged that these letters were sent out by a number of these associations, including PWAA. Specifically, non-respondent witness Jean Johnson testified that letters were sent out on PWAA's letterhead. Thus, an inference arises that PWAA paid for some of the mailings in question.

This inference is strengthened by a review of of PWAA's check register. The investigation in this matter reveals that the

9504336704 84

---

6. This recommendation for additional subpoenas does not encompass Timothy Cloud who was previously issued a subpoena as a non-respondent witness. The subpoena is tailored for each individual respondent. Thus the scope of the document request in each encompasses the month prior to when the contribution was said to be made until the month after the contribution was said to be made.

7. As previously noted, on September 19, 1989, the Commission determined that there was reason to believe Robert Johnson and E. Kenneth Twichell violated 2 U.S.C. §§ 441b(a) and 441f. The Commission further determined that NAREA, IAM, and NARA/MU also violated 2 U.S.C. §§ 441b(a) and 441f.

alleged mailings occurred in late January, 1988 and continued into February. During this period, PWAA made the following expenditures:

Date	Check Number	Payee	Amount
1/22/88	5138	Dean Duchane (printing envelopes)	$ 210
1/28/88	5142	Postmaster-Scottsdale	$3,000
1/28/88	5143	Postmaster-Scottsdale	$5,000
2/1/88	5144	Postmaster-Scottsdale	$1,000
2/1/88	5145	Postmaster-Scottsdale	$5,000
		Total:	$14,210

The noted purpose for all payments made to the postmaster was for "postage".

The inference that these sums were payments for the Bush mailings is further strengthened by a number of independent factors. First, it is unlikely that the $14,000 paid by PWAA for postage over a five day period went for a membership mailing since the organization had only 500 or so members. Additionally, these payments were made at a time that the associations are alleged to have sent out thousands upon thousands of solicitation letters. According to the evidence gathered, each of the Bush solicitation letters carried a twenty-two postage cent meter stamp. Thus, it appears that PWAA paid for a mass mailing of well over 63,000 pieces. Moreover, this expenditure for postage appears to be an isolated event. During the entire rest of the year PWAA's records indicates that it spent a total of $20 on postage.

9504367048 5

Accordingly, it appears that PWAA spent corporate funds for the Bush solicitation. As discussed further in the next section, respondents have testified under oath that this was a small, isolated mailing paid for entirely by Mr. Twichell. In light of this circumstance, this Office recommends that the Commission find reason to believe PWAA knowingly and willfully violated 2 U.S.C. § 441b(a).

IV. EVIDENCE SUPPORTING KNOWING AND WILLFUL VIOLATIONS

Respondents Johnson and Twichell have steadfastly denied any reimbursements occurred. At his November 1, 1991 deposition, Robert Johnson specifically denied reimbursing anyone for any contributions. See Johnson Deposition at p. 286. (Attachment Two) Similarly, E. Kenneth Twichell also denied reimbursements. See Twichell Deposition at pp. 264-5. (Attachment Three) Nevertheless, the documentary evidence in this matter reveals that both respondents have made false statements under oath.

Specifically, this Office requested information from the Durenberger for Senate Committee regarding a May, 1988 fundraiser.[8] The Durenberger Committee reported contributions of $500 from both Robert Johnson and E. Kenneth Twichell on May 27 and 12, 1988, respectively. Although Messrs. Johnson and Twichell have never produced personal checks evidencing such contributions, the Durenberger Committee provided this Office with materials, including copies of two consecutively numbered cashiers checks drawn on Valley National Bank of Arizona on May 25, 1988. Check

8. The fundraiser was held at the home of D. Randall King. Mr. King is the attorney of record for both respondents.

9504367004836

Number 55243 was for $500 and identified Robert Johnson as the remitter. Check Number 55244 was for $500 and identified E. Kenneth Twichell as the remitter. The materials also included contribution cards signed by Messrs. Johnson and Twichell. (Attachment Four).

This Office then compared this information with other information obtained in the discovery process, including the check copies and check register of the National Association of Real Estate Appraisers. (Attachment Five) Specifically, on May 25, 1988 this corporation wrote check number 9163 to "cash" for $1,000. The purpose of this check was noted on the check stub as "St. Paul Program." Id. at p. 39.[9] The check was cashed at Valley National Bank. The bank described this transaction on the back of the check as "500.00 each cashier's check no. 55243 55244 Issued the Within Payee." Id. Thus, the evidence demonstrates that a check drawn on the NAREA's account was used to purchase two cashier's checks in the names of Robert Johnson and E. Kenneth Twichell. These two cashier's checks were used to contribute NAREA corporate funds to the Durenberger Committee using the names of Robert Johnson and E. Kenneth Twichell.[10]

9504367004887

---

9. This check bears a signature purporting to be that of Robert Johnson. Certain other people in the corporation had the authority to sign checks using his name, however, and based upon testimony it appears this check may have been signed by Deborah Johnson (Robert Johnson's spouse) or the association's bookkeeper.

10. Both respondents also made $500 contributions to the Durenberger Committee in March 1988 using personal checks. Steve Schneck also made a $500 contribution of March 4, 1988 using a cashier's check drawn on the Valley National Bank of Arizona. This is the same bank used by Johnson and Twichell to obtain reimbursement for their May 1988 contributions. As discussed in

Moreover, other witnesses in this matter have consistently challenged the testimony of respondents Johnson and Twichell. Respondents have testified that $10,000 payments to both E. Kenneth Twichell and Timothy Cloud noted in the previous section were for services they performed for the associations in connection with an office move. Allegedly, Mr. Twichell supervised the construction of the new building and physically moved the office using his pick up truck. See Johnson Deposition at pp. 254-60. (Attachment Six) Twichell Deposition at pp. 237-242. (Attachment Seven) Similarly, Timothy Cloud was said to have earned this sum for setting up the computer system in the new facility and for helping Mr. Twichell with the move. See Johnson Deposition at p. 293. (Attachment Eight) Cloud Deposition at pp. 94-6. (Attachment Nine) These sums were said to be separate from yearly bonuses received by both men two weeks before the alleged moving bonuses were paid.[11] Non-respondent witness Jean Johnson contested this account. She asserted that it was known in the associations that these funds were given to

9504367004838

(Footnote 10 continued from previous page)
Section III, there is evidence suggesting that the Twichell contribution was reimbursed by the NAREA. Moreover, in view of the pattern of reimbursed contributions demonstrated in this matter, there is serious doubt whether the bank check in the name of Steve Schneck was from his personal funds. After examining Robert Johnson's bank records there is no evidence that he received direct reimbursements into his personal account for this particular contribution.

11. Twichell received a $20,000 bonus on July 5, 1988. Twichell Deposition at p. 247. Cloud testified he received a "substantial raise" near the time of the office move. Cloud Deposition at p. 98. A review of the financial statements of NAREA reveals that Mr. Cloud received a $1,000 bonus at this time and not a salary increase.

Twichell and Cloud in order that they could contribute to the Presidential Trust, an account of the Republican National Committee. See Jean Johnson Deposition at pp. 29-33. (Attachment Ten) Similarly, non-respondent witness Patricia Davidson also testified that the $10,000 payments were not related to the office move. She stated that the associations hired professional movers and had new furniture delivered to the new building, thus undercutting the testimony regarding the scope of work performed by Respondents Johnson and Twichell. See Davidson Deposition at pp. 129-135. (Attachment Eleven) She also testified that Timothy Cloud had informed her that both of the $10,000 payments were intended to be political contributions, and that she heard this information from both Mr. Cloud and a third party that Mr. Cloud had also informed. Davidson Deposition at pp. 142-50 and 165-6. (Attachment Twelve)

The investigation also reveals credibility problems with other representations made by these respondents. For example, the genesis of this matter was a mailing sent out by the associations that advocated the election of George Bush and solicited funds for his campaign. Initially, respondents admitted approximately 2,000 of such letters had gone out. In his deposition testimony, respondent Twichell asserted this amount was more likely in the neighborhood of 800 pieces. Twichell Deposition at p. 279-85. (Attachment Thirteen) This account has been challenged by other witnesses. Jean Johnson described the mailing as "massive," recalling that the computer at the association was tied up for days as a result. Jean Johnson Deposition at p. 64-66.

9504367049

(Attachment Fourteen) Our conversations with the persons who stuffed envelopes uniformly indicate that the mailing was composed of many thousands of pieces. These persons indicated that they stuffed the mailers and signed the letters. Moreover, this Office also contacted the Arizona Republican Party after information from the Twichell's check book indicated that E. Kenneth Twichell may have been reimbursed for a $156 payment to this entity. (See Chart at Section III, item 6) The state party responded, indicating that they had sold two sets of mailing labels to Robert Johnson and E. Kenneth Twichell. (Attachment Fifteen) The first transaction occurred in March, 1988 and consisted of 41,075 labels. The second transaction occurred in May, 1988 and consisted of 12,954 labels. The documents produced by the state party indicate that the candidate these mailings labels were intended to benefit was "Bush". Id. at pp. 95 and 97. Thus, the evidence gathered to date directly contradicts Twichell's testimony that he alone was responsible for the mailings, that the mailings consisted of only about 800 pieces, and that he personally signed each letter. Twichell Deposition at p. 287-291. Another credibility issue resolves around the Twichell's bank accounts. While under oath, Mr. Twichell would not or could not identify all of his bank accounts. Twichell Deposition at p. 27-32. (Attachment Sixteen) Further, his counsel rebuffed our requests for further information on this issue. See Attachments Seventeen and Eighteen.

9504367049O

In short, the investigation conducted to date reveals a systematic operation of contributions in the name of another, corporate contributions, and a pattern of deceit regarding these violations. Although this report includes new reason to believe recommendations, this Office considers the investigation close to final. Consequently, we will soon circulate probable cause briefs for the principal respondents.

V. RECOMMENDATIONS

1. Find reason to believe Tamara Twichell violated 2 U.S.C. § 441f.

2. Find reason to believe Steve Schneck violated 2 U.S.C. § 441f.

3. Find reason to believe Mary Schneck violated 2 U.S.C. § 441f.

4. Find reason to believe Timothy Cloud violated 2 U.S.C. § 441f.

5. Find reason to believe Todd Johnson violated 2 U.S.C. § 441f.

6. Find reason to believe John Steensland violated 2 U.S.C. § 441f.

7. Find reason to believe International Real Estate Institute (a.k.a International Institute of Valuers, Inc.) knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f.

8. Find reason to believe Todd Publishing, Inc. knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f.

9. Find reason to believe the Professional Women's Apprasial Association, Inc. violated 2 U.S.C. § 441b(a).

9504367049 1

10. Approve the attached sample subpoenas, factual and legal analyses and appropriate letters.

3/20/91
Date

Lawrence M. Noble
General Counsel

Staff Assigned: Patty Reilly

Attachments

1. Court Order
2. Robert Johnson Deposition Transcript p. 286
3. E. Kenneth Twichell Deposition Transcript pp. 264-5
4. Response of the Durenberger Committee
5. Check Register and Check Copy of NAREA check #9163
6. Robert Johnson Deposition Transcript pp. 259-266
7. E. Kenneth Twichell Deposition Transcript pp. 237-42
8. Robert Johnson Deposition Transcript p. 293
9. Timothy Cloud Deposition Transcript pp. 94-5
10. Jean Johnson Deposition Transcript pp. 29-33
11. Patricia Davidson Deposition Transcript pp. 129-35
12. Patricia Davidson Deposition Transcript pp. 147-50 and 165-66
13. E. Kenneth Twichell Deposition Transcript pp. 279-85
14. Jean Johnson Deposition Transcript pp. 64-6
15. Response of the Arizona Republican Party
16. E. Kenneth Twichell Deposition Transcript pp. 27-32
17. OGC Request for Information
18. Response to OGC Request
19. Sample Subpoena
20. Factual and Legal Analyses (7)

95043670492

FEDERAL ELECTION COMMISSION
WASHINGTON DC 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS /DONNA ROACH DR
COMMISSION SECRETARY

DATE: MARCH 25, 1991

SUBJECT: MUR 2984 - GENERAL COUNSEL'S REPORT
DATED MARCH 20, 1991

The above-captioned document was circulated to the Commission on THURSDAY, MARCH 21, 1991 at 11:00 A.M.

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

Commissioner Aikens	XXXX
Commissioner Elliott	
Commissioner Josefiak	
Commissioner McDonald	
Commissioner McGarry	
Commissioner Thomas	

This matter will be placed on the meeting agenda for TUESDAY, MARCH 26, 1991.

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

9504336700493

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 2984
National Real Estate Appraisers, et al.	)	
	)	

AMENDED CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that at the executive session on March 26, 1991, the Commission decided by a vote of 4-1 to take the following actions in MUR 2984:

1. Find reason to believe Tamara Twichell violated 2 U.S.C. § 441f.

2. Find reason to believe Steve Schneck violated 2 U.S.C. § 441f.

3. Find reason to believe Mary Schneck violated 2 U.S.C. § 441f.

4. Find reason to believe Timothy Cloud violated 2 U.S.C. § 441f.

5. Find reason to believe Todd Johnson violated 2 U.S.C. § 441f.

6. Find reason to believe John Steensland violated 2 U.S.C. § 441f.

7. Find reason to believe International Real Estate Institute (a.k.a. International Institute of Valuers, Inc.) knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f.

(continued)

9504367049 4

8. Find reason to believe Todd Publishing, Inc. knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f.

9. Find reason to believe the Professional Women's Appraisal Association, Inc. knowingly and willfully violated 2 U.S.C. § 441b(a).

10. Approve the sample subpoenas, revised factual and legal analyses and appropriate letters, as recommended in the General Counsel's report dated March 20, 1991.

Commissioners Josefiak, McDonald, McGarry and Thomas voted affirmatively for the decision; Commissioner Aikens dissented; Commissioner Elliott was not present.

Attest:

April 8, 1991
Date

Delores Harris
for Marjorie W. Emmons
Secretary of the Commission

9504367049 5

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 5, 1991

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Tamara Twichell
3867 Everett East
Phoenix, AZ 85015

RE: MUR 2984
Tamara Twichell

Dear Mrs. Twichell:

On March 26, 1991, 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. Statements should be submitted under oath. All responses to the enclosed Order to Answer Questions and Subpoena to Produce Documents must be submitted within 15 days of your receipt of this order and subpoena. Any additional materials or statements you wish to submit should accompany the response to the order and subpoena.

You may consult with an attorney and have an attorney assist you in the preparation of your responses to this order and subpoena. If you intend to be represented by counsel, 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 or other communications from the Commission.

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.

9504367004926

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.

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.

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 Patty Reilly, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,

Joan D. Aikens

Joan D. Aikens
Vice Chairman

Enclosures
Order and Subpoena
Factual and Legal Analysis
Procedures
Designation of Counsel Form

9504367049 7

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 2984

SUBPOENA TO PRODUCE DOCUMENTS
ORDER TO SUBMIT WRITTEN ANSWERS

TO: Tamara Twichell
3867 Everett East
Phoenix, AZ 85015

Pursuant to 2 U.S.C. § 437d(a)(1) and (3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order and subpoenas you to produce the documents requested on the attachment to this Subpoena. Legible copies which, where applicable, show both sides of the documents may be substituted for originals.

Such answers must be submitted under oath and must be forwarded to the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, along with the requested documents within fifteen days of receipt of this Order and Subpoena.

9504367049 8

WHEREFORE, the Vice Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 4th, day of April, 1991.

Joan D. Aikens

Joan D. Aikens, Vice Chairman
Federal Election Commission

ATTEST:

for Delores Harris

Marjorie W. Emmons
Secretary to the Commission

Attachment
Document Request (6 pages)

9504367049 9

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 request shall refer to the time period from January 1, 1988 to June 31, 1988.

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.

9504367050O

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 the 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.

9504367050 1

"Specified Persons" shall mean any candidate for federal office; any federal political committee; any political party; the National Association of Real Estate Appraisers, Inc.; National Association of Review Appraisers and Mortgage Underwriters, Inc.; International Association Managers, Inc.; Professional Women's Appraisal Association, Inc.; Robert Johnson and Associates; Todd Publishing, Inc.; Robert Johnson; E. Kenneth Twichell; Timothy Cloud; Stephen Schneck; Mary Schneck; Tamara Twichell and Todd Johnson.

9504367050502

1. List each contribution you made during 1988 to federal political committees.

2. For each contribution noted above, list the candidate or committee to whom you contributed, the date of the contribution, and the amount of the contribution.

3. Identify the method by which you made each contribution. If you used a personal check, list the account number and check number. If you used another instrument, identify this instrument and identify the financial institution from which it was obtained. Specify the source of funds you used to obtain this instrument.

4. For each contribution, state whether you were reimbursed directly or indirectly or otherwise compensated for such contribution. If yes, explain the circumstances of this reimbursement.

5. Produce the following documents and materials from the period covering January 1, 1988 to March 1, 1988: checks written by you, check registers, account statements, statements from brokerage houses and statements from any financial institution.

6. Produce all documents from the period covering January 1, 1988 to March 1, 1988 that in any way reflect, constitute, relate or refer to financial activity, or the transfer of any asset either directly or indirectly through a third party, between you and any of the Specified Persons. Such documents include but are not limited to the following: checks written to you; check stubs; deposit slips; canceled checks; bills; invoices; expense records; expense reimbursement forms; records of electronic transfers; confirmation of the purchase or sale of stocks, bonds, mutual funds, commodities, and real estate; and records of all other financial transactions.

7. Produce all documents and materials from the period covering January 1, 1988 to March 1, 1988 relating to each of your political contributions including but not limited to solicitation letters; check copies (front and back); receipts; acknowledgment letters and all writings of every kind.

9504367050503

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Tamara Twichell MUR: 2984

Pursuant to 2 U.S.C. § 441f, no person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such contribution. The Act further prohibits corporations from making contributions in connection with a federal election. 2 U.S.C. § 441b(a). A contribution is defined to include any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for federal office. 2 U.S.C. § 431(8)(A)(i). See also 2 U.S.C. § 441b(b)(2).

Based on information uncovered during the course of the Federal Election Commission's supervisory responsibilities, it appears the above-captioned respondent permitted her name to be used to effectuate a $1,000 contribution by the National Association of Real Estate Appraisers to the Bush for President Committee. This reimbursement is illustrated by the following chart.

Contributions	Corporate Activity	Donor Activity
$1,000, E. Kenneth Twichell, Bush for President Committee, 1/28/88	NAREA check to E. Kenneth Twichell "outside services", $2,400, 1/25/88	Twichells deposit $2,280 as "bonus check" 1/26/88
$1,000, Tamara Twichell, Bush for President Committee, 1/28/88		

9504367050 4

Therefore, there is reason to believe the above-captioned respondent violated 2 U.S.C. § 441f.

9504367050505

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 5, 1991

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Steve Schneck
16418 N. 67th Street
Scottsdale, AZ 85254

RE: MUR 2984
Steve Schneck

Dear Mr. Schneck:

On March 26, 1991, 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. Statements should be submitted under oath. All responses to the enclosed Order to Answer Questions and Subpoena to Produce Documents must be submitted within 15 days of your receipt of this order and subpoena. Any additional materials or statements you wish to submit should accompany the response to the order and subpoena.

You may consult with an attorney and have an attorney assist you in the preparation of your responses to this order and subpoena. If you intend to be represented by counsel, 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 or other communications from the Commission.

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.

9504367050506

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.

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.

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 Patty Reilly, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,

Joan D. Aikens

Joan D. Aikens
Vice Chairman

Enclosures
Order and Subpoena
Factual and Legal Analysis
Procedures
Designation of Counsel Form

9504367050507

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 2984

SUBPOENA TO PRODUCE DOCUMENTS
ORDER TO SUBMIT WRITTEN ANSWERS

TO: Steve Schneck
16418 N. 67th Street
Scottsdale, AZ 85254

Pursuant to 2 U.S.C. § 437d(a)(1) and (3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order and subpoenas you to produce the documents requested on the attachment to this Subpoena. Legible copies which, where applicable, show both sides of the documents may be substituted for originals.

Such answers must be submitted under oath and must be forwarded to the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, along with the requested documents within fifteen days of receipt of this Order and Subpoena.

9504367050508

WHEREFORE, the Vice Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 4th, day of April, 1991.

Joan D. Aikens

Joan D. Aikens, Vice Chairman
Federal Election Commission

ATTEST:

for Delores Harris

Marjorie W. Emmons
Secretary to the Commission

Attachment
Document Request (6 pages)

9504367050509

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 request shall refer to the time period from January 1, 1988 to June 31, 1988.

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.

9504367510

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 the 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.

9504367051 1

"Specified Persons" shall mean any candidate for federal office; any federal political committee; any political party; the National Association of Real Estate Appraisers, Inc.; National Association of Review Appraisers and Mortgage Underwriters, Inc.; International Association Managers, Inc.; Professional Women's Appraisal Association, Inc.; Robert Johnson and Associates; Todd Publishing, Inc.; Robert Johnson; E. Kenneth Twichell; Timothy Cloud; Stephen Schneck; Mary Schneck; Tamara Twichell and Todd Johnson.

95043670512

1. List each contribution you made during 1988 to federal political committees.

2. For each contribution noted above, list the candidate or committee to whom you contributed, the date of the contribution, and the amount of the contribution.

3. Identify the method by which you made each contribution. If you used a personal check, list the account number and check number. If you used another instrument, identify this instrument and identify the financial institution from which it was obtained. Specify the source of funds you used to obtain this instrument.

4. For each contribution, state whether you were reimbursed directly or indirectly or otherwise compensated for such contribution. If yes, explain the circumstances of this reimbursement.

5. Produce the following documents and materials from the period covering January 1, 1988 to April 1, 1988: checks written by you, check registers, account statements, statements from brokerage houses and statements from any financial institution.

6. Produce all documents from the period covering January 1, 1988 to April 1, 1988 that in any way reflect, constitute, relate or refer to financial activity, or the transfer of any asset either directly or indirectly through a third party, between you and any of the Specified Persons. Such documents include but are not limited to the following: checks written to you; check stubs; deposit slips; canceled checks; bills; invoices; expense records; expense reimbursement forms; records of electronic transfers; confirmation of the purchase or sale of stocks, bonds, mutual funds, commodities, and real estate; and records of all other financial transactions.

7. Produce all documents and materials from the period covering January 1, 1988 to April 1, 1988 relating to each of your political contributions including but not limited to solicitation letters; check copies (front and back); receipts; acknowledgment letters and all writings of every kind.

9504367051 3

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 5, 1991

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mary Schneck
16418 N. 67th Street
Scottsdale, AZ 85254

RE: MUR 2984
Mary Schneck

Dear Ms. Schneck:

On March 26, 1991, 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. Statements should be submitted under oath. All responses to the enclosed Order to Answer Questions and Subpoena to Produce Documents must be submitted within 15 days of your receipt of this order and subpoena. Any additional materials or statements you wish to submit should accompany the response to the order and subpoena.

You may consult with an attorney and have an attorney assist you in the preparation of your responses to this order and subpoena. If you intend to be represented by counsel, 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 or other communications from the Commission.

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.

9504367051 4

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.

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.

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 Patty Reilly, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,

Joan D. Aikens

Joan D. Aikens
Vice Chairman

Enclosures
Order and Subpoena
Factual and Legal Analysis
Procedures
Designation of Counsel Form

9504367051 5

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 2984

SUBPOENA TO PRODUCE DOCUMENTS
ORDER TO SUBMIT WRITTEN ANSWERS

TO: Mary Schneck
16418 N. 67th Street
Scottsdale, AZ 85254

Pursuant to 2 U.S.C. § 437d(a)(1) and (3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order and subpoenas you to produce the documents requested on the attachment to this Subpoena. Legible copies which, where applicable, show both sides of the documents may be substituted for originals.

Such answers must be submitted under oath and must be forwarded to the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, along with the requested documents within fifteen days of receipt of this Order and Subpoena.

9504367051 6

WHEREFORE, the Vice Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 4th, day of April, 1991.

Joan D. Aikens

Joan D. Aikens, Vice Chairman
Federal Election Commission

ATTEST:

for Delores Harris

Marjorie W. Emmons
Secretary to the Commission

Attachment
Document Request (6 pages)

9504367051 7

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 request shall refer to the time period from January 1, 1988 to June 31, 1988.

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.

9504367051 8

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 the 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.

9504367059

"Specified Persons" shall mean any candidate for federal office; any federal political committee; any political party; the National Association of Real Estate Appraisers, Inc.; National Association of Review Appraisers and Mortgage Underwriters, Inc.; International Association Managers, Inc.; Professional Women's Appraisal Association, Inc.; Robert Johnson and Associates; Todd Publishing, Inc.; Robert Johnson; E. Kenneth Twichell; Timothy Cloud; Stephen Schneck; Mary Schneck; Tamara Twichell and Todd Johnson.

9504367052O

1. List each contribution you made during 1988 to federal political committees.

2. For each contribution noted above, list the candidate or committee to whom you contributed, the date of the contribution, and the amount of the contribution.

3. Identify the method by which you made each contribution. If you used a personal check, list the account number and check number. If you used another instrument, identify this instrument and identify the financial institution from which it was obtained. Specify the source of funds you used to obtain this instrument.

4. For each contribution, state whether you were reimbursed directly or indirectly or otherwise compensated for such contribution. If yes, explain the circumstances of this reimbursement.

5. Produce the following documents and materials from the period covering January 1, 1988 to March 1, 1988: checks written by you, check registers, account statements, statements from brokerage houses and statements from any financial institution.

6. Produce all documents from the period covering January 1, 1988 to March 1, 1988 that in any way reflect, constitute, relate or refer to financial activity, or the transfer of any asset either directly or indirectly through a third party, between you and any of the Specified Persons. Such documents include but are not limited to the following: checks written to you; check stubs; deposit slips; canceled checks; bills; invoices; expense records; expense reimbursement forms; records of electronic transfers; confirmation of the purchase or sale of stocks, bonds, mutual funds, commodities, and real estate; and records of all other financial transactions.

7. Produce all documents and materials from the period covering January 1, 1988 to March 1, 1988 relating to each of your political contributions including but not limited to solicitation letters; check copies (front and back); receipts; acknowledgment letters and all writings of every kind.

9504367052 1

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Steve Schneck
Mary Schneck

MUR: 2984

Pursuant to 2 U.S.C. § 441f, no person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such contribution. The Act further prohibits corporations from making contributions in connection with a federal election. 2 U.S.C. § 441b(a). A contribution is defined to include any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for federal office. 2 U.S.C. § 431(8)(A)(i). See also 2 U.S.C. § 441b(b)(2).

Based on information uncovered during the course of the Federal Election Commission's supervisory responsibilities, it appears each of the above-captioned respondents permitted his or her name to be used to effectuate a $500 contribution by the International Institute of Valuers (a.k.a. International Real Estate Institute) to the Bush for President Committee. This reimbursement is illustrated by the following chart.

Contributions	Corporate Activity
$500, Steve Schneck, Bush for President Committee, 1/28/88	International Institute of Valuers (a.k.a. International Real Estate Institute) check to Steve Schneck, $1,150, 1/26/88
$500, Mary Schneck, Bush for President Committee, 1/28/88	

9504367052 2

Therefore, there is reason to believe the above-captioned respondents each violated 2 U.S.C. § 441f.

9504367705523

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 9, 1991

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Timothy Cloud
1720 East Thunderbird Road
Apt. 2019
Phoenix, AZ 85022

RE: MUR 2984
Timothy Cloud

Dear Mr. Cloud:

On March 26, 1991, 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. 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.

9504367052 4

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. Please note that the Office of the General Counsel contacted Teilborg, Sanders, and Park, the law firm which represented you at your June 20, 1990 deposition in this matter. We have been informed that they are not currently representing you in this matter.

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 Patty Reilly, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,

John Warren McGarry
Chairman

Enclosures
Factual and Legal Analysis
Procedures
Designation of Counsel Form

9504367052 5

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 5, 1991

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Todd Johnson
9395 E. Kalil Drive
Scottsdale, AZ 85260

RE: MUR 2984
Todd Johnson

Dear Mr. Johnson:

On March 26, 1991, 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. Statements should be submitted under oath. All responses to the enclosed Order to Answer Questions and Subpoena to Produce Documents must be submitted within 15 days of your receipt of this order and subpoena. Any additional materials or statements you wish to submit should accompany the response to the order and subpoena.

You may consult with an attorney and have an attorney assist you in the preparation of your responses to this order and subpoena. If you intend to be represented by counsel, 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 or other communications from the Commission.

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.

9504367052 6

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.

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.

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 Patty Reilly, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,

Joan D. Aikens

Joan D. Aikens
Vice Chairman

Enclosures
Order and Subpoena
Factual and Legal Analysis
Procedures
Designation of Counsel Form

9504367052 7

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 2984

SUBPOENA TO PRODUCE DOCUMENTS
ORDER TO SUBMIT WRITTEN ANSWERS

TO: Todd Johnson
9395 E. Kalil Drive
Scottsdale, AZ 85260

Pursuant to 2 U.S.C. § 437d(a)(1) and (3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order and subpoenas you to produce the documents requested on the attachment to this Subpoena. Legible copies which, where applicable, show both sides of the documents may be substituted for originals.

Such answers must be submitted under oath and must be forwarded to the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, along with the requested documents within fifteen days of receipt of this Order and Subpoena.

9504367052 8

WHEREFORE, the Vice Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 4th. day of April, 1991.

Joan D. Aikens

Joan D. Aikens, Vice Chairman
Federal Election Commission

ATTEST:

Marjorie W. Emmons
Secretary to the Commission

Attachment
Document Request (6 pages)

9504367052 9

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 request shall refer to the time period from January 1, 1988 to June 31, 1988.

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.

9504367053O

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 the 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.

9504367053 1

"Specified Persons" shall mean any candidate for federal office; any federal political committee; any political party; the National association of real Estate Appraisers, Inc.; national Association of review Appraisers and Mortgage underwriters, Inc.; International association Managers, Inc.; Professional women's appraisal association, Inc.; Robert Johnson and Associates; Todd Publishing, Inc.; Robert Johnson; E. Kenneth Twichell; Timothy Cloud; Stephen Schneck; Mary Schneck; Tamara Twichell and Todd Johnson.

9504367053 2

1. List each contribution you made during 1988 to federal political committees.

2. For each contribution noted above, list the candidate or committee to whom you contributed, the date of the contribution, and the amount of the contribution.

3. Identify the method by which you made each contribution. If you used a personal check, list the account number and check number. If you used another instrument, identify this instrument and identify the financial institution from which it was obtained. Specify the source of funds you used to obtain this instrument.

4. For each contribution, state whether you were reimbursed directly or indirectly or otherwise compensated for such contribution. If yes, explain the circumstances of this reimbursement.

5. Produce the following documents and materials from the period covering January 1, 1988 to March 1, 1988: checks written by you, check registers, account statements, statements from brokerage houses and statements from any financial institution.

6. Produce all documents from the period covering January 1, 1988 to March 1, 1988 that in any way reflect, constitute, relate or refer to financial activity, or the transfer of any asset either directly or indirectly through a third party, between you and any of the Specified Persons. Such documents include but are not limited to the following: checks written to you; check stubs; deposit slips; canceled checks; bills; invoices; expense records; expense reimbursement forms; records of electronic transfers; confirmation of the purchase or sale of stocks, bonds, mutual funds, commodities, and real estate; and records of all other financial transactions.

7. Produce all documents and materials from the period covering January 1, 1988 to March 1, 1988 relating to each of your political contributions including but not limited to solicitation letters; check copies (front and back); receipts; acknowledgment letters and all writings of every kind.

9504367053 3

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Todd Johnson MUR: 2984

Pursuant to 2 U.S.C. § 441f, no person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such contribution. The Act further prohibits corporations from making contributions in connection with a federal election. 2 U.S.C. § 441b(a). A contribution is defined to include any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for federal office. 2 U.S.C. § 431(8)(A)(i). See also 2 U.S.C. § 441b(b)(2).

Based on information uncovered during the course of the Federal Election Commission's supervisory responsibilities, it appears the above-captioned respondent permitted his name to be used to effectuate a $1,000 contribution by Todd Publishing, Inc. to the Bush for President Committee. This reimbursement is illustrated by the following chart.

Contribution	Corporate Activity
$1,000, Todd Johnson, Bush for President Committee, 1/29/88	Todd Publishing check to Todd Johnson for "reimbursement of printing", $1,155 1/26/88

Therefore, there is reason to believe the above-captioned respondent violated 2 U.S.C. § 441f.

9504367053 4

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 5, 1991

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

John Steensland
3378 Buckbee Road
White Bear Lake, MN 55110

RE: MUR 2984
John Steensland

Dear Mr. Steensland:

On March 26, 1991, 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. Statements should be submitted under oath. All responses to the enclosed Order to Answer Questions and Subpoena to Produce Documents must be submitted within 15 days of your receipt of this order and subpoena. Any additional materials or statements you wish to submit should accompany the response to the order and subpoena.

You may consult with an attorney and have an attorney assist you in the preparation of your responses to this order and subpoena. If you intend to be represented by counsel, 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 or other communications from the Commission.

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.

9504367055 35

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 entered into after briefs on probable cause have been mailed to the respondent.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A), unless you notify the Commission in writing that you wish the 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 Patty Reilly, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,

Joan D. Aikens

Joan D. Aikens
Vice Chairman

Enclosures
Order and Subpoena
Factual and Legal Analysis
Procedures
Designation of Counsel Form

9504367053 6

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
) MUR 2984
)

SUBPOENA TO PRODUCE DOCUMENTS
ORDER TO SUBMIT WRITTEN ANSWERS

TO: John Steensland
3378 Buckbee Road
White Bear Lake, MN 55110

Pursuant to 2 U.S.C. § 437d(a)(1) and (3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order and subpoenas you to produce the documents requested on the attachment to this Subpoena. Legible copies which, where applicable, show both sides of the documents may be substituted for originals.

Such answers must be submitted under oath and must be forwarded to the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, along with the requested documents within fifteen days of receipt of this Order and Subpoena.

9504367705537

WHEREFORE, the Vice Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 4th, day of April, 1991.

Joan D. Aikens

Joan D. Aikens, Vice Chairman
Federal Election Commission

ATTEST:

for Delores Harris

Marjorie W. Emmons
Secretary to the Commission

Attachment
Document Request (6 pages)

9504367053 8

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 request shall refer to the time period from January 1, 1988 to June 31, 1988.

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.

9504367053 9

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 the 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.

9504367054O

"Specified Persons" shall mean any candidate for federal office; any federal political committee; any political party; the National Association of Real Estate Appraisers, Inc.; National Association of Review Appraisers and Mortgage Underwriters, Inc.; International Association Managers, Inc.; Professional Women's Appraisal Association, Inc.; Robert Johnson and Associates; Todd Publishing, Inc.; Robert Johnson; E. Kenneth Twichell; Timothy Cloud; Stephen Schneck; Mary Schneck; Tamara Twichell and Todd Johnson.

9504367054 1

1. List each contribution you made during 1988 to federal political committees.

2. For each contribution noted above, list the candidate or committee to whom you contributed, the date of the contribution, and the amount of the contribution.

3. Identify the method by which you made each contribution. If you used a personal check, list the account number and check number. If you used another instrument, identify this instrument and identify the financial institution from which it was obtained. Specify the source of funds you used to obtain this instrument.

4. For each contribution, state whether you were reimbursed directly or indirectly or otherwise compensated for such contribution. If yes, explain the circumstances of this reimbursement.

5. Produce the following documents and materials from the period covering May 1, 1988 to July 1, 1988: checks written by you, check registers, account statements, statements from brokerage houses and statements from any financial institution.

6. Produce all documents from the period covering May 1, 1988 to July 1, 1988 that in any way reflect, constitute, relate or refer to financial activity, or the transfer of any asset either directly or indirectly through a third party, between you and any of the Specified Persons. Such documents include but are not limited to the following: checks written to you; check stubs; deposit slips; canceled checks; bills; invoices; expense records; expense reimbursement forms; records of electronic transfers; confirmation of the purchase or sale of stocks, bonds, mutual funds, commodities, and real estate; and records of all other financial transactions.

7. Produce all documents and materials from the period covering May 1, 1988 to July 1, 1988 relating to each of your political contributions including but not limited to solicitation letters; check copies (front and back); receipts; acknowledgment letters and all writings of every kind.

9504367054 2

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: John Steensland **MUR:** 2984

Pursuant to 2 U.S.C. § 441f, no person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such contribution. The Act further prohibits corporations from making contributions in connection with a federal election. 2 U.S.C. § 441b(a). A contribution is defined to include any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for federal office. 2 U.S.C. § 431(8)(A)(i). See also 2 U.S.C. § 441b(b)(2).

Based on information uncovered during the course of the Federal Election Commission's supervisory responsibilities, it appears the above-captioned respondent permitted his name to be used to effectuate a $1,000 contribution by the National Associati to the Durenberger for Senate Committee. This reimbursement is illustrated by the following chart.

Contributions	Corporate Activity
$1,000, John Steensland, Durenberger for Senate Committee, 5/27/88	NAREA check to John Steensland "seminar expense" for $1,000 5/25/88

Therefore, there is reason to believe the above-captioned respondent violated 2 U.S.C. § 441f.

9504367054 3

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 5, 1991

D. Randall King
Merchant & Gold
1000 Northwest Center
55 East Fifth Street
St. Paul, MN 55101

RE: MUR 2984
International Real Estate Institute (a.k.a. International Institute of Valuers)
Todd Publishing, Inc.

Dear Mr. King:

On March 26, 1991 the Federal Election Commission found that there is reason to believe International Real Estate Institute Inc. (a.k.a. International Institute of Valuers) and Todd Publishing, Inc. ("the Corporations") each knowingly and willfully violated 2 U.S.C. §§ 441f and 441b(a), 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 the Corporations. 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. Where appropriate, statements should be submitted under oath.

In the absence of any additional information demonstrating that no further action should be taken against the Corporations, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

9504367054

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.

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.

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 Patty Reilly, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,

Joan D. Aikens

Joan D. Aikens
Vice Chairman

Enclosures
Factual and Legal Analysis
Procedures

9504367055 45

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: International Real Estate Institute Inc. (a.k.a. International Institute of Valuers) **MUR:** 2984

Pursuant to 2 U.S.C. § 441f, no person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such contribution. The Act further prohibits corporations from making contributions in connection with a federal election. 2 U.S.C. § 441b(a). A contribution is defined to include any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for federal office. 2 U.S.C. § 431(8)(A)(i). See also 2 U.S.C. § 441b(b)(2).

Based on information uncovered during the course of the Federal Election Commission's supervisory responsibilities, it appears the above-captioned respondent, a corporation, made a contribution in the name of another. This contribution is illustrated by the following chart.

Contributions	Corporate Activity
$500, Steve Schneck, Bush for President Committee, 1/28/88	International Institute of Valuers (a.k.a. International Real Estate Institute) check to Steve Schneck, $1,150, 1/26/88
$500, Mary Schneck, Bush for President Committee, 1/28/88	

This transaction is part of a pattern of corporate payments made by organizations associated with Robert Johnson to individuals assertedly for legitimate corporate purposes, but made in close

9504367054 6

proximity to campaign contributions by these individuals. Further, witnesses have testified that the associations and/or Mr. Johnson reimbursed employees for political contributions. Finally, in response to a Commission subpoena, International Real Estate Institute Inc. has failed to produce any documentation that the corporate payment was for any purpose other than as reimbursement for political contributions. Because of the evidence of a deliberate scheme to evade the prohibitions of the Act, there is reason to believe the above-captioned respondent knowingly and willfully violated 2 U.S.C. §§ 441f and 441b(a).

9504367054 7

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Todd Publishing, Inc. **MUR:** 2984

Pursuant to 2 U.S.C. § 441f, no person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such contribution. The Act further prohibits corporations from making contributions in connection with a federal election. 2 U.S.C. § 441b(a). A contribution is defined to include any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for federal office. 2 U.S.C. § 431(8)(A)(i). See also 2 U.S.C. § 441b(b)(2).

Based on information uncovered during the course of the Federal Election Commission's supervisory responsibilities, it appears the above-captioned respondent, a corporation, made a contribution in the name of another. This contribution is illustrated by the following chart.

Contribution	Corporate Activity
$1,000, Todd Johnson, Bush for President Committee, 1/29/88	Todd Publishing check to Todd Johnson for "reimbursement of printing", $1,155 1/26/88

This transaction is part of a pattern of corporate payments by organizations associated with Robert Johnson to individuals assertedly for legitimate corporate purposes, but made in close proximity to campaign contributions by these individuals. Further, witnesses have testified that the associations and/or

9504367054 8

Mr. Johnson reimbursed employees for political contributions. Finally, in response to a Commission subpoena, Todd Publishing, Inc. has failed to produce any documentation that the corporate payment was for any purpose other than as a reimbursement for a political contribution. Because of the evidence of a deliberate scheme to evade the prohibitions of the Act, there is reason to believe the above-captioned respondent knowingly and willfully violated 2 U.S.C. §§ 441f and 441b(a).

9504367005549

FEDERAL ELECTION COMMISSION
WASHINGTON D C 20463

April 5, 1991

D. Randall King
Merchant & Gold
1000 Northwest Center
55 East Fifth Street
St. Paul, MN 55101

RE: MUR 2984
Professional Women's
Appraisal Association, Inc.

Dear Mr. King:

On March 26, 1991 the Federal Election Commission found that there is reason to believe Professional Women's Appraisal Association, Inc. ("the Corporation") knowingly and willfully violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Factual and Legal Analyses, which formed a basis for the Commission's finding, are attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the Corporations. 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. Where appropriate, statements should be submitted under oath.

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

9504367055O

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.

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 Patty Reilly, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,

Joan D. Aikens

Joan D. Aikens
Vice Chairman

Enclosures
Factual and Legal Analyses
Procedures

9504367055 1

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Professional Women's Appraisal Association MUR: 2984

Pursuant to 2 U.S.C. § 441b(a), corporations are prohibited from making contributions in connection with a federal election. A contribution is defined to include any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value made in connection with a federal election. 2 U.S.C. § 441b(b)(2).

Based on information uncovered during the course of the Federal Election Commission's supervisory responsibilities, the Commission previously found reason to believe various organizations associated with Robert Johnson violated the Act regarding letters soliciting funds for the Bush for President Committee. It was alleged that these letters were sent out by a number of these associations, including Professional Women's Appraisal Association ("PWAA"). Thus, an inference arises that PWAA paid for some of the mailings in question.

This inference is strengthened by a review of of PWAA's check register. The investigation in this matter reveals that the alleged mailings occurred in late January, 1988 and continued into February. During this period, PWAA made the following

9504367055 2

expenditures:

Date	Check Number	Payee	Amount
1/22/88	5138	Dean Duchane (printing envelopes)	$ 210
1/28/88	5142	Postmaster-Scottsdale	$3,000
1/28/88	5143	Postmaster-Scottsdale	$5,000
2/1/88	5144	Postmaster-Scottsdale	$1,000
2/1/88	5145	Postmaster-Scottsdale	$5,000
		Total:	$14,210

The noted purpose for all payments made to the postmaster was for "postage".

The inference that these sums were payments for the Bush mailings is further strengthened by a number of independent factors. First, it is unlikely that the $14,000 paid by PWAA for postage over a five day period went for a membership mailing since the organization had only 500 or so members. Additionally, these payments were made at a time that the associations are alleged to have sent out thousands of solicitation letters. According to the evidence gathered, each of the Bush solicitation letters carried a twenty-two postage cent meter stamp. Thus, it appears that PWAA paid for a mass mailing of well over 63,000 pieces. Moreover, this expenditure for postage appears to be an isolated event. During the entire rest of the year PWAA's records indicates that it spent a total of $20 on postage.

9504367055 3

Accordingly, it appears that PWAA spent corporate funds for the Bush solicitation. Therefore, there is reason to believe the above-captioned respondent knowingly and willfully violated 2 U.S.C. § 441b(a).

95043670554

OGC 0639

LAW OFFICES

TEILBORG, SANDERS & PARKS

PROFESSIONAL CORPORATION

FRANK A. PARKS
ROBERT J. BRUNO
WINN L. SAMMONS
RICHARD A. KENT
BRIAN R. BURT
STEVEN PLITT
GERALD T. HICKMAN
STEPHEN C. BAKER
MARK WORISCHECK
RICK N. BRYSON
EDYTHE H. KELLY
KARI B. BISHOP-MARSH

RICHARD B. SANDERS
NEIL C. ALDEN
J. CLAYTON BERGER
DAVID J. DAMRON
BRUCE A. PELKEY
CONI RAE GOOD
JOHN A. BLACK
MONTE M. SIMPSON
KEITH R. BEVAN
SCOTT J. HERGENROETHER
BRUCE C. SMITH
BRETT L. FOSTER

JAMES A. TEILBORG
JOHN C. GEMMILL
STEPHEN PAUL FORREST
BRADLEY R. JARDINE
ALISON LEWIS
JAMES W. KAUCHER
SCOTT H. HOUSTON
GARRICK L. GALLAGHER
R. COREY HILL
MARY G. ISBAN
PAUL D. FRIEDMAN

3030 NORTH THIRD STREET
SUITE 1300
PHOENIX, ARIZONA
85012-3099
(602) 230-5800

FACSIMILE (602) 230-5693

WRITER'S DIRECT LINE

230-5770

RECEIVED
FEDERAL ELECTION COMMISSION
91 APR -5 PM 12:19

April 2, 1991

Pat Riley, Esq.
Federal Election Commission
999 E. Street N.W.
Washington D.C. 20463

Re: Timothy Cloud--MUR # 29-84

Dear Ms. Riley:

Upon reviewing Mr. Pelkey's files in this matter, I have determined that our firm merely represented Mr. Cloud during his deposition and that we are not currently representing him at this time. Accordingly, please feel free to direct any future correspondence to Mr. Cloud. Should you have any questions, please feel free to give me a call.

Very truly yours,

J. Clayton Berger

JCB:klh

cc: Mr. Timothy Cloud

RECEIVED
FEDERAL ELECTION COMMISSION
91 APR -5 AM 10:22

95043670555

06C 0747

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

91 APR 12 AM 10:15

MUR
2984

91 APR 12 PM 12:59

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF THE SECRETARIAT

April 8, 1991

VIA FACSIMILE
(CONFIRMATION TO FOLLOW)

Federal Election Commission
Attn: Patty Reilly, esq.
999 E Street, N.W.
Washington, D.C. 20463

Dear Ms. Reilly:

I have arranged for the law firm of MERCHANT, GOULD, EDELL, WELTER, & SCHMIDT, P.A. to represent me in connection with MUR 2984. Please direct any and all future communications to D. Randall King and/or Mark A. Krull at 1000 Norwest Center, St. Paul, Minnesota 55101.

Sincerely,

Timothy Cloud

1720 East Thunderbird Lane
Phoenix, Arizona 85022

9504367055 56

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 11, 1991

VIA FACSIMILE
CONFIRMATION COPY TO FOLLOW

Mark Krull, Esquire
Merchant & Gould
100 Northwest Center
55 East Fifth Street
Saint Paul, MN 55101

Re: MUR 2984

Dear Mr. Krull:

Pursuant to the April 10, 1991 telephone conversation with Patty Reilly of the Office of the General Counsel, enclosed please find a copy of the Commission's recent materials which we sent to Mr. Cloud. If you have any questions please contact Ms. Reilly at (202)-376-5690.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Jonathan Bernstein
Assistant General Counsel

9504367055 57

OGC 0771

MERCHANT & GOULD

Merchant, Gould, Smith, Edell, Welter & Schmidt
Professional Association
Patent, Trademark & Copyright Lawyers

1000 Norwest Center
55 East Fifth Street
Saint Paul, Minnesota
U.S.A. 55101
FAX 612/298-1160
Telex 297470 MANDG Stp
612/298-1055

John D. Gould
Phillip H. Smith
Robert T. Edell
Paul A. Welter
Cecil C. Schmidt
John S. Sumners
Alan G. Carlson
Micheal L. Schwegman
Earl D. Reiland
Raymond A. Bogucki
Charles E. Golla
Douglas J. Williams
Douglas A. Strawbridge
Albert L. Underhill
D. Randall King
Michael B. Lasky
Curtis B. Hamre
Michael D. Schumann
Michael L. Mau
John A. Clifford
Mark J. DiPietro
Steven W. Lundberg
Warren D. Woessner
Timothy R. Conrad
•••
David G. Johnson
Alan W. Kowalchyk
Michael S. Sherrill
Daniel W. McDonald
R. Carl Moy
Robert C. Freed
Daniel J. Kluth
Wendy M. McDonald
Linda M. Byrne
Mark D. Schuman
Randall A. Hillson
John P. Sumner
Brian H. Batzli
David K. Tellekson
Hallie A. Finucane
John J. Gresens
Steven J. Keough
Paul E. Lacy
John L. Knoble
Michelle M. Michel
Philip P. Caspers
Gregory A. Sebald
Jane H. Arrett
A. James Nelson
Robert C. Beck
George H. Gates
Gregory M. Taylor
Kristine M. Strodthoff
Thomas E. Jurgensen
Steven C. Bruess
Joel A. Rothfus
Mark A. Krull

CONFIRMATION

April 11, 1991

VIA FACSIMILE
(CONFIRMATION TO FOLLOW)

Federal Election Commission
Attn: Patty Reilly, esq.
999 E Street, N.W.
Washington, D.C. 20463

RE: M&G 3230.23-US-AC

Dear Ms. Reilly:

Please find enclosed a Designation of Counsel for Stephen L. Schneck and Mary A. Schneck in connection with MUR 2984.

Sincerely,

Mark A Krull

Mark A. Krull

MAK/lmd

Enc: Designation of Counsel (2)

95043670558

FEDERAL ELECTION COMMISSION RECEIVED
91 APR 15 PM 4:06

FEDERAL ELECTION COMMISSION RECEIVED
91 APR 15 AM 10:43

STATEMENT OF DESIGNATION OF COUNSEL

MUR 2984

NAME OF COUNSEL: Merchant, Gould Smith, Edell, Welter, Schmidt, PA

ADDRESS: 1000 Northwest Center
St Paul Minnesota 55101

TELEPHONE: 612 / 338-1055

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.

4/10/91
Date

Signature

RESPONDENT'S NAME: Stephen L. Schneck

ADDRESS: 16418 N 67th Street
Scottsdale Az 85254

HOME PHONE: 602/998-9115

BUSINESS PHONE: 602/481-4700

9504336705559

STATEMENT OF DESIGNATION OF COUNSEL

MUR 2981

NAME OF COUNSEL: Merchant, Gould, Smith, Edell, Welter, Schmidt, PA

ADDRESS: 1000 Northwest Center
St Paul, Minnesota 55101

TELEPHONE: 612-338-1055

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.

4/10/91
Date

Mary A Schneck
Signature

RESPONDENT'S NAME: MARY A SCHNECK

ADDRESS: 16418 N. 67 Str.
Scottsdale, Az 35254

HOME PHONE: 602-998-9115

BUSINESS PHONE: 602-867-5025

9504367056O

06C0746

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

91 APR 12 AM10:15

STATEMENT OF DESIGNATION OF COUNSEL

MUR 2984

NAME OF COUNSEL: D. Randall King/Mark A. Krull

ADDRESS: Merchant, Gould, Smith, Edell,
Welter & Schmidt, P.A.
1000 Norwest Center
St. Paul, Minnesota 55101

TELEPHONE: (612) 298-1055

RECEIVED
FEDERAL ELECTION COMMISSION
91 APR 12 PM12:59

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.

April 8, 1991
Date

Signature

RESPONDENT'S NAME: Todd Johnson

ADDRESS: 9395 E. Kalil Drive
Scottsdale, Arizona 85260

HOME PHONE: (602) 860-9145

BUSINESS PHONE: (602) 483-3949

9504367056 1

MUR 0946

MERCHANT & GOULD

Merchant, Gould, Smith, Edell, Welter & Schmidt
Professional Association
Patent, Trademark & Copyright Lawyers

1000 Norwest Center
55 East Fifth Street
Saint Paul, Minnesota
U.S.A. 55101
FAX 612/298-1160
Telex 297470 MANDG Stp
612/298-1055

Direct Dial
225-2021

John D. Gould
Phillip H. Smith
Robert T. Edell
Paul A. Welter
Cecil C. Schmidt
John S. Sumners
Alan G. Carlson
Micheal L. Schwegman
Earl D. Reiland
Raymond A. Bogucki
Charles E. Gellis
Douglas J. Williams
Douglas A. Strawbridge
Albert L. Underhill
D. Randall King
Michael B. Lasky
Curtis B. Hamre
Michael D. Schumann
Michael L. Mau
John A. Clifford
Mark J. DiPietro
Steven W. Lundberg
Warren D. Woessner
Timothy R. Conrad
...
David G. Johnson
Alan W. Kowalchyk
Michael S. Sherrill
Daniel W. McDonald
R. Carl Moy
Robert C. Freed
Daniel J. Kluth
Wendy M. McDonald
Linda M. Byrne
Mark D. Schuman
Randall A. Hillson
John P. Sumner
Brian H. Batzli
David K. Tellekson
Hallie A. Finucane
John J. Gresens
Steven J. Keough
Paul F. Lacy
John L. Knoble
Michelle M. Michel
Philip P. Caspers
Gregory A. Sebald
Jane H. Arrett
A. James Nelson
Robert C. Beck
George H. Gates
Gregory M. Taylor
Kristine M. Strodthoff
Thomas E. Jurgensen
Steven C. Bruess
Joel A. Rothfus
Mark A. Krull

April 23, 1991

91 APR 29 PM 3:11

91 APR 29 PM 12:57

SENT BY TELECOPIER
CONFIRMATION SENT BY MAIL

Federal Election Commission
Attn: V. Colleen Miller, Esq.
Office of the General Counsel
999 E Street N.W.
Washington, D.C. 20463

Re: Matter Under Review 2984
Our Ref: M&G 3230.23-US-AA

Dear Colleen:

As you know, we now represent Tim Cloud, Todd Johnson, Stephen and Mary Schneck, John Steensland, Tamara Twichell, International Real Estate Institute, Professional Women's Appraisal Association, and Todd Publishing, Inc., as well as Robert Johnson, Ken Twichell, International Association Managers, Inc., National Association of Real Estate Appraisers, Inc., and National Association of Review Appraisers and Mortgage Underwriters, Inc., in connection with the above-referenced matter.

We request confirmation that no additional respondents have been named in connection with Matter Under Review 2984, or in the alternative, the identities of any such additional respondents. We are entitled to know of any additional allegations involving any of the fourteen respondents that we currently represent, and it is inherently unfair to secretly name additional respondents in connection with alleged violations involving our clients. If I learn that additional respondents have been secretly named with regard to the same transactions and occurrences arising out of MUR 2984, I intend to bring the matter to Judge Rosenblatt's

9504336705562

attention. We feel very strongly that our clients have the right to know the full scope and extent of all allegations against them.

In view of the logistics involved in representing nine additional respondents, including responding to the "Factual and Legal Analys[es]" and the subpoenas and interrogatories, we simply cannot comply within fifteen days of receipt of the materials from the FEC. In fact, the task at hand was complicated by the covert manner in which the FEC named the additional respondents. However, we are diligently proceeding to gather the necessary information and documents for responding to the onerous materials received by each respondent, and we expect to respond to all of the analyses and the subpoenas and interrogatories by May 7, 1991. Given the fact that the FEC is now entering the fourth year of its investigation, I cannot imagine that you are prejudiced in any way by this relatively short delay.

In connection with our representation of the nine additional respondents, including our responses to the analyses and the document requests and interrogatories, we require copies of all materials previously sent (other than those accompanying the recently sent "Factual and Legal Analys[es]") by the FEC to the nine additional respondents, and particularly to Tim Cloud. Also, we require a copy of the transcript from Tim Cloud's deposition.

Your prompt attention to these matters will be appreciated and will facilitate our responses on behalf of the nine additional respondents.

Sincerely,

Mark A Kuhl for

D. Randall King

DRK/dmm

9504367056 3

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 1, 1991

D. Randall King
Merchant & Gould
1000 Norwest Center
55 East Fifth Street
St. Paul, MN 55101

Re: MUR 2984
Tim Cloud, Todd Johnson, Stephen Schneck, Mary Schneck, John Steensland, Tamara Twichell, International Real Estate Institute, Professional Women's Appraisal Association, Todd Publishing

Dear Mr. King:

This is in response to your letter to Colleen Miller dated April 23, 1991, requesting an extension of time until May 7, 1991 to respond to the subpoenas and reason to believe findings regarding the above referenced respondents. Although I do not agree with your characterization of events, I have granted the requested extension. Accordingly, your response is due by the close of business on May 7, 1991.

With respect to your request for copies of materials previously sent to respondents, copies of correspondence with those respondents, if any, will be sent to you under separate cover within the next few days. If your request was intended to encompass a broader area than correspondence, please specify the documents you are requesting, and we will evaluate the request anew.

Your April 23, 1991 correspondence raises several other requests, which we cannot grant. As you are well aware, Commission investigations are governed by the confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12). Therefore, we are unable to release to you the names of additional respondents, if any, nor are we able or willing to disclose any details of our investigation. Additionally, Mr. Cloud's previous counsel requested a copy of Cloud's

9504367056 4

deposition transcript, and that request was declined. Our response to that request has not changed.

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

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

95043670565

MUR 1074

MERCHANT & GOULD

Merchant, Gould, Smith, Edell, Welter & Schmidt
Professional Association
Patent, Trademark & Copyright Lawyers

1000 Norwest Center
55 East Fifth Street
Saint Paul, Minnesota
U.S.A. 55101
FAX 612/298-1160
Telex 297470 MANDG Stp
612/298-1055

John D. Gould
Phillip H. Smith
Robert T. Edell
Paul A. Welter
Cecil C. Schmidt
John S. Sumners
Alan G. Carlson
Micheal L. Schwegman
Earl D. Reiland
Raymond A. Bogucki
Charles E. Golla
Douglas J. Williams
Douglas A. Strawbridge
Albert L. Underhill
D. Randall King
Michael B. Lasky
Curtis B. Hamre
Michael D. Schumann
Michael L. Mau
John A. Clifford
Mark J. DiPietro
Steven W. Lundberg
Warren D. Woessner
Timothy R. Conrad
***
David G. Johnson
Alan W. Kowalchyk
Michael S. Sherrill
Daniel W. McDonald
R. Carl Moy
Robert C. Freed
Daniel J. Kluth
Wendy M. McDonald
Linda M. Byrne
Mark D. Schuman
Randall A. Hillson
John P. Sumner
Brian H. Batzli
David K. Tellekson
Hallie A. Finucane
John J. Gresens
Steven J. Keough
Paul E. Lacy
John L. Knoble
Michelle M. Michel
Philip P. Caspers
Gregory A. Sebald
Jane H. Arrett
A. James Nelson

Robert C. Beck
George H. Gates
Gregory M. Taylor
Kristine M. Strodthoff
Thomas E. Jurgensen
Steven C. Bruess
Joel A. Rothfus
Mark A. Krull

May 7, 1991

91 MAY 10 AM 9:41

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

RE: MUR 2984, including: Tim Cloud, Robert Johnson, Ken Twichell, Todd Johnson, Mary Schneck, Steve Schneck, IAMI, NARA/MU, NAREA, PWAA and Todd Publishing
Our Ref: M&G 3230.23-US

91 MAY 10 AM 10:25

Dear Mr. Noble:

Enclosed you will find documents and affidavits from our clients for the above identified case. As a result of the significant increase in the number of individuals and entities which were identified in the present investigation, we were not able to respond to all of the factual and legal analyses and subpoenas. However, we have made a good faith effort and have produced and responded to as much as possible in the short time period allowed. The following documents are enclosed:

1. An Affidavit from Stephen L. Schneck, responding to the factual and legal analysis of April 5, 1991.

2. An Affidavit of Mary A. Schneck, responding to the factual and legal analysis of April 5, 1991.

3. Responses from Steven L. Schneck responding to the subpoena of April 5, 1991.

4. Responses from Mary A. Schneck responding to the subpoena of April 5, 1991.

5. All cancelled checks and bank statements from the Schnecks from the time period from January 1, 1988 through March 1, 1988.

6. An Affidavit from Todd Johnson, responding to the factual and legal analysis of April 5, 1991.

7. Responses from Todd Johnson responding to the subpoena of April 5, 1991.

8. A document from Todd Johnson responding to the subpoena of April 5, 1991.

As you will note, the affidavits have not been executed. The affidavits are in the process of being executed by the affiants and will be forwarded to your attention as soon as we receive them.

Sincerely,

Andrew D. Sorensen

ADS:pah

Enclosures

9504367056 7

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 2984
Stephen L. Schneck	)	
	)	

RESPONSES TO SUBPOENA TO PRODUCE DOCUMENTS

AND ORDER TO SUBMIT WRITTEN ANSWERS

STATE OF Arizona)
) ss
COUNTY OF Maricopa)

Sir:

1. List each contribution you made during 1988 to federal political committees.

Response to 1. One contribution to the Bush for President Committee.

2. For each contribution noted above, list the candidate or committee to whom you contributed, the date of the contribution, and the amount of the contribution.

Response to 2. The Bush for President Committee, January 25, 1988, $500.00.

3. Identify the method by which you made each contribution. If you used a personal check, list the account number and check number. If you used another instrument, identify this instrument and identify the financial institution from which it was obtained. Specify the source of funds you used to obtain this instrument.

Response to 3. A personal check having an account number [redacted] and check number 3072.

9504367056 8

4. For each contribution, state whether you were reimbursed directly or indirectly or otherwise compensated for such contribution. If yes, explain the circumstances of this reimbursement.

Response to 4. I was not reimbursed directly or indirectly or compensated for said contribution.

5. Produce the following documents and materials from the period covering January 1, 1988 to March 1, 1988: checks written by you, check registers, account statements, statements from brokerage houses and statements from any financial institution.

Response to 5. I have enclosed copies of all of the checks and account statements in my possession for the period covering January 1, 1988 to March 1, 1988.

6. Produce all documents from the period covering January 1, 1988 to March 1, 1988 that in any way reflect, constitute, relate or refer to financial activity, or the transfer of any asset either directly or indirectly through a third party, between you and any of the Specified Persons. Such documents include but are not limited to the following: checks written to you; check stubs; deposit slips; canceled checks; bills; invoices; expense records; expense reimbursement forms; records of electronic transfers; confirmation of the purchase or sale of stocks, bonds, mutual funds, commodities, and real estate; and records of all other financial transactions.

Response to 6. See Response to 5.

7. Produce all documents and materials from the period

9504367056 9

covering January 1, 1988 to March 1, 1988 relating to each of your political contributions including but not limited to solicitation letters; check copies (front and back); receipts; acknowledgement letters and all writings of every kind.

Response to 7. See Response to 5.

Further affiant sayeth not.

_____ _____

Date Stephen L. Schneck

Subscribed and sworn before me this _____ day of _____, 1991.

_____

9504367057/0

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 2984
Mary A. Schneck	)	
	)	

RESPONSES TO SUBPOENA TO PRODUCE DOCUMENTS

AND ORDER TO SUBMIT WRITTEN ANSWERS

STATE OF Arizona)
) ss
COUNTY OF Maricopa)

Sir:

1. List each contribution you made during 1988 to federal political committees.

Response to 1. One contribution to the Bush for President Committee.

2. For each contribution noted above, list the candidate or committee to whom you contributed, the date of the contribution, and the amount of the contribution.

Response to 2. The Bush for President Committee, January 25, 1988, $500.00.

3. Identify the method by which you made each contribution. If you used a personal check, list the account number and check number. If you used another instrument, identify this instrument and identify the financial institution from which it was obtained. Specify the source of funds you used to obtain this instrument.

Response to 3. A personal check having an account number [redacted], and check number 3072 was written by my husband.

9504367057 1

4. For each contribution, state whether you were reimbursed directly or indirectly or otherwise compensated for such contribution. If yes, explain the circumstances of this reimbursement.

Response to 4. I was not reimbursed directly or indirectly or compensated for said contribution.

5. Produce the following documents and materials from the period covering January 1, 1988 to March 1, 1988: checks written by you, check registers, account statements, statements from brokerage houses and statements from any financial institution.

Response to 5. I have enclosed copies of all of the checks and account statements in my possession for the period covering January 1, 1988 to March 1, 1988.

6. Produce all documents from the period covering January 1, 1988 to March 1, 1988 that in any way reflect, constitute, relate or refer to financial activity, or the transfer of any asset either directly or indirectly through a third party, between you and any of the Specified Persons. Such documents include but are not limited to the following: checks written to you; check stubs; deposit slips; canceled checks; bills; invoices; expense records; expense reimbursement forms; records of electronic transfers; confirmation of the purchase or sale of stocks, bonds, mutual funds, commodities, and real estate; and records of all other financial transactions.

Response to 6. See Response to 5.

7. Produce all documents and materials from the period

9504367057 2

covering January 1, 1988 to March 1, 1988 relating to each of your political contributions including but not limited to solicitation letters; check copies (front and back); receipts; acknowledgement letters and all writings of every kind.

Response to 7. See Response to 5.

Further affiant sayeth not.

_____ _____

Date Mary A. Schneck

Subscribed and sworn before me
this _____ day of _____,
1991.

_____

9504336705713

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 2984
Stephen L. Schneck	)	
	)	

AFFIDAVIT OF STEPHEN L. SCHNECK

STATE OF Arizona)
) ss
COUNTY OF Maricopa)

Sir:

Stephen L. Schneck, being duly sworn, deposes and says as follows:

1. I am the same Stephen L. Schneck named in the above-identified investigation.

2. I have carefully read and understand the factual and legal analysis of MUR 2984 dated April 5, 1991.

3. The $1,000.00 check I wrote for the Bush for President Committee on January 28, 1988 was voluntary on my part and was funded from money belonging to my family. My wife and myself each signed a pledge card for $500.00 and sent in a single check for $1,000.00.

4. There was no agreement or prearrangement with International Institute of Valuers, International Real Estate Institute or any other company to allow my name to be used to effectuate a $500.00 contribution to the Bush for President Committee.

5. There was no reimbursement from any source either before

9504367057 4

or after January 28, 1988 for the $500.00 check I wrote for the Bush for President Committee.

6. I have never made a contribution in my name knowing that the contribution was contributed from a corporation or by a corporate officer or a director of a corporation.

7. The check I received for $1,050.00 from the International Institute of Valuers was a bonus for doing a good job.

8. I had decided to give to the Bush Campaign prior to knowing I was to receive a bonus.

9. I received other bonuses for my work including a $2,500.00 bonus in 1989.

Further affiant sayeth not.

_____ _____

Date Stephen L. Schneck

Subscribed and sworn before me
this _____ day of _____,
1991.

_____

9504367057S

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 2984
Mary A. Schneck	)	
	)	

AFFIDAVIT OF MARY A. SCHNECK

STATE OF Arizona)
) ss
COUNTY OF Maricopa)

Sir:

Mary A. Schneck, being duly sworn, deposes and says as follows:

1. I am the same Mary A. Schneck named in the above-identified investigation.

2. I have carefully read and understand the factual and legal analysis of MUR 2984 dated April 5, 1991.

3. The pledge card I wrote for the Bush for President Committee on January 28, 1988 was a result of my decision to contribute with my husband to the Bush for President Campaign. My husband wrote a check for $1,000.00 and we each signed a pledge card for $500.00.

4. I am not aware of any agreement or prearrangement with International Institute of Valuers, International Real Estate Institute or any other company to allow my name to be used to effectuate a $500.00 contribution to the Bush for President Committee.

5. I am aware of no reimbursement from any source either

9504367057 6

before or after January 28, 1988 for the check my husband wrote for the Bush for President Committee.

6. I have never made a contribution in my name knowing that the contribution was from a corporation or by a corporate officer or a director of a corporation.

Further affiant sayeth not.

_____ _____

Date Mary A. Schneck

Subscribed and sworn before me
this _____ day of _____,
1991.

_____

9504367057 7

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 2984
Todd Johnson	)	
	)	

AFFIDAVIT OF TODD JOHNSON

STATE OF Arizona)
) ss
COUNTY OF Maricopa)

Sir:

Todd Johnson, being duly sworn, deposes and says as follows:

1. I am the same Todd Johnson named in the above identified investigation.

2. I have carefully reviewed and understand the factual and legal analysis of MUR 2984 dated April 5, 1991.

3. I have never permitted my name to be used to effectuate a $1,000.00 contribution to the Bush for President Committee.

4. I contributed $1,000.00 to the Bush for President Committee on my own free will.

5. My motivation for contributing $1,000.00 was both to help President Bush become elected as President and also out of loyalty and respect to my father, Mr. Robert Johnson, an active member of the Republican Party.

9504367057 8

6. I have never made a contribution in my name knowing that the contribution was from a corporation or from a corporate officer or a director of a corporation.

Further affiant sayeth not.

_____ _____

Date Todd Johnson

Subscribed and sworn before me
this _____ day of _____,
1991.

_____

9504367005779

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 2984
Todd Johnson	)	
	)	

RESPONSES TO SUBPOENA TO PRODUCE DOCUMENTS

AND ORDER TO SUBMIT WRITTEN ANSWERS

STATE OF Arizona)
) ss
COUNTY OF Maricopa)

Sir:

1. List each contribution you made during 1988 to federal political committees.

Response to 1. One contribution to the Bush for President Committee.

2. For each contribution noted above, list the candidate or committee to whom you contributed, the date of the contribution, and the amount of the contribution.

Response to 2. The Bush for President Committee, January 29, 1988, $1,000.00.

3. Identify the method by which you made each contribution. If you used a personal check, list the account number and check number. If you used another instrument, identify this instrument and identify the financial institution from which it was obtained. Specify the source of funds you used to obtain this instrument.

Response to 3. A personal check was used. I no longer have any records of the check. My account number was [redacted] and my

9504367058O

bank was Valley National Bank, Scottsdale, Arizona.

4. For each contribution, state whether you were reimbursed directly or indirectly or otherwise compensated for such contribution. If yes, explain the circumstances of this reimbursement.

Response to 4. I was not reimbursed directly or indirectly or compensated for said contribution.

5. Produce the following documents and materials from the period covering January 1, 1988 to March 1, 1988: checks written by you, check registers, account statements, statements from brokerage houses and statements from any financial institution.

Response to 5. None

6. Produce all documents from the period covering January 1, 1988 to March 1, 1988 that in any way reflect, constitute, relate or refer to financial activity, or the transfer of any asset either directly or indirectly through a third party, between you and any of the Specified Persons. Such documents include but are not limited to the following: checks written to you; check stubs; deposit slips; canceled checks; bills; invoices; expense records; expense reimbursement forms; records of electronic transfers; confirmation of the purchase or sale of stocks, bonds, mutual funds, commodities, and real estate; and records of all other financial transactions.

Response to 6. None

7. Produce all documents and materials from the period covering January 1, 1988 to March 1, 1988 relating to each of your

9504367058 1

political contributions including but not limited to solicitation letters; check copies (front and back); receipts; acknowledgement letters and all writings of every kind.

Response to 7. Enclosed is a copy of an acknowledgement letter.

Further affiant sayeth not.

_____ Date

_____ Todd Johnson

Subscribed and sworn before me this _____ day of _____, 1991.

_____

9504336705582

GEORGE BUSH

April 4, 1988

Mr. Todd R. Johnson
9395 East Kalil Drive
Scottsdale, Arizona 85260

Dear Todd:

Thank you for your generous contribution to my campaign for the Presidency. This puts you in that special group of maximum donors to my presidential effort. Barbara and I are very grateful for your terrific support.

Your extra effort will help carry our momentum in the upcoming months, leading to a nomination victory in New Orleans and an election win in November.

Many thanks again. We're going to win this one.

Sincerely,

George Bush

95043670583

733 15TH STREET N.W. SUITE 800 WASHINGTON, D.C. 20005 (202) 842-1988
PAID FOR BY GEORGE BUSH FOR PRESIDENT

95043670584

STEPHEN L. SCHNECK OR
MARY A. SCHNECK
[redacted]

3072

Jan. 25 1988 91-2/1221

Pay to the order of George Bush for President $ 1000.00

One Thousand and no/100 Dollars

CACTUS - TATUM OFFICE (259)
P. O. BOX 29534
PHOENIX, ARIZONA 85038

Memo

[redacted]

RECEIVED
FEDERAL ELECTION COMMISSION
91 MAY 17 PM 1:48

BEFORE THE FEDERAL ELECTION COMMISSION

SENSITIVE

In the Matter of)
)
Tim Cloud) MUR 2984
)

GENERAL COUNSEL'S REPORT

On June 20, 1990, this Office deposed Tim Cloud as a nonrespondent witness. His counsel requested a copy of the deposition transcript, and on this Office's recommendation, on August 14, 1990, the Commission declined to provide a copy. See General Counsel's Memorandum dated July 24, 1990. At that time, this Office had not yet deposed Robert Johnson and E. Kenneth Twichell, the principal individual respondents in this matter. We reasoned then that provision of the transcript to Cloud, and so effectively to his employers, Messrs. Johnson and Twichell, would seriously diminish the utility of the upcoming depositions. This Office finally deposed Messrs. Johnson and Twichell on November 1-2, 1990. We made no attempt to withhold a copy of their deposition transcripts from them.

On March 26, 1991, the Commission made reason to believe findings against Mr. Cloud personally, and Mr. Cloud retained new counsel. This counsel, who also represents the other individual and corporate respondents in the case, recently requested materials previously sent to Cloud and a copy of Cloud's deposition transcript (Attachment 1). This Office responded (Attachment 2), in part rejecting the request for the transcript copy. Because the reasons underlying the Commission's

9504367058 5

RECEIVED
FEDERAL ELECTION COMMISSION
SECRETARIAT
91 MAY 17 PM 1:48

determination in August of last year to decline to provide a copy of the transcript no longer apply, and upon further review, this Office will now provide a copy of Tim Cloud's deposition to his new counsel.

Date 5/17/91

Lawrence M. Noble
General Counsel

Attachments
1. Letter dated April 23, 1991
2. Initial response dated May 1, 1991

Staff Assigned: Patty Reilly

9504367058 6

Canby, MN 56220
May 21, 1991

To: Federal Election Commission, Att'n: Retha Dixon

From: John R. Lair, 413 LacQuiParle Ave., Canby, MN 56220

Re: MUR 2593

Dear Ms. Dixon;

It has now been over three years (filed March 21, 1988) since your commission received MUR2593 and under your operational proceedures said complaint was taken under investigation.

It is now one year since my personal phone call to you advised you of my change of address; during said phone conversation you advised me that MUR 2593 was soon to be brought to a conclusion and that I would be in receipt of the report shortly. One year can hardly be construed to be "shortly".

Because of the above events I find it hard to retain confidence in the commission; one wonders if "political considerations" do get involved in the proceedure. This all leads one to explore any avenue legally available to learn the results of the investtigation surrounding complaint MUR 2593.

May I have the courtesy of a reply; thank you!

Sincerely,

John R. Lair

John R. Lair
413 LacQuiParle Ave.
Canby, MN 56220
Tele: 507-223-5902

91 MAY 23 AM 10:47

91 MAY 23 PM 3:22

9504336705587

FEDERAL ELECTION COMMISSION
WASHINGTON D C 20461

May 29, 1991

John R. Lair
413 LacQuiParle Ave.
Canby, MN 56220

RE: MUR 2593 (merged with MUR 2984)

Dear Mr. Lair:

This is in response to your letter dated May 21, 1991 to Retha Dixon of this Office, in which you request information pertaining to the complaint you filed on March 21, 1988, with the Federal Election Commission (MUR 2593). MUR 2593 was merged with MUR 2984.

The Federal Election Campaign Act of 1971, as amended ("the Act") prohibits any person from making public the fact of any notification or investigation by the Commission, prior to closing the file in the matter, unless the parties being investigated have agreed in writing that the matter be made public. See 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A). Because there has been no written agreement that the matter be made public, we are not in a position to release any information regarding the investigation. We do note, however, that public court documents regarding the matter are on file in the United States District Court for the District of Arizona, Phoenix Division. See FEC v. National Association of Real Estate Appraisers, et al., No. CIV 90-701; FEC v. Robert Johnson, et al., No. CIV 90-880. Information about these cases may be available from the Commission's Public Disclosure Office.

We will notify you as soon as the Commission takes final action on your complaint.

Sincerely,

Lawrence M. Noble
General Counsel

Jonathan Bernstein

BY: Jonathan A. Bernstein
Assistant General Counsel

9504367055888

RECEIVED
FEDERAL ELECTION COMMISSION

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

91 JUN 17 AM 9:46

[redacted]

BEFORE THE FEDERAL ELECTION COMMISSION

In The Matter Of) MUR 2984

AFFIDAVIT

91 JUN -7 AM 10:39
RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

91 JUN 17 PM 3:42
RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

I, Laura Ashbaugh, being first duly sworn, depose and say as follows:

1. I reside at 10775 E. Becker Lane, Scottsdale, AZ 85259.

2. I talked by telephone with Mr. Richard Tisinger of the Federal Election Commission on May 24, 1991 and May 30, 1991.

3. Previously, I talked with Mr. Robert Raich of the Federal Election Commission on December 1, 1989 and December 6, 1989.

4. I stuffed envelopes for mailings sent by various associations, including the National Association of Real Estate Appraisers, Inc. ("NAREA") and the National Association of Review Appraisers and Mortgage Underwriters, Inc. ("NARA/MU"). I did work for the associations from approximately September 1986 to December 1989.

5. My personal work records are attached to this affidavit. I recorded them in my regular dealings with the associations. These records reflect the work I did for the associations between February and April of 1988. They include the work number of the project I worked on, what that project entailed, and the amount I charged. The dates in the upper right hand corner of the attached records are the dates I billed the associations for my work. During the time I worked for the associations, including the period between February and April of 1988, I regularly maintained such records.

6. From February 1988 to April 1988 I worked on a mailing project for the associations, including NAREA and NARA/MU. The mailings involved letters sent out over the signature of Mr. Kenneth Twitchell, and to the best of my recollection, Mr. Robert Johnson. It is possible that some of the letters I stuffed were sent out over the signature of Steve Schneck and Patricia Davidson. The letters asked for contributions to George Bush's 1988 election campaign ("Bush letters"). I remember the Bush letters because they were the only mailings I worked on for the associations which dealt with raising money for political candidates. On my records which are attached, the project numbers marked by asterisks indicate the projects which I remembered in December of 1989 as being the Bush letters.

9504367058 9

7. The text of the Bush letters stated that they were paid for by the person whose signature was on the letter, and not by any of the associations. I was paid by one of the associations for my work on the letters, but I do not remember which one. I was not paid by Mr. Twitchell or Mr. Johnson.

8. All of the Bush letters had three inserts. They contained the letter from Mr. Twitchell or possibly Mr. Johnson, a contribution card, and a return envelope. My records indicate that I billed the associations for a series of mailings consisting of three inserts. See attached records, pages 1-5.

9. I stamped a number on each contribution card. I believe the number was AZ004 or something like that. I also stamped "Attn: Lucy Cole" on each return envelope. My records from February 1988 to April 1988 indicate that I billed the associations for a series of mailings involving three inserts and stamping. See attached records, pages 1-5.

10. Some of the Bush letters had the printed signatures of Mr. Twitchell or Mr. Johnson. These letters were not personally addressed. Other letters did not have printed signatures. I signed Mr. Twitchell's or Mr. Johnson's name on those letters.

11. For some of the letters the envelopes had preprinted addresses. For other letters, I placed mailing labels on the envelopes. My records from February 1988 to April 1988 indicate that I worked on a series of mailings involving mailing labels and three inserts. See attached records, page 4 - No. 536 and page 5 - No. 564 and No. 574.

12. I believe the letters which I signed were placed in the envelopes with addresses already printed on them. I believe these letters were sent to members of the various associations. I ~~think this because most of the associations' mailings that I worked on were sent to association members.~~ I believe they were association members because I recognized the names from previous mailings.

13. The letters with preprinted signatures and which had mailing labels on the envelopes were sent to what seemed to be a list of registered voters, possibly Republican voters. I know that these letters were not sent to members of the associations because they were sent to some of the people on my block and some of my children's teachers, who I know are not members of the associations. I think that they might have been sent to only registered Republican voters because they were not sent to everyone on my block and because the letters were to raise money for George Bush who is a Republican.

14. My records indicate that I stuffed 22,562 Bush letters which had three inserts and which I had to stamp. See attached records, pages 1-5.

9504367059O

15. On February 12, 1988 I submitted a bill to the associations totaling $403.30. It included an entry of $255.30 for work on 3,450 pieces of mail, each with three inserts. I had to "sign, match, fold, [and] stamp" these. This bill also included an entry of $148.00 for work on 2,000 pieces of mail, each with three inserts. I also had to "sign, match, fold, [and] stamp" these. By "sign" I remember my records to mean I signed the names of Kenneth Twitchell or Robert Johnson on the signature line. By "match" I remember my notes to mean I matched each personally addressed letter to each pre-addressed envelope. By "stamp" I remember my notes to mean I stamped a number on the contribution card inserts and I stamped "Attn: Lucy Cole" on the return envelopes. See attached records, page 2 - No. 437 and No. 439.

16. On February 17, 1988 I submitted a bill to the associations totaling $262.12. It included an entry of $129.50 for work on 1,750 pieces of mail, each with three inserts. I had to "sign, match, [and] stamp" these. This bill included other pieces of mail unrelated to the Bush letters. See attached records, page 4 - No. 536. See attached records, page 3 - No. 439.

17. On March 30, 1988 I submitted a bill to the associations totaling $516.39. It included an entry of $449.28 for work on 11,232 pieces of mail, each with three inserts. I had to "label [and] stamp" these. By "label" I remember my notes to mean I placed mailing labels on the envelopes. I did not have to match these Bush letters because I placed mailing labels on the envelopes and because the letters were not personalized. I did not have to sign these Bush letters because the letters were pre-signed. This bill included other pieces of mail unrelated to the Bush letters. See attached records, page 4 - No. 536.

18. On April 8, 1988 I submitted a bill to the associations totaling $261.78. It included an entry of $115.20 for work on 2,880 pieces of mail, each with three inserts. I had to "label [and] stamp" these. This bill also included an entry of $50.00 for work on 1,250 pieces of mail, each with three inserts. I had to "stamp [and] label" these. I did not have to match these Bush letters because I placed mailing labels on the envelopes and because the letters were not personalized. I did not have to sign these Bush letters because the letters were pre-signed. This bill included other pieces of mail unrelated to the Bush letters. See attached records, page 5 - No. 564 and No. 574.

Further the affiant sayeth not.

Laura Ashbaugh

Laura Ashbaugh

9504367059 1

Subscribed and sworn to before me, on this 3RD **day of** JUNE, 1991.

Michael P. Gorman
Notary Public

STATE OF ARIZONA
COUNTY OF MARICOPA
The foregoing instrument was acknowledged
before me this 3RD day of JUNE 19 91
By LAURA ASHBAUGH
Notary Public Michael P. Gorman
My Commission Expires My Commission Expires Feb. 27, 1994

9504367059 2

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

June 10, 1991

D. Randall King, Esquire
Merchant & Gould
100 Northwest Center
55 East Fifth Street
Saint Paul, MN 55101

Re: MUR 2984
Timothy Cloud
Todd Johnson
Mary Schneck
Stephen Schneck
John Steensland
Tamara Twichell
International Real Estate Institute, Inc.
Professional Women's Appraisal Association, Inc.
Todd Publishing, Inc.

Dear Mr. King:

This is in further response to your April 23, 1991 letter and follow-up to the Commission's response dated May 1, 1991.

First, enclosed are the materials in this matter that were previously sent to Timothy Cloud or his previous counsel. These materials also include the original reason to believe notification package sent to Mr. Cloud which was returned to us as unclaimed. You were sent a copy of this package on April 11, 1991 by facsimile. Prior to the most recent notification letters and subpoenas, the Commission sent no correspondence to Todd Johnson, Stephen Schneck, Mary Schneck, John Steensland, or Tamara Twichell. Subpoenas were previously issued to International Real Estate Institute, Professional Women's Appraisal Association, and Todd Publishing, but these subpoenas were forwarded directly to you or Robert Johnson.

Second, we have reviewed again your request for a copy of the transcript of Timothy Cloud's deposition. By letter dated August 24, 1990, the Commission had declined to provide this to Mr. Cloud's previous counsel. Because of the progress of the investigation since that time, the Commission has decided it is no longer necessary to withhold a copy of Mr. Cloud's deposition transcript from him. Therefore, in your capacity as Mr. Cloud's counsel, attached is a copy of this transcript.

9504367059 3

Additionally, we await your further response to the subpoenas issued to your new clients. As an initial matter, although we have received a partial response on behalf of Mary Schneck, Stephen Schneck, and Todd Johnson, we have not yet received a response from Tamara Twichell or John Steensland. Further, your May 7, 1991 letter acknowledges that the responses submitted on behalf of Mary Schneck, Stephen Schneck, and Todd Johnson are not signed and sworn, and indicates that completed affidavits will be forwarded to this Office. To date we have not received these completed documents.

Moreover, further questions are raised by these responses. The Schnecks have produced copies of their checks and checking account statements, but we have not yet received other materials called for by the subpoena, including their check registers and savings accounts statements, if any. We note that no documents have been produced in response to requests numbers six and seven in these two subpoenas. Todd Johnson also produced no documents in response to request number six. Thus, it is our understanding that each of your clients possess no documentary evidence responsive to these particular document requests. If this is not correct, please notify us in writing and supplement these responses as appropriate.

Todd Johnson's response indicates that he has "none" of the requested personal financial materials, but does not detail what attempts he made to secure these materials or why he is not in possession of them. Please list what steps Mr. Johnson has taken to produce these materials and explain why he does not have them.

You have represented that you wish to see the conclusion of the investigation in this matter. That end will best be accomplished by timely, complete, and notarized responses to these subpoenas. If you have any questions about this matter, please contact Patty Reilly at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosures

9504367059 4

BEFORE THE FEDERAL ELECTION COMMISSION

IN THE MATTER) MUR 2984

AFFIDAVIT

I, Molly Rugolo, being first duly sworn, depose and say as follows:

1. I reside at 9802 North 77th Street, Scottsdale, Arizona 85258-1144.

2. I talked with Mr. Richard Tisinger of the Federal Election Commission on May 31, 1991, June 3, 1991, and June 5, 1991.

3. From approximately 1984 to the summer of 1989 I stuffed envelopes for mailings by various associations. These included the National Association of Real Estate Appraisers, Inc. ("NAREA"), the National Association of Review Appraisers and Mortgage Underwriters, Inc. ("NARA/MU"), the International Real Estate Institute, Inc. ("IREI"), and the Professional Women's Appraisal Association, Inc. ("PWAA").

4. My general procedure for getting work from the associations was for someone from one of the associations to call me and offer me a project. If I accepted the project, then I would go into the office and pick up the project. I would go to the receptionist and she would contact an employee of the association for which I was doing the project. They would then instruct me to drive my car around to the back of the office where the pamphlets and whatever else I needed for a project were stored. I would pick up the project there. For most of the time I worked there I went into the office every day to drop off or pick up a project.

5. In March of 1988 I worked on a mailing project for the associations, including NAREA. I believe the mailings involved letters sent out over the signature of Mr. Robert Johnson. The letters asked for contributions to George Bush's 1988 election campaign ("Bush letters"). I remember the Bush letters because the projects were very grueling. There were a tremendous number of letters and great pressure to finish the projects as quickly as possible. The association employees acted as if the election was next week. I also remember the Bush letters because they were the only mailings I worked on for the associations which dealt with raising money for political candidates.

6. The text of the Bush letters stated that they were paid for by the person whose signature was on the letter, and not by any of the associations. The letter said something to the effect that "I believe so strongly in George Bush that I am paying

9504367059 5

personally to send this letter." The person whose signature was on the Bush letters did not pay me. To the best of my recollection NAREA paid me for my work on the letters.

7. Each Bush letter had three inserts. Each mailing contained a two page letter, a contribution card, and a return envelope. I had to stamp something on both sides of each contribution card and a name on each return envelope. To the best of my recollection I stamped "Attn: Lucy Cole" on the return envelopes.

8. On March 21, 1988 I noted in my records work I had done on Bush letters, identified as project number 532. ~~This entry reflects work I did in the previous week~~. I charged $303 for the work and to the best of my recollection I billed the associations on March 25, 1988. My records reflect that on the Tuesday, Wednesday, Thursday, and Friday ~~previous to March 21~~ after 6/26/91 I did a variety of work on Bush letters. I stamped 5,000 envelopes, 5,000 cards on each side, and inserted them in envelope flaps. I stamped 5,000 more envelopes, 5,000 more cards on each side, and inserted them in envelope flaps. I inserted 6,000 to 7,000 return envelopes and contribution cards into letters. By stamp I remember my notes to mean I stamped something on each side of the contribution card inserts and I stamped "Attn: Lucy Cole" on the return envelopes. I also applied 3,000 labels to number ten envelopes and inserted letters in them. See attached records, pages 2 and 4. I believe the MSR "George Bush Stamping" entry on the March 21, 1988 record was written before 06/26/91 I recorded the actual work I did on march days. I simply ran out of room and wrote over it when keeping track. I believe it is written with a different pen.

9. On Monday, March 28 of 1988 I noted in my records work I had done on two page Bush letters, identified as project number 552. I charged $100.50 for the work and to the best of my recollection I billed the associations on March 29, 1988. My records reflect that I signed 600 letters and signed, folded, matched, and inserted a return envelope and a contribution card into approximately 1,000 envelopes. I am not certain, but I believe I signed Robert Johnson's name on the letters. By match I remember my records to mean I matched the address on each letter to the address on a pre-printed envelope. See attached records, pages 3 and 5.

10. The first three pages attached to this affidavit are copies of my original records that I kept while working for the associations. These last two attached pages are recently written facsimiles of the types of bills I submitted to the associations. These pages reflect the information contained in my original records for March 21 and March 28.

11. I believe that the total number of Bush letters mailed by the associations was in the tens of thousands. I base this on the number of Bush letters on which I worked and the number of letters I was aware of on which others worked, including ~~Kelly~~ Marsha ~~Rossi~~ and someone named Laura.

06/26/91

9504367050596

12. I believe that some of the Bush letters I worked on were sent to NAREA members. I do not believe, however, that all of the Bush letters were sent to NAREA members because there must have been more letters than NAREA members. I believe there were tens of thousands of Bush letters and I know there were not tens of thousands of NAREA members.

13. I believe the Bush letters I worked on were sent by first class mail. I think this because for bulk mailings I generally placed the necessary material on the envelopes myself, and I did not place the necessary material on the Bush letters. Therefore, I believe they were sent by first class mail.

14. While working (or shortly after working) there 06/26/91 for the associations I heard that certain employees of the associations received $10,000 bonus checks that were conditioned on contributing the money George Bush. I have no personal knowledge of this.

Further the affiant sayeth not.

Molly Rugolo

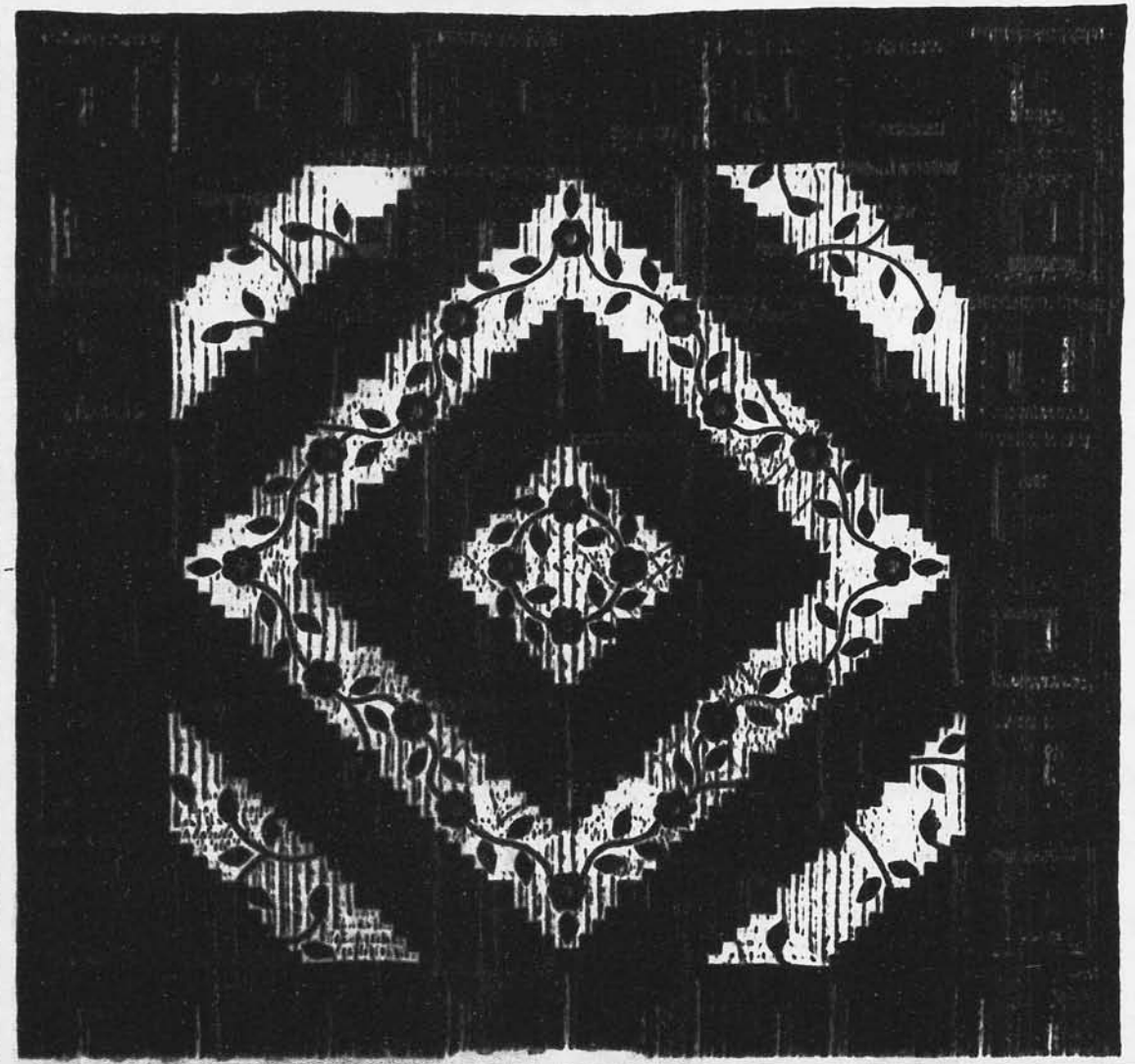
Subscribed and sworn to before me, on this 26 day of June, 1991.

Notary Public

[redacted]

950436705597

QUILT ART '80



MARCH

TUESDAY 22

WEDNESDAY 23

THURSDAY 24

FRIDAY 25

SATURDAY 26

SUNDAY 27

VENETIAN TILE FLOOR, Suzanne Warren Brown, Arkansas City, Kansas. The medallion center and carefully planned piecing are equally as outstanding as the intricate quilting designs. The center is an adaptation of a venetian tile floor. It won the Sweepstakes Award at the Kansas State Fair.

MARCH						
S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19

MARCH/APRIL

MONDAY **28** #552 4985 pcs. Dpg - Brush to store
Folded method, inserted w/ Env. Card
a #10.
(½ hrs. (M) 2 hrs. (W) (TH) (W)
Storytime - 10:30 -

TUESDAY **29** 3 hrs. (T) (TH) (T)
Total =

Terminix 9-10 am

WEDNESDAY **30** #562 NAPEA
251 pieces
1¼ hrs. (W)
Sign/Staff, match
Total =
Market

9:30-10:30 - Aerobics -

THURSDAY **31** #563 NAPEA - 594 pcs. Sign/Staff, match,
Insert in envelopes.
1¼ hrs. (W) 2 hrs. (TH)
Market

FRIDAY **1** 4 Members
1 trip (W) 1 trip (TH)
2 trip (W) 1¾ hrs. (TH) Total =
1:30 Easter Egg Hunt - Main View Pk.

SONG LILY by Merial S. Liberty, Irasburg, Vermont. 37" round. The design for this unusual piece was taken from a book of Chinese designs. The "Song" in the title is the name of the dynasty. It was displayed by invitation at the Rutland, Vermont Quilt Show.

SATURDAY PASSOVER **2**
Athena's B-day
10:00 - 17:00 M. Corinda K RR Park

SUNDAY EASTER **3** 9:00 Easter Family Liturgy

APRIL
S M T W T F S
3 4 5 6 7 8 9
10 11 12 13 14 15 16

Facsimile

Tisinger
DC 1674
03/25/1988

#532

Mar 2984

5,000 Envelopes stamped, 5,000 cards stamped each side, inserted in envelope flap, 5,000 more envelopes stamped, 5,000 more cards stamped each side, inserted in envelope flap, 6-7,000 envelope/cards inserted in letter, 3,000 labels applied to #10's, and letter inserted. Pick-up / Deliveries.

Total = #303

Molly

9504367006 01

91 JUN 25 AM 8:20

COMMISSION

Facsimile 03/29/88

552

~~600~~ 1,000 ~~445~~ letter signed. Approximately pcs. 2-pg Bush letter signed, ~~folded~~, matched, inserted w/ envelope / card in # 10's. Pick-up / Delivery.

Total = # 100.50

Molly

9504367060602

MUR 1866

MERCHANT & GOULD

Merchant, Gould, Smith, Edell, Welter & Schmidt
Professional Association
Patent, Trademark & Copyright Lawyers

1000 Norwest Center
55 East Fifth Street
Saint Paul, Minnesota
U.S.A. 55101
FAX 612 298-1160
Telex 297470 MANDG Stp
612 298-1055

Direct Dial
225-2021

John D. Gould
Phillip H. Smith
Robert T. Edell
Paul A. Welter
Cecil C. Schmidt
John S. Sumners
Alan G. Carlson
Micheal L. Schwegman
Earl D. Reiland
Raymond A. Bogucki
Charles E. Golla
Douglas J. Williams
Douglas A. Strawbridge
Albert L. Underhill
D. Randall King
Michael B. Lasky
Curtis B. Hamre
Michael D. Schumann
Michael L. Mau
John A. Clifford
Mark J. DiPietro
Steven W. Lundberg
Warren D. Woessner
Timothy R. Conrad
...

David G. Johnson
Alan W. Kowalchyk
Michael S. Sherrill
Daniel W. McDonald
R. Carl Moy
Robert C. Freed
Daniel J. Kluth
Wendy M. McDonald
Linda M. Byrne
Mark D. Schuman
Randall A. Hillson
John P. Sumner
Brian H. Batzli
David K. Tellekson
Hallie A. Finucane
John J. Gresens
Steven J. Keough
Paul E. Lacy
John L. Knoble
Michelle M. Michel
Philip P. Caspers
Gregory A. Sebald
Jane H. Arrett
A. James Nelson

Robert C. Beck
George H. Gates
Gregory M. Taylor
Kristine M. Strodthoff
Thomas E. Jurgensen
Steven C. Bruess
Joel A. Rothfus
Mark A. Krull

July 9, 1991

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE SERVICES BRANCH
91 JUL 12 AM 9:22

Federal Election Commission
Attn: Lois G. Lerner
Associate General Counsel
Washington, D.C. 20463

RE: MUR 2984

Dear Ms. Lerner:

This is in response to your letter dated June 10, 1991. Our response has been somewhat delayed because of the time delays inherent in obtaining the affidavits and the numbers of plaintiffs and distance involved.

Enclosed are the original Affidavits executed by Mary Schneck, Stephen Schneck and Todd Johnson. With regard to Tamara Twichell and John Steensland, good faith efforts were being made to comply with the subpoenas served on all named individuals. However, on May 18, 1991, a Complaint and a Motion for Preliminary Injunction were filed (Civil Action No. 21-804 PHX PGR) on behalf of Tamara Twichell, John Steensland and Todd Johnson, among others. As you know, these documents request that proceedings be stayed with regard to certain individuals and companies. Therefore, in view of the position taken in connection with our motion coupled with the fact that the hearing on our motion should occur shortly, it would appear unnecessary to continue the exhaustive efforts called for by your subpoenas.

RECEIVED
FEDERAL ELECTION COMMISSION
91 JUL 12 PM 3:17

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

Sincerely,

D. Randall King

DRK/ADS:pah
Enclosures: Original Affidavits (3)

9504367060603

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 2984
Mary A. Schneck	)	
	)	

AFFIDAVIT OF MARY A. SCHNECK

STATE OF Arizona)
) ss
COUNTY OF Maricopa)

Sir:

Mary A. Schneck, being duly sworn, deposes and says as follows:

1. I am the same Mary A. Schneck named in the above-identified investigation.

2. I have carefully read and understand the factual and legal analysis of MUR 2984 dated April 5, 1991.

3. The pledge card I wrote for the Bush for President Committee on January 28, 1988 was a result of my decision to contribute with my husband to the Bush for President Campaign. My husband wrote a check for $1,000.00 and we each signed a pledge card for $500.00.

4. I am not aware of any agreement or prearrangement with International Institute of Valuers, International Real Estate Institute or any other company to allow my name to be used to effectuate a $500.00 contribution to the Bush for President Committee.

5. I am aware of no reimbursement from any source either

9504367060 4

before or after January 28, 1988 for the check my husband wrote for the Bush for President Committee.

6. I have never made a contribution in my name knowing that the contribution was from a corporation or by a corporate officer or a director of a corporation.

Further affiant sayeth not.

6-14-91
Date

Mary A Schneck
Mary A. Schneck

Subscribed and sworn before me this 14th day of June, 1991.

Marilyn B. Clement

My Commission Expires June 16, 1994

95043670605

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 2984
Stephen L. Schneck	)	
	)	

AFFIDAVIT OF STEPHEN L. SCHNECK

STATE OF Arizona)
) ss
COUNTY OF Maricopa)

Sir:

Stephen L. Schneck, being duly sworn, deposes and says as follows:

1. I am the same Stephen L. Schneck named in the above-identified investigation.

2. I have carefully read and understand the factual and legal analysis of MUR 2984 dated April 5, 1991.

3. The $1,000.00 check I wrote for the Bush for President Committee on January 28, 1988 was voluntary on my part and was funded from money belonging to my family. My wife and myself each signed a pledge card for $500.00 and sent in a single check for $1,000.00.

4. There was no agreement or prearrangement with International Institute of Valuers, International Real Estate Institute or any other company to allow my name to be used to effectuate a $500.00 contribution to the Bush for President Committee.

5. There was no reimbursement from any source either before

9504367006

or after January 28, 1988 for the $500.00 check I wrote for the Bush for President Committee.

6. I have never made a contribution in my name knowing that the contribution was contributed from a corporation or by a corporate officer or a director of a corporation.

7. The check I received for $1,050.00 from the International Institute of Valuers was a bonus for doing a good job.

8. I had decided to give to the Bush Campaign prior to knowing I was to receive a bonus.

9. I received other bonuses for my work including a $2,500.00 bonus in 1989.

Further affiant sayeth not.

June 14 1991
Date

Stephen L. Schneck

Subscribed and sworn before me this 14th day of June, 1991.

Notary Public

My Commission Expires Feb. 15, 1992

9504367060607

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 2984
Todd Johnson	)	
	)	

AFFIDAVIT OF TODD JOHNSON

STATE OF Arizona)
) ss
COUNTY OF Maricopa)

Sir:

Todd Johnson, being duly sworn, deposes and says as follows:

1. I am the same Todd Johnson named in the above identified investigation.

2. I have carefully reviewed and understand the factual and legal analysis of MUR 2984 dated April 5, 1991.

3. I have never permitted my name to be used to effectuate a $1,000.00 contribution to the Bush for President Committee.

4. I contributed $1,000.00 to the Bush for President Committee on my own free will.

5. My motivation for contributing $1,000.00 was both to help President Bush become elected as President and also out of loyalty and respect to my father, Mr. Robert Johnson, an active member of the Republican Party.

9504367060 8

6. I have never made a contribution in my name knowing that the contribution was from a corporation or from a corporate officer or a director of a corporation.

Further affiant sayeth not.

June 28, 1991
Date

Todd Johnson

Subscribed and sworn before me this 28 day of June, 1991.

E. Kt

Expr. 12/30/93

95043670609

RECEIVED
FEDERAL ELECTION COMMISSION
SECRETARIAT
91 JUL 15 PM 5:01

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	**SENSITIVE**
	)	
National Association of Real Estate Appraisers, Inc.	)	MUR 2984
National Association of Review Appraisers and Mortgage Underwriters, Inc.	)	
International Real Estate Institute, Inc. (a.k.a. International Institute of Valuers, Inc.)	)	
Todd Publishing, Inc.	)	
Professional Women's Appraisal Association, Inc.	)	
International Association Managers, Inc.	)	
Robert G. Johnson	)	

GENERAL COUNSEL'S REPORT

The Office of the General Counsel is prepared to close the investigation in this matter as to the above-named respondents, based on the assessment of the information presently available.

7/12/91
Date

Lawrence M. Noble
General Counsel

9504367061O

RECEIVED
FEDERAL ELECTION COMMISSION
SECRETARIAT

91 JUL 15 PM 5:13

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SENSITIVE

July 15, 1991

MEMORANDUM

TO: The Commission

FROM: Lawrence M. Noble
General Counsel

SUBJECT: MUR 2984

Attached for the Commission's review is a brief stating the position of the General Counsel on the legal and factual issues of the above-captioned matter as it relates to the corporate entities and Robert G. Johnson. A copy of this brief and a letter notifying the respondents of the General Counsel's intent to recommend to the Commission a finding of probable cause to believe were mailed on July 15, 1991. Following receipt of the respondents' reply to this notice, this Office will make a further report to the Commission.

Attachments
1. Brief
2. Letter to counsel

9504367061 1

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

July 15, 1991

D. Randall King, Esquire
Merchant & Gould
100 Northwest Center
55 East Fifth Street
Saint Paul, MN 55101

Re: MUR 2984
Robert Johnson; National Association of Real Estate Appraisers; National Association of Review Appraisers and Mortgage Underwriters; Professional Women's Appraisal Association; Todd Publishing, Inc.; International Real Estate Institute

Dear Mr. King:

Based on a complaint filed with the Federal Election Commission on May 21, 1988, information supplied by your clients and you, and based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Commission previously made reason to believe determinations regarding your clients. Specifically, on August 30, 1988, the Commission found reason to believe the National Association of Real Estate Appraisers ("NAREA") violated 2 U.S.C. § 441b(a). Additionally, on September 19, 1989, the Commission found reason to believe Robert Johnson violated 2 U.S.C. §§ 441f and 441b(a). Also on that date the Commission determined that the National Association of review Appraisers and Mortgage Underwriters ("NARA/MU") and International Association Managers ("IAM") and NAREA, each violated 2 U.S.C. §§ 441f and 441b(a). Moreover, on March 26, 1991, the Commission determined that there was reason to believe the International Real Estate Institute ("IREI") as well as Todd Publishing, Inc. knowingly and willfully violated 2 U.S.C. §§ 441f and 441b(a). Also on March 26, 1991 the Commission found reason to believe Professional Women' Appraisal Association ("PWAA") knowingly and willfully violated 2 U.S.C. § 441b(a).

9504367061 2

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.

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.

Should you have any questions, please contact Patty Reilly, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Brief

9504367061 3

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
National Association of Real Estate Appraisers, Inc.	)	MUR 2984
National Association of Review Appraisers and Mortgage Underwriters, Inc.	)	
International Real Estate Institute, Inc. (a.k.a International Institute of Valuers, Inc.)	)	
Todd Publishing, Inc.	)	
Professional Women's Appraisal Association, Inc.	)	
International Association Managers, Inc.	)	
Robert G. Johnson	)	
	)	

GENERAL COUNSEL'S BRIEF

TABLE OF CONTENTS

		PAGE
I.	BACKGROUND	1
	A. The Respondents	1
	B. Procedural Posture of the Matter	4
II.	SOLICITATIONS SENT ON BEHALF OF THE BUSH FOR PRESIDENT COMMITTEE	5
	A. The Complaint	5
	B. Responses To The Complaint From Robert Johnson and the Associations	7
	C. Information Received From the Bush For President Committee	11
	D. Additional Evidence Provided By The Respondents	12
	E. Results of the Investigation	17
	1. Scope of the Corporate Involvement	20
	2. Mailings To Members Of the Associations	24
	3. Mailings to Arizona Republicans	27

9504367061 4

4. Funds Allegedly Expended By E. Kenneth Twichell 31

5. Corporate Expenditures 35

F. Violations of the Act 39

1. Corporate Liability 39

2. Violations Regarding Robert Johnson 41

III. CORPORATE PAYMENTS FOR CONTRIBUTIONS 42

A. The Investigation 43

1. January 1988 - George Bush for President, Inc. 45

2. March 1988 - Durenberger for U.S. Senate '88 49

3. May 1988 52

a. The Arizona Republican Party 52

b. Durenberger for U.S. Senate '88 54

c. Robert Johnson's Contribution to the Presidential Trust 57

4. July 1988 - The Presidential Trust 59

B. Violations of the Act 67

IV. KNOWING AND WILLFUL VIOLATIONS 68

V. GENERAL COUNSEL'S RECOMMENDATIONS 73

9504367061 5

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
National Association of Real Estate Appraisers, Inc.	)	MUR 2984
National Association of Review Appraisers and Mortgage Underwriters, Inc.	)	
International Real Estate Institute, Inc. (a.k.a International Institute of Valuers, Inc.)	)	
Todd Publishing, Inc.	)	
Professional Women's Appraisal Association, Inc.	)	
International Association Managers, Inc.	)	
Robert G. Johnson	)	
	)	

GENERAL COUNSEL'S BRIEF

I. BACKGROUND

This matter involves allegations that incorporated trade associations owned by Robert Johnson paid for massive mail solicitations of contributions on behalf of the George Bush for President Committee. Additionally, these trade associations also allegedly reimbursed individual employees for their campaign contributions to a number of federal political committees. These activities are detailed herein.

A. The Respondents

The trade associations in question are all controlled by Robert G. Johnson. Mr. Johnson was a co-chairman for the state of Arizona for the George Bush for President Committee ("the Bush Committee"), the authorized political committee of George Bush's campaign for the Republican presidential nomination in 1988. Mr. Johnson is the sole shareholder and president of International

9504367061 6

Association Managers, Inc. (IAM"), an organization managing various trade associations. These trade associations are all closely tied to Robert Johnson and are described briefly below.

Robert Johnson is one of the three officers of the National Association of Real Estate Appraisers, Inc. ("NAREA"), and serves as the chairman of its Nominations and Executive Committee. He is also the sole stockholder of NAREA, a Minnesota corporation with its principal place of business in Scottsdale, Arizona. E. Kenneth Twichell is the managing director of this organization and is responsible for its day to day operation. In 1988 its membership was estimated as between 12,000 to 14,000 persons.[1]

Another trade association managed by IAM is the National Association of Review Appraisers and Mortgage Underwriters, Inc. ("NARA/MU"). This organization is composed of persons who review the reports of real estate appraisers. It is a not for profit corporation without capital stock, incorporated in Minnesota, and has its principal place of business in Scottsdale, Arizona. Robert Johnson is an officer of NARA/MU. In 1988 its membership was estimated as between 5,500 and 6,000 persons.

A third trade association managed by Robert Johnson is the International Real Estate Institute, Inc., also known as International Institute of Valuers ("IREI"). This organization provides services similar to NAREA in an international forum and

9504367061 7

---

1. As used in this brief, "member" means only a person paying dues to any the Associations. It is not used as a term of art within the meaning of the FECA. See 11 C.F.R. §§ 100.8(b)(4)(iv) and 114.1(e). See also Federal Election Commission v. National Right To Work Committee, 459 U.S. 197 (1982).

contains both national and international members. All of its stock is owned by Robert Johnson who founded this for profit corporation. In 1988 its membership is unknown; during 1990 its membership was estimated at 2,000 persons.

Robert Johnson is also an officer of the Professional Women's Appraisal Association ("PWAA"). This corporation provides services similar to NAREA, but its membership is limited to women. Robert Johnson established this corporation and serves as an officer or director of it. In 1988 its membership was estimated as between 300 to 500 persons.

Another corporation owned by Robert Johnson is Todd Publishing, Inc. This for profit company has published materials on behalf of the associations noted above. Robert Johnson has identified himself as either an officer or director of Todd Publishing Company, Inc.

Robert Johnson is primarily responsible for the day to day operation and fiscal management of each entity. It is he who has ultimate responsibility for running each of these organizations and who signs the checks for each of these organizations.[2] Second in charge of this organizational structure is E. Kenneth Twichell who is also responsible for managing NAREA. Key employees of the organizations in 1988 included Patricia Davidson who had responsibilities relating to PWAA, Jean Johnson who was responsible for government relations, Timothy Cloud who ran the

9504360618

---

2. During 1988, the time period in question, Deborah Johnson, Robert Johnson's spouse, also had the authority to sign his name on corporate checks. The PWAA checks were also signed by Patricia Davidson, an employee of the Associations in 1988.

organizations' computers, and Stephen Schneck who had responsibilities for seminar programs.[3] All of the entities described above currently conduct business from 8383 East Evans Road in Scottsdale Arizona. For the purposes of this brief we refer to NAREA, NARA/MU, and PWAA as "the Associations".

B. Procedural Posture of the Matter

Based on a complaint filed pursuant to 2 U.S.C. § 437g(a)(1), on August 30, 1988 the Commission found reason to believe NAREA violated 2 U.S.C. § 441b(a). Additionally, based on information discovered during the course of its supervisory responsibilities, see 2 U.S.C. § 437g(a)(2), on September 19, 1989, the Commission found reason to believe Robert Johnson violated 2 U.S.C. §§ 441f and 441b(a). Also on that date the Commission determined that NAREA, NARA/MU, and IAM each violated 2 U.S.C. §§ 441f and 441b(a). Moreover, on March 26, 1991, the Commission determined that there was reason to believe that IREI as well as Todd Publishing knowingly and willfully violated 2 U.S.C. §§ 441f and 441b(a). Also on March 26, 1991 the Commission found reason to believe PWAA knowingly and willfully violated 2 U.S.C. § 441b(a).

Based on the investigation conducted in this matter, the General Counsel recommends that the Commission find probable cause to believe that:

1. Robert G. Johnson knowingly and willfully violated 2 U.S.C. §§ 441f and 441b(a);

2. NAREA knowingly and willfully violated 2 U.S.C. §§ 441f, 441d(a) and 441b(a);

---

3. This brief makes probable cause recommendations only as to Robert Johnson and the corporations he controls. The possible violations of other respondents will be addressed in later briefs.

9504367061 9

3. NARA/MU knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441d(a);

4. PWAA knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441d(a);

5. Todd Publishing, Inc. knowingly and willfully violated 2 U.S.C. §§ 441f and 441b(a); and

6. IREI knowingly and willfully violated 2 U.S.C. §§ 441f and 441b(a).

The results of this investigation are detailed in three sections below. First, violations of the Act are presented by the respondents' activities in connection with fundraising solicitations benefiting federal candidates in 1988. Second, additional violations of the Act are presented regarding certain corporate contributions, corporate reimbursement of such contributions, and corporate contributions made in the names of others. Third, we present evidence regarding the knowing and willful nature of these violations.

II. SOLICITATIONS SENT ON BEHALF OF THE BUSH FOR PRESIDENT COMMITTEE

A. The Complaint

The genesis of this matter was a signed, sworn, and notarized complaint filed with the Commission on March 21, 1988 by John R. Lair. The complainant has been designated as a Certified Real Estate Appraiser by NAREA and has paid dues to this organization. The ten page complaint included a letter dated February 4, 1988 on the letterhead of NAREA ("the Bush Letter"). This letter was signed by E. Kenneth Twichell, identified in the letter as the managing director of NAREA. Additionally, the

9504367062O

complaint included certain correspondence between the complainant and Mr. Twichell.

This letter solicited campaign contributions to George Bush's 1988 presidential nomination campaign. It specifically pointed to the importance of financial support for the Bush campaign "to help the National Association of Real Estate Appraisers obtain a great deal of influence with the person who will most probably be the next President of the United States." The letter exhorted all the members of NAREA as a group to contribute in order to have the maximum possible impact:

> Your contribution, added together with every member's contribution will create the impact that we have the power required to influence important political (Real Estate) decisions....
>
> * * *
>
> Your contribution of $100.00 is needed right now. Yours, together with a united membership effort could create the biggest financial support of his entire campaign.... The total impact of this effort will be very meaningful to the Association.

Mr. Twichell's letter also stated that "I have personally paid for this stationery, all the mailing costs, etc., so as not to violate any Federal Election laws or place any financial burdens on the Association."

The letter was personally addressed to the complainant and enclosed a two-sided contributor card of the Bush Committee and a postage-prepaid return envelope addressed to the Bush Committee in Washington, D.C. On the contributor card was stamped "AZ 04" and across the front of the return envelope was stamped "Attn: Lucy Cole."

Mr. Lair attached to the complaint his letter dated

9504367062 1

February 18, 1988 addressed to Mr. Twichell. In it he protested that Mr. Twichell had engaged in political activity without divorcing himself from the Association. The complaint also enclosed E. Kenneth Twichell's response to Lair dated February 23, 1988, in which he reiterated NAREA's support for George Bush and stated the importance of members' political support for Bush's campaign: "Our's [sic] is not an endorsement of a Democrat or Republican, but of a person who we do have a relationship with, and one which will surely recognize our organization should he be elected to the Presidency." Complaint at 8. According to Mr. Lair, in a telephone conversation with Mr. Twichell after receipt of this letter, the complainant pointed out that first class postage for a mailing to the entire NAREA membership, estimated to be 14,000, would exceed Mr. Twichell's personal contribution limitation of $1,000 as established at 2 U.S.C. § 441a(a)(1)(A). In fact, according to the signed, sworn complaint, Mr. Lair asserted to Mr. Twichell that under the contribution limitations imposed by the Federal Election Campaign Act of 1971, as amended, Mr. Twichell could not have sent out more than 4,545 letters. Mr. Twichell allegedly responded "How do you know how many letters I mailed?" Complaint at 2.

9504367062 2

B. Responses To the Complaint From Robert Johnson and the Associations

NAREA responded to the complaint by submitting a single response containing a cover letter from Robert Johnson and enclosing certain materials from NAREA's managing director, E. Kenneth Twichell. This document was dated April 4, 1988. It

contained a letter from E. Kenneth Twichell which was acknowledged before a notary but was not sworn to. Mr. Twichell admitted sending out the Bush letters, asserting that he personally paid for all of the expenses. Mr. Twichell further asserted that although he was not totally familiar with federal election laws, he took "extreme efforts so as not to violate any laws." Twichell April 4, 1988 Response at 1. He stated these efforts included calling the Federal Election Commission's Information Division and inquiring whether he could use corporate letterhead for the mailing. He stated he received such permission.

Mr. Twichell's response also noted his conversation with Mr. Lair prior to the filing of the complaint. This statement for the first time claimed that the Bush letter was sent to a small number of persons rather than the entire NAREA membership. Mr. Twichell states that he informed Mr. Lair that he was aware of the election laws and that he only "mailed [the Bush letters] to a select few. He [Mr. Lair] was selected because in addition to his Real Estate Activities, he was on th [sic] Board of the Association of Pork Producers." Id. The response further notes that Mr. Twichell received the corporation's approval to put out the letters. Id. He further avers that after sending out the Bush Letters he received positive and negative phone calls. "Because of the negative calls, I would not have proceeded with [mailing to]... the rest of the membership even if it were ok [sic] to do so." Id. The letter ends with a postscript noting, "I typed this myself on white paper so I wouldn't use corporate funds." Id.

9504367062 3

Attached to this response were documents purporting to be an invoice from NAREA to Mr. Twichell for expenses associated with the mailing, a separate "Statement of Expenses," and a copy of the front of a personal check drawn on Mr. Twichell's joint checking account purporting to pay for the expenses associated with the Bush letters. The NAREA invoice, dated March 3, 1988, lists "Services/Products furnished to E. Kenneth Twichell" and includes a charge for a mailing list rental for 2,500 names of NAREA members ($125); a letter processing charge for 2,500 letters and envelopes ($60); a mailing charge for mailing 2,500 pieces at 22 cents ($550); and a charge for machine time ($25). Thus, the amount said to have been billed to Mr. Twichell by NAREA for the mailings was $760. A notation of the bottom of this invoice includes the word "Paid" with the initials RGJ. (Robert Johnson later testified that these initials were his and he placed them on the invoice in order that there would be no doubt that the reimbursement had occurred. Robert Johnson Deposition at 204.)

The separate document entitled "Statement of Expenses" appears on plain paper without letterhead and is undated. It includes entries for letterhead and envelopes totaling $186, and was said to bring the total cost for the entire Bush mailing to $946. The bottom of this document includes the entry: "I stuffed the envelopes myself and no Corporate Employees [sic] time was used."

As noted, a copy of the front of Mr. Twichell's personal check to NAREA was also attached to this response to the complaint. This check for $760 is dated March 3, 1988, the same

9504367062 4

date as the NAREA invoice. The check number is 747. It is payable to "NATL. ASSOC. OF REAL ESTATE APPRS." and is drawn from the joint account of E. Kenneth Twichell and Tamara Twichell.[4]

Robert Johnson's April 4, 1988 response asserts that the NAREA "has not provided any financial support to any candidate for any office." Robert Johnson April 4, 1988 Response. It includes the statement:

> Mr. E. Kenneth Twichell did get printed, at his own expense, our letterhead and envelopes. Further, he rented our mailing list at market rates and paid for all expenses associated with the [Bush letters]. He also reimbursed NAREA for the use of the equipment. NAREA paid for nothing.

This response was acknowledged before a notary, and its contents were signed and sworn to. That notary was E. Kenneth Twichell.

By letter dated April 6, 1988, Robert Johnson submitted a supplemental response, explaining that he acquired contribution cards from the Bush for President Committee headquarters in Washington D.C., as well as from other fundraising chairmen. Mr. Johnson explained that he affixed on these cards two pieces of information: "AZ 04" and "Attn: Lucy Cole." This letter contained a postscript noting: "Again, none of the campaign efforts were done at corporate expense or on corporate time." Thus, in response to the complaint respondents asserted that they had made mailings on behalf of George Bush, that these mailings went to "a select few" of the Associations' members, that the costs of the mailings were borne by Mr. Twichell personally, and

---

4. Tamara Twichell is the spouse of E. Kenneth Twichell.

9504367062 5

that no corporate funds were expended in either the solicitation effort or in the effort to respond to the complaint.

C. **Information Received From the Bush For President Committee**

The Commission also received materials from the Bush for President Committee regarding the NAREA's mailing. According to an affidavit submitted by Margaret C. Alexander, Finance Director for the Bush for President Committee, she became aware that NAREA was soliciting funds on behalf of the Bush for President Committee (referred to as "GBP") in "early March of 1988." Margaret Johnson Affidavit at ¶ 1. She made the following sworn statement:

> I first became aware of the letter which is the subject of the complaint in MUR 2593 in early March of 1988. At that time I was informed by Fred Bush, the Deputy Finance Chairman of GBP, that the campaign had received a copy of an unauthorized letter soliciting funds. I was asked by Fred Bush to attempt to ensure that no further such letters were sent.
>
> I immediately telephoned Robert G. Johnson, the Executive Director of the National Association of Real Estate Appraisers, and a co-chairman for the State of Arizona of GBP fundraising efforts. I told Mr. Johnson that I was holding a copy of the fundraising letter sent out on his Association's letterhead, and that this letter had never been seen or approved by any person at GBP headquarters prior to its being sent. I therefore asked him if he would please speak to his Association's Managing Director, Mr. Twichell, and asked him to cease and desist in sending out the communication immediately.

Margaret Johnson Affidavit at ¶¶ 3 and 4. In her affidavit Ms. Alexander goes on to explain the significance of the markings

9504367006226

on the enclosures of the solicitation letter:

> Our envelopes do not state "Attn: Lucy Cole," [sic] nor do they contain the code "AZ04" [sic]. Lucy Cole is an event coordinator in the campaign's finance office and "AZ04" is the code given to Mr. Robert Johnson by GBP for the purpose of allowing us to know for which contributions he was responsible. Persons who volunteer to assist GBP with fundraising, such as Mr. Johnson, are given as a matter of course approximately 200-250 reply cards (without their code stamped on them and without any particular person's name on the cover). I have no knowledge where Mr. Twichell obtained the envelopes used in the mailing and, if they were Mr. Johnson's, where envelopes beyond Mr. Johnson's original allotment were obtained or how they were altered.
>
> Mr. Johnson, as a volunteer fundraiser with the title of Co-Chairman of the Arizona Fundraising Committee, had no authority to send, or approve the sending of, mass mailings without prior review and approval from the campaign headquarters. All volunteer fundraisers, including Mr. Johnson, were explicitly informed of this fact when they agreed to assist the GBP fundraising efforts.

Id. at 6-7. Thus, as of March, 1988, Robert Johnson and the Associations had explicit knowledge that the Bush for President Committee disavowed their fundraising efforts and that, as far as the Bush Committee was concerned, Mr. Johnson and Mr. Twichell were acting outside the scope of authority that had been extended by the Bush Committee to Mr. Johnson.

D. Additional Evidence Provided By the Respondents

During the course of the investigation in this matter, the Commission issued numerous subpoenas to the respondents requiring them to submit certain documents, answer certain questions under

9504367006 27

oath, and to appear and give sworn testimony. Below we briefly summarize the relevant portions of this aspect of the investigation.

As an initial matter, many of the Commission's requests for documents from the Associations and other entities controlled by Robert Johnson did not result in the production of the requested materials. In particular, respondents did not produce past invoices from bills paid by the Associations for the year 1988. Robert Johnson gave sworn testimony that such invoices were not routinely maintained in the business of the Associations. Robert Johnson Deposition at 151-54. In fact, the only invoice respondents have ever provided to the Commission in this matter is an exculpatory document by which NAREA purportedly billed E. Kenneth Twichell for costs associated with these mailings.

Respondents further explained the scope of the Bush letters in response to the Commission's Interrogatories. For example, in the NAREA's response to interrogatories dated October 11, 1988, Robert Johnson asserted that the exact number of persons receiving the Bush letter was "presently unknown but thought to be less than 2,500 persons.[5] This response further indicates that the Bush letter was sent only to the NAREA's membership. Additionally, this response notes that "no contributions were received as a result of [the Bush letters]." A letter from counsel accompanying these interrogatories states that the solicitations were prepared

5. This response was "acknowledged" before a notary, but was not sworn to, nor was there an affirmation that the statements were true.

9504367062 8

by Mr. Twichell after regular business hours. October 11, 1988 Letter from Counsel at 2. Additionally, presumably referring to the February 4th date on the solicitation and the March 3rd dates on both the NAREA invoice and Mr. Twichell's reimbursement check, it states, "[t]he reimbursement took place less than one month after the expense was incurred .....all costs were reimbursed. Id. This document further describes Mr. Twichell's duties regarding this solicitation as "folding, stuffing, sealing, and affixing postage." Id. at 3.[6]

Testimony given by Robert Johnson and E. Kenneth Twichell at their respective depositions taken on November 1 and 2, 1990 provided additional details about the mailing. For example, Robert Johnson identified the response dated April 4, 1988 that he had previously sent to the Federal Election Commission, and admitted that he stamped the contribution envelopes and cards with "Attn: Lucy Cole" and "AZ 04." He was unsure whether or not he was provided with stamps by the Bush Committee in order to place this information on the envelopes, but believed this to be the case. Robert Johnson Deposition at 211-12. Mr. Johnson initially testified that he could not recall whether anyone helped him stamp these materials, but when pressed he gave unequivocal denials:

> Q: [Ms. Reilly]: So it was your testimony that you did it all yourself in terms of the stamping?
>
> A: [Robert Johnson] That's correct.

---

6. This October 11, 1988 letter from counsel to the Commission contains an admission that "Mr. Twichell admits the solicitation was not authorized by the Vice President or his agents." This information did not appear on the solicitation letter as required by 2 U.S.C. § 441d(a).

9504367006 29

Q: No employees helped you?

A: That's correct.

Id. at 213.

Additionally, E. Kenneth Twichell testified at his deposition that he obtained the contributor cards (stamped with "AZ 04") and the reply envelopes (stamped with "Attn: Lucy Cole") on a shelf located in the back room of the Associations' previous headquarters located at 8715 Via De Commercio in Scottsdale, Arizona.[7] E. Kenneth Twichell Deposition at 291-2. E. Kenneth Twichell testified with great specificity as to the location of these cards, indicating the cards were positioned in the right hand side of the shelf "[j]ust stacked up, you know, nice." Id. at 292. He further indicated that he had no idea how these materials had come to be placed in this location. Id. at 293-94.

During their depositions, Mr. Johnson and Mr. Twichell attempted to clarify certain points. For example, according to the sworn testimony of both corporate officials, their original estimate provided to the Commission regarding the number of Bush letters was inaccurate. Instead of the 2,500 figure previously cited in their responses to interrogatories, Robert Johnson testified that he believed the actual number of solicitations to be 1,000 pieces or less. Robert Johnson Deposition at 197. This number was further reduced in the deposition testimony of E. Kenneth Twichell given the following day. He stated he

9504367063 0

---

7. In July, 1988 the Associations moved to new headquarters that are also located in Scottsdale. The move is discussed in greater detail in Section III.

believed the mailings to number only about 800 letters and that he selected these 800 from a larger number prepared by him. E. Kenneth Twichell Deposition at 268. He testified that he caused the Associations' computer to generate, at random, 2,500 persons from among the entire NAREA membership, id. at 273, but that numerous letters were discarded prior to mailing:

> I guess it was a feeling I had about 'em. I mean, when you're in the business you tell sort of by the title, the company; you know, I was trying to pick appraiser firms, maybe some bigger ones that I knew about that, you know, one of these guys might contribute.

Id. at 280. Eventually, the entire mailing was said to fit into two boxes with approximately 400 letters in each box. Id. at 281.

Mr. Twichell also fully described his activities regarding the Bush letters, stating that he had the permission of Robert Johnson to conduct the mailing. He stated that he wrote and prepared the letter. E. Kenneth Twichell Deposition at 274-75. Additionally, he testified that he had corporate stationary prepared for this mailing and that he personally paid for this stationary. Mr. Twichell further stated that he signed each letter and the letters were sent to the persons to whom they were addressed by first class mail. Id. at 276-83. Mr. Twichell also testified that he had no knowledge of other Bush letters sent by the Associations and was unaware of any other letters sent to any other members of the Associations. Id. at 284-85. Additionally, Robert Johnson confirmed under oath that he was aware of the mailing but claimed he did not see any corporate employees stuffing envelopes regarding it. Robert Johnson

9504367063 1

Deposition at 206. He further testified that the Associations did not conduct any other political mass mailings other than this particular one supporting Vice President George Bush. Robert Johnson Deposition at 220-1 and 235.

E. Results of the Investigation

At the outset, there are credibility questions evident from juxtaposing Messrs. Johnson's and Twichell's deposition testimony with other information. One example of this involves Robert Johnson's representations regarding contributions received in response to the Bush letter. In NAREA's October 11, 1988 response to interrogatories, Robert Johnson unequivocally stated that no contributions were received as a result of the Bush letter. When asked about this statement at his deposition, Mr. Johnson challenged its accuracy, stating "I mean, how could I possibly know if somebody sent some money in?" Robert Johnson Deposition at 292. Yet, according to an affidavit of Lucy Cole submitted by the Bush Committee, Robert Johnson regularly called the Committee seeking information regarding who had contributed using his contribution code. Cole Affidavit at ¶ 3. Moreover, at his deposition Robert Johnson admitted receiving computer printouts from the Bush Committee listing persons who had contributed using his code. Robert Johnson Deposition at 285, 292. In fact, according to the records of the Bush Committee, it accepted 165 contributions from outside the state of Arizona totaling $11,799 that were designated with Robert Johnson's

9504367006332

contributor code of "AZ 04."[8] Thus it appears that at the time he submitted the statement that no contributions were received as a result of the mailing, he knew that substantial contributions were made using his contributor code which could only have come in response to the Bush letter.

A second example is presented regarding the juxtaposition of E. Kenneth Twichell's written responses with his deposition testimony. In Mr. Twichell's April 4, 1988 response to the Commission he attempted to refute the allegation that he sent the Bush letter to the entire NAREA membership. Instead, he explained that he sent the mailing only "to a select few," and that Mr. Lair, the complainant, had been included in this group "because in addition to his Real Estate Activities he was on th [sic] Board of the Association of Pork Producers." Twichell April 4, 1990 Response. In contrast, Mr. Twichell's deposition testimony revealed that at the time he sent out the Bush letters he did not even know that Mr. Lair was a member of an "Association of Pork Producers." E. Kenneth Twichell Deposition at 309-310. Thus, Mr. Twichell conceded that his original explanation for the complainant's selection was untrue, calling into question whether he in fact made any "select[ion]" at all.

9504336706633

---

8. Many of these contributions were from individuals with occupations listed as either real estate appraiser or otherwise associated with the real estate field. These contributions spanned the periods between February 9, 1988 until August 8, 1988, and were in amounts ranging from $5 to $500. The contributions came from 33 states, as well as Puerto Rico and the District of Columbia.

In fact, tension in another respect between Mr. Twichell's testimony and his previous submission further impeaches the credibility of his assertion as to the number of letters sent. The NAREA invoice submitted by the respondents shows that this entity absorbed costs for postage for 2,500 letters. Mr. Twichell testified that although he initially generated 2,500 letters and envelopes on the Associations' computer, he discarded more than two thirds of this amount, arriving at a mailing composed of 800 pieces. E. Kenneth Twichell Deposition at 281. He further testified that after this selection process he stuffed the letters into mailing envelopes along with a contributor card and a reply envelope addressed to the Bush Committee. He then ran the mailing envelopes through the Associations' postage meter, which sealed these envelopes in the process. E. Kenneth Twichell Deposition at 268, 278-83. Since the March 3rd invoice was supposedly prepared after all the letters had been mailed, the inclusion of a charge for postage of 2,500 letters, rather than 800 or 1,000 letters, casts doubt on the later downward revision of the number of letters sent, or on the invoice itself.

Despite these inconsistencies, Messrs. Johnson and Twichell have repeatedly maintained that the Bush letters were limited in number, were sent only to members of the NAREA, were paid for in their entirety by E. Kenneth Twichell personally, were the personal project of Mr. Twichell, and did not involve the expenditure of any corporate funds. As noted below, however, in the course of this investigation the Commission has received substantial evidence regarding the Bush letters from a variety of

9504367063 4

other sources which directly contradicts respondents' versions of the facts.

This Office obtained sworn affidavits from three persons ("stuffers") who asserted under oath that they worked on the Bush letters and other projects of the Associations. These persons all had considerable work experience with the Associations.[9] In some instances the stuffers have produced contemporaneous work records detailing work they performed regarding the Bush letters. Additionally, sworn testimony was also obtained from Patricia Davidson, the former executive producer of PWAA, and Jean Johnson, a former employee of NAREA and IAM.[10] This Office also received information from the Arizona Republican Party.

1. Scope of the Corporate Involvement

First, all of the stuffers specifically recall preparing for the Associations' solicitation letters on behalf of George Bush.

9504367063 5

---

9. For example, one stuffer, Laura Ashbaugh, worked for the Associations from approximately September 1986 until December, 1989. Another, Molly Rugolo, worked for the Associations from sometime in 1984 until the summer of 1989. A third, Kelly Rossi, was employed by the Associations starting in November of 1987 until June of 1989. Mrs. Rossi had both full time and part time duties.

10. As indicated in the deposition testimony of E. Kenneth Twichell, the Associations had a high turnover rate of its employees. Some were discharged by Mr. Twichell; others were said to have left voluntarily. E. Kenneth Twichell Deposition at 75-76. The Office of the General Counsel believes that Mrs. Ashbaugh and Mrs. Rugolo left their positions voluntarily. Mrs. Rossi was said to have sought the assistance of the Department of Labor regarding whether or not she was fired as a result of pregnancy. Id. at 90-91. That matter resulted in a settlement agreement. Patricia Davidson was terminated by the Associations. Mrs. Johnson, who is unrelated to Robert Johnson, left the Associations on "very good terms." E. Kenneth Twichell Deposition at 92-93.

Indeed, the contemporaneous written record produced by stuffer Molly Rugolo explicitly describes the project as "Bush ltr." The stuffers place this mailing activity as beginning as early as February, 1988 and ending in April, 1988.[11] Moreover, each of the stuffers was paid by the Associations for the work that they performed. See Ashbaugh Affidavit at ¶ 7. Rugolo Affidavit at ¶ 5 and 6. Rossi Affidavit at ¶ 4.

The stuffers uniformly assert that they stuffed thousands upon thousands of Bush letters on behalf of the Associations. For example, Laura Ashbaugh testified based on her contemporaneous records that she personally stuffed 22,562 Bush letters. Ashbaugh Affidavit at ¶ 14. Molly Rugolo's contemporaneous records indicate the project was composed of many thousands of pieces, Rugolo Affidavit at ¶¶ 8 and 9, and she stated her belief that in total there were "tens of thousands of Bush letters." Rugolo Affidavit at ¶ 11. Similarly, Kelly Rossi estimated between 50,000 to 100,000 Bush letters were sent. Rossi Affidavit at ¶ 5.

The stuffers describe in detail the work they performed for this massive direct mail solicitation. They explain that the Bush letters project was composed of a letter from the Associations, a contributor card, a reply envelope addressed to the Bush Committee, and a mailing envelope. According to their sworn

9504367006336

---

11. Mrs. Ashbaugh avers that she began stuffing Bush letters in February, 1988 and continued this project until April, 1988. Ashbaugh Affidavit at ¶ 5. Her records detailing her specific activities are incorporated into her affidavit. Mrs. Rugolo testifies that her work occurred in late March of 1988. Rugolo Affidavit at ¶¶ 8 and 9. Additionally, Mrs. Rossi swears that she worked on letters soliciting funds for George Bush during February and March of 1988. Rossi Affidavit at ¶ 4.

statements, their activities included stamping the information "AZ 04" on the contributor card, stamping "Attn. Lucy Cole" on the reply envelope to the Bush Committee, and placing these three pieces into the mailing envelope, along with the solicitation letter. As discussed more fully below, in some instances the stuffers signed the letters for the person named on the signature line and placed the letters that they signed (which were personally addressed) into the corresponding personally addressed envelopes. All of the stuffers were steadfast in their belief that the letters which they stuffed solicited funds for the Bush Committee, all specifically recall stamping a number and a phrase on the materials which they placed into envelopes. In fact, one stuffer described the project as "very grueling...[with] a tremendous number of letters and great pressure to finish the projects as quickly as possible. Rugolo Affidavit at ¶ 5.

Thus, the affidavits and documentary evidence directly contradict E. Kenneth Twichell's numerous statements that this was an isolated mailing project paid for from his personal funds on which only he worked. Moreover, this evidence conflicts with Robert Johnson's testimony that he alone stamped the materials on the contributor card and envelope and that no employees helped with this effort. Robert Johnson Deposition at 213. Indeed, one stuffer noted that Robert Johnson was personally involved in the project, including the fact that he was concerned that the stuffers returned their projects on time and that he was concerned about a mistake made by the printer. Rossi Affidavit at ¶ 7.

Additionally, all of the stuffers directly contradict

9504367006337

Mr. Twichell's statements that the Bush letters were sent out by him in a short time period estimated to be as short as two days and possibly as long as six days. See E. Kenneth Twichell Deposition at 281, 287, and 291. Specifically, Mrs. Ashbaugh began to work on the Bush letters in February and continued until April. Ashbaugh Affidavit at ¶ 5. Her statements are bolstered by her contemporaneous records that are attached to her affidavit and prove that she worked on this project over a three month period. Additionally, Mrs. Rugolo swore that she worked on the Bush letter during the month of March. Rugolo Affidavit at ¶ 5. Her contemporaneous records for a two week period are also attached to her affidavit and prove that she worked on this project during that period. Mrs. Rossi swore that she worked on the Bush letters during February and March of 1988. Rossi Affidavit at ¶ 4. Indeed, the stuffers' testimony that the Bush letters were a long term project of the Associations is bolstered by the Bush letter provided by Mr. Lair. That letter is dated February 4, 1988, but the first class postage meter stamp on the envelope is dated February 16, 1988.

Other evidence also supports the conclusion that the Bush letters were a continuous project of the Associations. For example, as noted earlier, the Bush Committee received a steady stream of contributions under Robert Johnson's fundraising code from real estate appraisers across the country from February, 1988 until May 1988. Further, another former employee of the Associations, Mrs. Jean Johnson, testified that the Bush letters were produced using the Associations' computer

9504367063 8

system. She further testified that the Associations' computers were so busy generating the Bush letters that letters for her own work projects would "often be placed on the back burner because the computer was being taken up by this stuff." Jean Johnson Deposition at 65. Thus, Mr. Twichell's statements regarding the limited production of an 800 piece Bush letter occupying perhaps two to six of his evenings are patently untrue. In fact, as proven above, the Bush letter was an extended project involving corporate facilities. Moreover, as discussed below, the Associations generated numerous versions of this letter to persons both inside and outside the Associations.

2. Mailings to Members of the Associations

As previously detailed, the complaint enclosed the Bush letter, averring that the mailing was composed of a one page letter signed by E. Kenneth Twichell, a business reply envelope addressed to the Bush Committee with "Attn: Lucy Cole" affixed to the front, and a two-sided contributor card with "AZ 04" affixed in the upper right corner of the first side and on the bottom of the opposite side. Thus, the mailing was purportedly composed of three pieces, including the solicitation letter on NAREA letterhead signed by Mr. Twichell. Mr. Twichell stated that this mailing was the only one conducted by the Associations. E. Kenneth Twichell Deposition at 284-85. Mr. Johnson stated that "as best as [he could] recall" the Twichell letters were the only ones put out by his Associations. Robert Johnson Deposition at 222.

The evidence is clear that the number of members within the

9504367006 39

Associations who received Bush solicitation letters has been grossly understated by the respondents. As an initial matter, the very text of the letter sent by Mr. Twichell belies the representation that only a limited mailing was intended. For example, Mr. Twichell's letter speaks to the addressee's contribution "added together with every member's contribution," and your contribution "together with a united membership effort could create the biggest financial support of his entire campaign." (Emphasis supplied). Thus, a plain reading of the letter indicates that it was targeted to the entire membership of NAREA.

This reading is firmly supported by the testimony of the witnesses, all of whom assert that the mailings went to many more persons besides the limited number of members of NAREA cited by Mr. Twichell. They uniformly assert that the Bush solicitation letters went to a members of the other Associations including NARA/MU and PWAA. For example, Mrs. Rugolo states that the letters she worked on went to members of NAREA; Mrs. Ashbaugh noted that the project included letters for both NAREA and NARA/MU; and Mrs. Rossi noted that the project was for NARA/MU. See Rugolo Affidavit at ¶ 5, Ashbaugh Affidavit at ¶ 6, and Rossi Affidavit at ¶ 4. Additionally, Jean Johnson testified that it was her belief that the Bush letters were sent to "every member in every association except for IREI." Jean Johnson Deposition at 62. She specifically recalled that letters were sent to members of PWAA and because that organization was the smallest and least prestigious of the Associations, she was confident that letters

9504367006410

were sent to members of NAREA and NARA/MU, as well. Jean Johnson Deposition at 73. Patricia Davidson also testified that she believed that the mailings went to the entire membership of NAREA, but she was unsure whether the mailings also went to members of NARA/MU and PWAA. Patricia Davidson Deposition at 76-78.[12]

Further evidence that the mailings were sent to the entire membership of NAREA, NARA/MU and PWAA is the testimony that the stuffers signed the names of persons associated with these organizations to the Bush letters. Mr. Twichell, Mr. Johnson, and Patricia Davidson testified that under the Associations' ordinary practice, Mr. Twichell's signature appeared on mass mailings to NAREA members, while Robert Johnson's or possibly Stephen Schneck's signature appeared on mailings to NARA/MU members, and the signature of the director of PWAA would normally appear on mailings to PWAA members. See, e.g., Robert Johnson Deposition at 222-23, E. Kenneth Twichell Deposition at 148-49 and 153, and Patricia Davidson Deposition at 41-42. The investigation in this matter reveals that the Bush letters sent to members of the Associations were personally addressed, signed in ink by the stuffers, and matched with a personally addressed envelope. See Ashbaugh Affidavit at ¶¶ 14-18. Rugolo Affidavit at ¶ 9. The stuffers signed the name of the printed signatory. According to their sworn testimony, all the stuffers indicate that they signed

9504367064 1

---

12. Mrs. Davidson's uncertainty was based on her belief that letters to members of NARA/MU would only go out over the signature of Robert Johnson. She assumed his signature was not used in the mailings and thus was unsure whether NARA/MU members were solicited. She did not remember whether PWAA members were solicited.

the name of Robert Johnson on these letters. See Ashbaugh Affidavit at ¶ 6. Rugolo Affidavit at ¶ 5. Rossi Affidavit at ¶ 4. Moreover, Laura Ashbaugh, the stuffer who worked on the Association's Bush letters during a three month period, indicates that she also signed the names of E. Kenneth Twichell, possibly Stephen Schneck[13] and Patricia Davidson, the Executive Director of PWAA. Ashbaugh Affidavit at ¶ 6. Jean Johnson supported the fact that other names were signed, specifically recalling a conversation in which Mrs. Davidson had qualms regarding whether her name would be used. Jean Johnson Deposition at 72-3. Thus, Mr. Twichell's claim that he himself signed each and every Bush letter is not supported by the evidence. The collective memories of these witnesses is compelling evidence that members of NARA/MU and PWAA, as well as NAREA, were targeted by the Associations' Bush letters.

9504367064 2

3. Mailings to Arizona Republicans

According to the stuffers, a second type of letter was also sent out. This letter was described as also soliciting funds for the Bush Committee. Unlike the other, these letters contained preprinted signatures, were not personally addressed in the salutation, and were placed into envelopes with mailing labels on them, rather than in preprinted envelopes. See Ashbaugh Affidavit at ¶¶ 7-15. Rugolo Affidavit at ¶ 9. Thus, for this second type of letter, the stuffers stamped the reply envelope and contributor

13. As discussed further in the next section, Mr. Schneck is Robert Johnson's brother-in-law and an employee of the Associations.

card as previously described and placed them into the envelope with the solicitation letter. They did not have to sign the letter or match the letter to the envelope. They were required to place labels on the envelopes.

The distinction between letters signed by the stuffers and those with preprinted signatures was explained in testimony of stuffer Laura Ashbaugh who stated she believed this second type of letter was sent out to registered Republican voters in Arizona. Ashbaugh Affidavit at ¶ 13. Mrs. Ashbaugh testified that she believed this to be the case because she stuffed Bush letters addressed to her neighbors who she knew were not members of the Associations. Ashbaugh Affidavit at ¶ 13. And, indeed, the Bush Committee accepted numerous small contributions designated with the AZ 04 contribution number from persons residing in Arizona. These contributions totaled $15,574.50 and spanned the period between September 17, 1987 (Robert Johnson's personal contribution) until July 22, 1988. Mrs. Ashbaugh's testimony is also supported by Jean Johnson, the person at the Associations responsible for federal and state relations, as well as by the Arizona Republican Party.

Specifically, Jean Johnson testified that at the request of Robert Johnson she called the Arizona Republican Party and requested to purchase mailing labels. Jean Johnson Deposition at 87-88. She further testified that she wrote a letter to the State Party requesting these mailing labels. Id. at 88-89. She added that she may have made such a request to the State Party on more than one occasion. Id.

9504367006433

Information from the Arizona Republican Party confirms that the Associations had, in fact, ordered sets of mailing labels on two occasions. The State Party also produced documents relating to these two orders, including check copies with which payment was made. The internal State Party documents include a set of forms for each order. One form is headed "Job Number" and a second form is entitled "COMPUTER SERVICES ORDER FORM."

According to the State Party, the Associations placed their first order on March 15, 1988 and received 41,075 mailing labels for five counties in Arizona. December 14, 1990 letter from Arizona Republican Party. The Job Number form lists this job as 88122, lists the candidate as "Bush" and the purpose as "Presidential". It indicates an order for 41,075 pressure sensitive labels with a total amount billed as $493. The accompanying Computer Order Form lists the Customer as "Bush" and the "Contact" as Jean Johnson. The State Party also provided a copy of the check used to pay for these labels. The check, dated March 16, 1988, is payable to the Arizona Republican Party and is drawn on the account of Robert G. Johnson. The lower left of the check indicates that it was for "labels". The word "computer" appears on the top of check.[14] The State Party reported this amount (identifying Mr. Johnson) on its 1988 April Quarterly

9504370644

---

14. Robert Johnson made the maximum permitted contribution to the Bush Committee in September 1987. His subsequent payment of $493 for materials used in the Bush solicitation letters constitutes an in-kind contribution. Consequently, he also exceeded his limitation at 2 U.S.C. § 441a(a)(1)(A). In light of the amount involved, however, the General Counsel makes no recommendation regarding this violation.

Report filed with the Commission.[15]

The Associations placed a second order for 12,954 mailing labels to voting households in Coconino County. According to the State Party, the date the Associations placed this order is unknown, but the Computer Services Order Form lists a Requested Delivery Date of March 24, 1988. Payment was made on May 5, 1988. December 14, 1990 letter from Arizona Republican Party. The State Party's documentation of this order includes a Job Number Form headed 88132 listing the "Candidate" as "Bush" and under "purpose" lists Jean Johnson's name. The cost of the 12,954 pressure sensitive labels is listed as $156. This information is repeated on the Computer Services Order Form. The State Party also provided a copy of a check used for payment. It is dated May 10, 1988, is made payable to "AZ REPUBLICAN PARTY" and is drawn on the account of E. Kenneth Twichell or Tamara Twichell.[16] Thus, there is clear evidence that the Associations obtained the names of more than 50,000 Arizona Republican voters and these persons as well as members of the Associations were also targets of the Bush letters.

As illustrated above, witnesses testified that the Association conducted a massive solicitation effort on behalf of the Bush for President Committee. These letters went to members of NAREA, NARA/MU, and PWAA. Additionally, based upon evidence

9504367064S

---

15. Robert Johnson recalled the existence of a mailing list of Arizona Republicans but could not provide any information regarding its use by the Associations. Robert Johnson Deposition at 232-33 and 226-27.

16. The corporate reimbursement of Mr. Twichell for this amount is discussed in Section III.

submitted by the stuffers, Jean Johnson, and the Arizona Republican Party, registered voters in Arizona were also solicited by the Associations. Consequently, the evidence shows that the sworn representations that the mailing was limited solely to 800 members of NAREA are untrue.

4. Funds Allegedly Expended By E. Kenneth Twichell

In addition to respondents' claim that Mr. Twichell sent only a modest mailing to selected members, they also assert that he personally bore all the costs of that mailing. In response to the original complaint, Messrs. Johnson and Twichell produced an NAREA invoice to Mr. Twichell for $760. This invoice, assertedly for costs attendant to a mailing of 2,500 pieces, was dated March 3, 1988. Mr. Johnson himself wrote "Paid" at the bottom of the invoice, Robert Johnson Deposition at 204, and respondents attached a copy of Mr. Twichell's personal check of the same date said to evidence payment. Because the NAREA invoice omitted the cost of the stationery that was used, respondents last included a separate "Statement of Expenses" evidencing an additional $186 expense to a printing company for stationery and envelopes. Mr. Twichell specifically confirmed under oath that the mailing cost a total of $946, that he personally paid $186 to a printer for stationary and envelopes and that he reimbursed NAREA for its cost of $760. E. Kenneth Twichell Deposition at 322-25. Aside from the issue of the extent of the mailings, as discussed below, a number of questions are raised regarding the authenticity of the NAREA invoice and whether Mr. Twichell actually made <u>any</u> payments for the mailings.

9504367006 46

Mr. Twichell was said to have paid Dean DuChene Printing $186 for printing the stationary used for the Bush solicitation letters. He first testified that he paid the printing costs from his personal checking account. E. Kenneth Twichell Deposition at 276-77. Mr. Twichell's check register, however, does not reveal a personal check written to this vendor. When informed that his check register did not appear to include an entry for such a check, he changed his story and claimed that he made this payment in cash. Id. at 322-25.

Patricia Davidson testified that she was present with Mr. Johnson and Mr. Twichell in March of 1988 when they discussed the complaint by Mr. Lair which the Associations had received from the Federal Election Commission.[17] Mrs. Davidson also asserted that Mr. Johnson, Mr. Twichell, and Mr. Cloud[18] had a conversation at the time the complaint was received regarding setting the price for the mailing. Patricia Davidson Deposition at 74.[19] Mrs. Davidson further testified that no price had been set for the mailing until the Associations received complaints, and that it was her understanding that prior to that time Mr. Twichell had made no payments to the Associations for the mailing. Patricia

---

17. The Commission received the complaint on March 21, 1988. Respondents were notified by letter dated March 23, 1988. Allowing three days for mailing, it appears respondents would have received the complaint on March 26, 1988.

18. As discussed further in the next section, Mr. Cloud ran the Associations' computer system.

19. Although Mrs. Davidson's deposition testimony acknowledges her animus towards Robert Johnson and the Associations, she testified with great specificity regarding the events in question and her testimony is supported by other evidence.

9504367006447

Davidson Deposition at 74-76.[20] Thus, according to Mrs. Davidson the entire process of constructing the NAREA invoice to Mr. Twichell began only around the time the Associations were notified by the Commission that a complaint had been received.

Records produced by respondents in response to Commission subpoena support Mrs. Davidson's account. Specifically, the front of Mr. Twichell's personal reimbursement check to NAREA was dated March 3, 1988, the same date appearing on the NAREA invoice. This check, drawn on the Twichells' joint checking account, is numbered 747.[21] An examination of Mr. Twichell's check register which was also produced to the Commission reveals, however, that this check is not listed with Mr. Twichell's other checks written in early March. Rather, this check is listed with Mr. Twichell's checks written in late March and early April. In fact, Mr. Twichell's own check register shows that his two immediately preceding checks, numbers 745 and 746, are both dated March 30, 1988, after the respondents were notified of the Lair complaint and nearly four weeks after the March 3, 1988 date appearing on the face of the check. Indeed, both the Twichells' and NAREA's bank records

9504367006 48

---

20. Mrs. Davidson further challenged the terms of respondents' April 4, 1988 letter. Specifically, she disputed Mr. Twichell's statement that he had typed the letter himself so as not to expend corporate funds. Mrs. Davidson testified under oath that she typed the letters submitted by both Robert Johnson and E. Kenneth Twichell in their initial response to the Commission. Patricia Davidson Deposition at 93 and 101. As noted supra, page 18, Mr. Twichell himself has conceded that another statement in this letter was false.

21. According to Mr. Twichell's testimony, his wife maintained the couple's checking account. E. Kenneth Twichell Deposition at 19.

show that the deposit of this check did not take place until April 1, 1988.[22] Consequently, the apparent back-dating of this check indicates that the invoice was not created on March 3, 1988 as respondents claim, but was constructed after the respondents received the complaint in this matter, i.e. March 26th or thereafter.

Mrs. Davidson also challenged whether the $760 purportedly paid by E. Kenneth Twichell to the Associations was a bona fide payment by him to the Associations. She stated, "I can guarantee Mr. Twichell never personally, without any type of reimbursement, paid for any of this." Patricia Davidson Deposition at 73-74.[23] Again, the documentary evidence submitted by the Associations supports Mrs. Davidson's speculation that Mr. Twichell would have received reimbursements from the Associations for any payments he made to them for the mailings. As noted, the placement of check number 747 in the Twichell's check register indicates his check to the Associations for the Bush mailings was actually issued on or around March 30-31, 1988; it was deposited by NAREA on April 1, 1988. On March 29, 1988 Robert Johnson signed a check payable to Mr. Twichell for $1,600. This check was written on the account of the International Institute of Valuers, Inc. (also known as IREI). Mr. Twichell's check register notes the deposit of this same

9504367006 49

---

22. The date this check was negotiated likely appears on the back of the check itself, but as previously noted, respondents have only produced the front of this check.

23. The basis of this recollection is that she recalls Mr. Johnson and Mr. Twichell joking regarding the need to construct this invoice. Patricia Davidson Deposition at 73-74.

amount on March 30, 1988 as "Deposit -- Ken." The Twichells' check register reveals that absent this $1,600 deposit they would not have had sufficient funds in their account to cover both the $760 check to NAREA and their $801.98 house payment paid on April 1, 1988. Thus, it appears this payment effectively negated Mr. Twichell's purported reimbursement to NAREA for mailing costs borne by the Associations.[24]

In sum, the evidence indicates that the assertedly exculpatory March 3, 1988 invoice from NAREA, the only one the Associations have been able to produce for the entire year of 1988, was manufactured by the respondents and submitted with a back-dated check to make it appear that NAREA had billed for the costs of the mailings and been reimbursed for such costs, when in fact, it had not.

5. Corporate Expenditures

As illustrated above, the overwhelming evidence indicates that notwithstanding Messrs. Twichell and Johnson's numerous statements to the contrary, they directed the solicitation to the entire NAREA membership, as well as the membership of the two

9504336706550

---

24. The memo line of the $1,600 IREI check reads "London Program," with the check register indicating the purpose of this check as "Expense for London Seminar." Although this Association check purports to be a travel advance to Mr. Twichell, he testified that it was never his practice to deposit travel advances into his personal account; instead, he cashed them and carried cash with him. E. Kenneth Twichell Deposition at 179-181. Scrutiny of the Twichells' check register demonstrates that it is unlikely this check was a travel advance, because there were no substantial cash withdrawals which followed the deposit, and no checks for the next two months appear to be remotely travel related. Thus, it appears that descriptions of the purpose of checks written in the Associations' records cannot be given great weight.

related organizations, NARA-MU and PWAA. E. Kenneth Twichell and Robert Johnson estimated the NAREA's 1988 membership as between 12,000 to 14,000 persons, placed NARA-MU's membership in 1988 at between 5,500 and 6,000 persons, and estimated PWAA's membership in 1988 as between 500 and 600 women. Using conservative estimates of these members (12,000 + 5,500 + 500), approximately 18,000 members were solicited by the Associations at the initiation of Robert Johnson and E. Kenneth Twichell. Additionally, respondents solicited the general public as well, purchasing a total of 54,029 mailing labels of Republican voters for this purpose. Thus, it appears that the Associations may have paid for more than 70,000 direct mail solicitations.

Obviously, the Associations' incurred substantial expenses for these mass mailings. First, typesetting and printing services were necessary to reproduce en masse the Bush Committee's form contribution card and pre-addressed return envelope. The same services were used to prepare the pre-signed form letter sent to Arizona Republican voters. For the membership mailings, there was the significant time and expense of generating thousands of personally addressed letters and envelopes on the Associations' in-house computer system. Next came the labor intensive effort of preparing all the packages for mailing, including the hand stamping of every contributor card and return envelope, which were included with every letter. Finally, the evidence indicates that the Associations send out the mass mailings by first class postage, thus spending close to $15,000 for postage. As explained in the General Counsel's Factual and Legal Analysis sent to PWAA,

9504367065 1

PWAA apparently paid for this first class postage by using four consecutively numbered checks totaling $14,000 issued for postage during a five day period between January 28, 1988 and February 1, 1988.[25] Additionally, all three of the Associations contributed to the effort by providing lists of their members to be solicited, and thus the cost of list rentals would be an additional corporate expenditure. By the apparent instruction of Messrs. Twichell and Johnson, these mailings were treated as a bona fide activity of the Associations, and payments for them are intermixed with the Associations' payments for regular business expenses. Because of this, it is difficult to precisely enumerate all of the specific costs incurred by each association for the mass mailings. Nonetheless, it is clear that the Associations incurred many thousands of dollars in expenses for the illegal Bush solicitation letters.

Moreover, according to the evidence obtained from the stuffers and using the Associations' books and records, NARA/MU made payroll disbursements to the stuffers involved in the Bush mailings. The Associations' payments known to the Commission were

9504336700652

---

25. This conclusion appears likely since PWAA had perhaps 500 members at this time and yet paid postage for a mailing well beyond the scope of its membership. Moreover, PWAA spent only $20 on postage for the rest of the entire year, further strengthening the inference that the consecutively numbered checks went for something other than an expense of this organization. The checks were written as follows:

Date	Check Number	Payee	Amount
1/28/88	5142	Postmaster-Scottsdale	$3,000
1/28/88	5143	Postmaster-Scottsdale	$5,000
2/01/88	5144	Postmaster-Scottsdale	$1,000
2/01/88	5145	Postmaster-Scottsdale	$5,000
		Total:	$14,000

made between February and April of 1988. They are detailed below, based upon the time frame listed in the sworn affidavits.

Laura Ashbaugh

Date	Amount	Check Number	
2/19/88	$ 403.30	18996	
2/26/88	$ 262.12	19022	
4/08/88	$ 449.28	19311[26]	
4/13/88	$ 165.20	19336[27]	
		Subtotal:	$1,279.90

Molly Rugolo[28]

4/05/88	$ 404.50	19288	
		Subtotal:	$ 404.50

Kelly Rossi[29]

2/19/88	$ 495.62	19004	
3/04/88	$ 163.77	19082	
3/16/88	$ 186.13	19192	
		Subtotal:	$ 845.52
		Total:	$2,529.92

9504367006553

---

26. The entire check was in the amount of $516.39. According to Mrs. Ashbaugh's contemporaneous records, not all of her activities relating to the Bush letters. Thus $67.11 was in payment for an unrelated project.

27. The total of this check was $261.78. According to Mrs. Ashbaugh's contemporaneous records, not all of her activities relating to the Bush letters. Thus the rest of this amount was for her work on unrelated projects.

28. Mrs. Rugolo's was working on other projects for the Associations during this period. The $404.50 figure is based on her work records. The check she received on April 5, 1988 was for $507.25 and included amounts billed for the Bush letters.

29. Mrs. Rossi held both full and part time positions with the Associations. Based upon information from respondents' financial reports, during February and March of 1988 Mrs. Rossi received a biweekly net salary of $514.81. Payments of this amount have been excluded from the chart. It is possible that Mrs. Rossi may have worked on projects other than the Bush letters.

F. Violations of The Act

1. Corporate Liability

Pursuant to 2 U.S.C. § 441b(a), corporations are prohibited from making contributions and expenditures in connection with federal elections. Incorporated trade associations are permitted to make partisan communications to their members and executive and or administrative personnel and their families. 2 U.S.C. § 441b(b)(4)(C); 11 C.F.R. § 114.3(a)(2). The bulk of the Associations' Bush letters, however, went outside any restricted class in that they also targeted Arizona voters. In any event, by reproducing Bush Committee campaign materials (contributor card and return envelope), see 11 C.F.R. § 114.3(c)(1)(ii), and by providing the envelope for return of the contributions, the Associations went beyond the communication exception and facilitated the making of contributions to George Bush for President, in violation of section 441b(a). See AO 1987-29, 2 Fed. Election Camp. Fin. Guide [CCH] ¶ 5912 (citing AO 1982-2).[30] It is also unlawful for a corporate officer or director to consent to any contribution or expenditure by a corporation in connection with a federal election. Id. "Contribution" and "expenditure" are defined at 2 U.S.C. § 441b(b)(2) include "any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value."

9504367065 4

---

30. For these reasons, it is unnecessary to reach the issue whether persons paying dues to the Associations are "members" for the purpose of the Act and the Commission's Regulations. See Advisory Opinion ("AO") 1988-38, 2 Fed. Election Camp. Fin. Guide [CCH] ¶ 5940, at p. 11,500-501 (citing opinions).

The Act further provides that whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate, or solicits any contribution through any broadcast station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public political advertising, such communication shall clearly state the name of the person who paid for the communication and state whether the communication is authorized by the candidate or the candidate's committee. 2 U.S.C. § 441d(a).

In the instant case, NARA/MU, NAREA, and PWAA have all made expenditures in connection with a federal election by permitting their mailing lists to be used to solicit persons to contribute to the Bush for President Committee. The Associations absorbed internal costs for these mailings and paid for stationery, typesetting, and mailing labels. Additionally, NARA/MU used corporate funds to pay employees for work associated with these mailings. The computer system used by the Associations generated thousands upon thousands of letters for this solicitation effort, and thus corporate facilitates were also used for this effort. Moreover, PWAA appears to have paid for postage associated with these mailings, although postage costs also may have been paid by the other Associations. Consequently, there is probable cause to believe NARA/MU, NAREA, and PWAA violated 2 U.S.C. § 441b(a).[31]

Moreover, because the letters solicited contributions to

---

31. The knowing and willful aspect of these violations is discussed at Section IV.

9504367065 5

George Bush's campaign, they required a disclaimer pursuant to 2 U.S.C. § 441d(a). Although the Bush letter states that Mr. Twichell had paid for it, the investigation reveals the Associations paid for the costs of producing and sending it to thousands of persons. Consequently, the Office of the General Counsel recommends that there is probable cause to believe NARA/MU, NAREA, and PWAA violated 2 U.S.C. § 441d(a).[32]

2. Violations Regarding Robert Johnson

Robert Johnson, as an officer and director of all of the corporations, facilitated the production of these letters. Although he denied under oath that he had any direct involvement with these letters, the evidence is to the contrary. Robert Johnson admitted that he was an active promotor of George Bush's candidacy and was informed about the mailings by Mr. Twichell before the letters were sent out. Robert Johnson Deposition at 173-74, 180-83, 190-91. Mr. Johnson also testified that he instructed Mr. Twichell to call the Federal Election Commission to verify the permissibility of the mailings and that he himself made such a call shortly after Mr. Twichell did. Id. at 190-91. Both Messrs. Johnson and Twichell also testified that the Associations' former offices were quite small. E. Kenneth

9504367065 6

32. Although the Commission's reason to believe findings against the Associations did not include violations of section 441d(a), the investigation indicates that violations of 2 U.S.C. § 441d(a) have occurred. Therefore, the General Counsel is making appropriate probable cause recommendations.

Twichell Deposition at 150; Robert Johnson Deposition at 208-09.[33] Therefore, it is impossible to envision that the mailings could have been conducted without his knowledge, particularly given the large scope of the mailings and the fact that some of the Bush letters contained his name as signatory. Additionally, when asked who had authority to sign association checks, Robert Johnson replied "[v]irtually just me." Robert Johnson Deposition at 145. E. Kenneth Twichell conceded he did not have any check signing authority for the Associations. E. Kenneth Twichell Deposition at 115. Thus, the substantial payments the Associations made for the Bush letters had to have been paid for using checks written by Robert Johnson or which he directed to be written.[34] The evidence also demonstrates that Robert Johnson played an active role in ensuring that the stuffers completed their tasks in a timely fashion. He also participated in creating the false invoices submitted by NAREA to the Commission, and specifically initialed this false invoice. Consequently, the General Counsel recommends that there is probable cause to believe Robert Johnson violated 2 U.S.C. § 441b(a).

III. CORPORATE PAYMENTS FOR CONTRIBUTIONS

Another aspect of this matter are allegations that the

---

33. According to Robert Johnson, "I am being facetious, but it's perhaps no bigger than the room we're in. It's a very small office. It's like, you know, there was no place to hang your coat, as an example. So I mean it was that small of an office."

34. Robert Johnson's wife had authority to sign his name to checks. Robert Johnson Deposition at 145. Patricia Davidson indicated she had signed checks on behalf of PWAA but did not have authority to do so unless specifically directed by Robert Johnson. Patricia Davidson Deposition at 21-22.

9504367065 7

Associations reimbursed E. Kenneth Twichell and Timothy Cloud for the $10,000 contribution each made to the Presidential Trust, a project of the Republican National Committee. As previously noted, Mr. Twichell is the managing director of NAREA. Mr. Cloud is an employee of the Associations and manages their computer systems. Robert Johnson identified himself as a trustee of the Presidential Trust. Robert Johnson Deposition at 254.

On September 19, 1989, the Commission determined that there was reason to believe NAREA, NARA/MU, and IAM violated 2 U.S.C. §§ 441b(a) and 441f concerning these alleged prohibited contributions. The Commission further determined that Robert Johnson violated 2 U.S.C. §§ 441f and 441b(a). Additionally, on March 26, 1991 the Commission determined that there was reason to believe IREI and Todd Publishing, Inc. each knowingly and willfully violated 2 U.S.C. §§ 441f and 441b(a) regarding reimbursed corporate contributions.

A. The Investigation

Respondents Johnson and Twichell have steadfastly denied any reimbursements occurred. At his November 1, 1991 deposition, Robert Johnson specifically denied reimbursing anyone for any contributions. See Robert Johnson Deposition at p. 286. Similarly, E. Kenneth Twichell also denied that the Associations had reimbursed his contributions. See E. Kenneth Twichell

9504367065 8

Deposition at 264-5.[35] Timothy Cloud also denied under oath that he was reimbursed for his contribution. Timothy Cloud Deposition at 89-109.

Nevertheless, the investigation in this matter reveals a clear pattern of contributions by Robert Johnson and his close associates and their spouses, which were either paid from, or reimbursed from corporate funds. As discussed below, using these payments, Robert Johnson funneled tens of thousands of prohibited

---

35. These denials were first made in affidavits submitted by respondents following reason to believe determinations. They are summarized below:

Robert Johnson Affidavit of 10/15/89: ¶ 7. I know of no corporate officer or director or any corporation of which I am affiliated with that has contributed money to a federal election in the name of another person.

E. Kenneth Twichell Affidavit of 10/16/89: ¶ 4. I have never received any company checks in any amount from any of the organizations listed in the factual and legal analysis for personal checks I wrote for the Bush for President Campaign.

¶ 5. I have never been reimbursed for campaign contributions....

¶ 6. I have never made a contribution in my name knowing that the contribution was consented or contributed from an expenditure by a corporation or by any corporate officer or director of a corporation.

Robert Johnson affidavit of 11/2/89: ¶ 5. I have never caused any checks to be drawn on the account of any company or association listed in ... the Factual and Legal Analysis of MUR 2984 for the purpose of directly or indirectly benefiting any candidate for federal office or any political party of [sic] 1988.

¶ 8. I have never used company funds to make contributions for the Bush for President Campaign....

¶ 9. I know of no checks originating from NAREA, NARA/MU, or IAM which were used to reimburse employees for personal checks for the Bush campaign.

9504367065 9

corporate dollars into federal elections in 1988.

The illegal contributions were made over a period of months, beginning in January of 1988 and ending in July of that year. They range in amount from $156 paid to the federal account of a state party committee, to $10,000 paid to the Presidential Trust, a federal fundraising operation of the Republican National Committee. This Office has received documents relating to these contributions from the respondents themselves and from recipient entities. Corroborating testimony was provided from a number of witnesses. Regarding some of the contributions, the documentary evidence conclusively demonstrates the prohibited contributions and thus contradicts respondents' repeated sworn denials. As to others, the consistent pattern of corporate payment coupled with individual contribution defies coincidence.[36] All in all, there is probable cause to believe Robert Johnson and the Associations orchestrated a scheme to illegally convert substantial corporate funds for use in connection with federal elections.

These contributions are discussed chronologically below. They are also summarized in the chart attached to this brief.

1. January 1988 - George Bush for President, Inc.

The first set of illegal contributions involves five contributions made to the Bush for President Committee in January,

9504367060

36. The Commission repeatedly subpoenaed from respondents all contemporaneous supporting documents which would demonstrate the legitimate corporate purpose of these payments. Respondents vigorously maintained that none exist.

1988.[37] The Bush Committee reported receiving contributions from Todd Johnson (Robert Johnson's adult son), as well as from two of Robert Johnson's close subordinates and their spouses. Examination of materials provided by respondents, as well as of the Commission's matching fund records provided by the Bush Committee, shows that on January 25th and 26th, E. Kenneth Twichell, his spouse Tamara K. Twichell, Todd Johnson and Stephen L. Schneck each issued $1,000 checks to the Bush Committee.[38] In this same two day period, Robert Johnson wrote Association checks to each of these employees in amounts exceeding the contributions involved.[39]

Specifically, on January 25, 1988, NAREA issued a check to Kenneth Twichell for $2,400. The accompanying NAREA check register describes this payment as a "bonus." The check was made

9504367066 1

---

37. Robert Johnson had already made the maximum permitted personal contribution of $1,000 to the George Bush for President Committee in September of 1987.

38. Mr. Schneck's check was drawn on his joint checking account and signed by him. It appears that his spouse, Mary Schneck, indicated her intent to contribute one half of the contributed amount using a signed writing. See 11 C.F.R. § 110.1.

39. Robert Johnson's spouse, Deborah Johnson, also wrote a personal check for $1,000 to the Bush Committee on January 26, 1988. There is no direct evidence at this time that this contribution was paid indirectly from corporate funds. With two significant exceptions discussed infra, this Office reaches the same conclusion regarding Robert Johnson's contributions. Although Mr. Johnson regularly took substantial funds out of the Associations in the forms of salary, office space rent, equipment rental and the payment of other expenses of his, there is no direct evidence that in every case he took money from the Associations to pay for his specific federal contributions.

out by Robert Johnson and signed by him.[40] In the Twichell's check register, Tamara Twichell recorded the deposit of $2,280 (the proceeds of this check less $120) on January 26th as a "bonus check." That same day, the Twichells each wrote separate checks for $1,000 to the Bush Committee. On January 25, 1988, Stephen Schneck wrote a check for $1,000 to the Bush Committee, enclosing a contribution card signed by him and his spouse splitting the contribution between them. On January 26th, the International Institute of Valuers (also known as IREI) issued check number 7720 to Mr. Schneck for $1,150, described in the check register as "Reimbursement for Seminar Expenses." Robert Johnson also signed this check. Also on January 26th, Todd Johnson wrote a check for $1,000 to the Bush Committee. On the same day, Robert Johnson wrote his son a check for $1,155 drawn on the account of Todd Publishing, Inc. The memo line is blank; it is described in the check register as "Reimbursement for Printing Costs."[41]

9504367006662

---

40. As previously noted, Robert Johnson had signature authority on all of the Associations' checking accounts. It appears that Deborah Johnson also signed his name to corporate checks. Based on a comparison between Robert Johnson's signature as identified by him at his deposition, Robert Johnson Deposition at 266-67, and as it appears on affidavits signed by him, this check appears to be one signed by him. Checks noted in Section III.A.2. (NAREA checks for $520 and $500), 3a. (NAREA check for $156), and 3b. (two NAREA checks for $1,000) appear to have been signed on Mr. Johnson's behalf.

41. The Bush Committee's matching fund records indicate that Todd Johnson's contribution check was a counter check containing his personal checking account number but lacking information identifying the financial institution on which the check was drawn. The Bush Committee was unable to cash this check, and Todd Johnson apparently provided a personal check dated February 19, 1988 to replace the incomplete counter check.

At his deposition, Mr. Twichell could not recall whether or not he had been solicited to make this contribution. E. Kenneth Twichell Deposition at 202-07. He did, however, recall details regarding the actual making of his contribution. He testified that his and his spouse's contributions were made independently of each other, that he and his spouse made out their checks separately, and that he forwarded his check by mail to the Bush Committee in an envelope containing only his check and no other checks. Id. at 209-11.[42]

At his deposition, Mr. Twichell did not specifically recall the January 25, 1988 $2,400 bonus check from NAREA, but nevertheless asserted that it was for work that he did at the office and that it was "a general bonus for working hard." E. Kenneth Twichell Deposition at 261. He further speculated that he must have told his wife that the NAREA check was a bonus check since it did not indicate this information on its face, yet Mrs. Twichell wrote this description of it in the check register. Id. at 262-63. He further denied that there was any connection between this corporate check and their contributions made the same day it was deposited. Id. 261. Nonetheless, the Twichells' check

9504367006663

---

42. The Bush Committee's matching fund records, however, cast doubt on Mr. Twichell's testimony and instead suggest that at least three of the four contribution checks were forwarded together. Specifically, the Committee deposited the checks of E. Kenneth Twichell, Tamara Twichell, and Stephen Schneck as part of the same deposit on February 28, 1988, while the Bush Committee made at least seven separate deposits of contributions on that date. The batch/sequence numbers of the three deposited items are consecutive. Despite Mr. Twichell's specific recollection, it appears unlikely that these three checks said to have been sent to the Bush Committee separately would be listed sequentially as part of the same deposit on the same date.

register establishes that except for their house payment, the Bush checks were substantially larger than any of their other checks for that month and the next month, and that absent the "bonus" the Twichells lacked sufficient funds to cover both these checks.

The Schnecks, responding through counsel, denied that they were reimbursed for their contributions. Mary Schneck May 7, 1988 Response at 2. Stephen Schneck May 7, 1988 Response at 2. Todd Johnson also denied that he had been reimbursed for his contribution. Todd Johnson Response at 2.[43] None of the respondents have offered an explanation for this unusual coincidence of five persons associated with Robert Johnson purportedly independently deciding to contribute to the very same political candidate and within the same period receiving funds from three corporations controlled by Robert Johnson.[44]

2. March 1988 - Durenberger for U.S. Senate '88

The second pattern of reimbursed contributions occurred in March, 1988. Robert Johnson, a former resident of Minnesota, took an interest in the U.S. Senate campaign of Senator David Durenberger. According to correspondence from him to the Durenberger Committee, he organized a fundraiser in Phoenix,

9504367070664

---

43. All three of these responses are in the forms of affidavits, but the notary section is blank. By letter dated May 7, 1991 counsel stated that these were in the process of being executed and would be forwarded to the Office of the General Counsel at the time of execution. Sworn responses were received on July 12, 1991.

44. These reimbursed corporate contributions made to the Bush Committee were submitted for matching funds pursuant to 26 U.S.C. § 9031 et. seq. Thus, these corporate contributions were in part matched by dollars from the public fisc.

Arizona for that committee in March of 1988. The Durenberger Committee provided to the Commission a letter dated March 3, 1988, and signed personally by Mr. Johnson. It states: "Enclosed are three checks, each for $500.00 for the Sunday, March 6th fund raiser here in Phoenix. The funds are for myself (Robert G. & Deborah S. Johnson), E. Kenneth Twichell, and Stephen & Mary Schneck." In turn, the Durenberger Committee disclosed receiving contributions of $500 each from Messrs. Twichell, Johnson, and Schneck on March 9, 1988.[45]

At his deposition, E. Kenneth Twichell identified his check number 733, dated March 4, 1988, as his $500 contribution to the Durenberger Committee. This contribution is noted in the Twichells' check register as "Contribution" and notes the date as March 4, 1988. On that very same date, E. Kenneth Twichell received two checks from the Associations. NARA/MU paid Mr. Twichell his regular salary of $1,033.03. NAREA wrote a second check numbered 8815 for $520. This check and the NAREA check register contained notations that the purpose of the check was for seminar reimbursement. Although this check contains the purported signature of Robert Johnson, it appears that it was signed on his behalf.

The Twichells deposited these two checks into their checking account on March 6, 1988. It appears that $20 was returned to the depositor, because the total deposit was for $1,533.03, i.e.

---

45. On March 3, 1988 Robert Johnson made a $500 contribution to the Durenberger Committee. There is not any direct evidence of corporate reimbursement of this amount and it is not included in the discussion which follows.

9504367006 65

$1,033.03 and $500. The Twichell's check register explicitly describes this transaction as "Ken's Paycheck + 500 to cover check." Based upon the documents produced by the Twichells, it appears that this $500 check written to the Durenberger Committee was the only check of that amount written by the Twichells for all of 1988. Thus, notwithstanding the described corporate purpose of seminar reimbursement, Tamara Twichell's contemporaneous recording of the transaction clearly links the NAREA corporate check to the $500 contribution to the Durenberger Committee and is strong evidence that Robert Johnson and NAREA paid Mr. Twichell for his campaign contribution.

In his March 3rd letter to the Durenberger Committee, Robert Johnson also claimed to enclose a $500 contribution check for Stephen Schneck. As previously noted, Mr. Schneck denied that the Associations reimbursed him for his contributions. Pursuant to a Commission subpoena, Mr. Schneck also produced certain financial materials, including check copies, from the period between January 1, 1988 and April 1, 1988. A review of these materials did not produce a contribution check to the Durenberger Committee.

The Durenberger Committee produced to this Office certain materials relating to contributions made by the named respondents. These materials included a bank check drawn on Valley National Bank of Scottsdale, Arizona and payable to the Durenberger Committee, apparently representing Mr. Schneck's contribution. The check is numbered 51289, dated March 4, 1988, and also lists the name "Stephen L. Schneck" on the front of the check. A search

9504367006 6

of Mr. Schneck's financial records indicates no checks were written to this banking institution, nor do these records list any checks written to cash or any automatic teller transactions in the amount of $500. Thus, whatever the source of the funds with which he contributed, it is clear that they were not taken from his personal checking account.

A search of the Associations' books and records shows that on March 4, 1988, the same day Mr. Twichell was reimbursed for his Durenberger contribution, and the same day as the $500 cashier's check (number 51289) submitted to the Durenberger committee, NAREA issued check number 8816 for $500, payable to "cash." The check's memo line states its purpose as "office supplies," but the back contains the handwritten words "Durenberger for U.S. Senate 88" and "Stephen L. Schneck," as well as Valley National Bank's endorsement that the NAREA check paid for "Cashier's Check No. 51289," i.e. the cashier's check representing Stephen Schneck's purported contribution. Thus, NAREA's own records prove that Robert Johnson submitted prohibited corporate funds to the Durenberger Committee in the name of Stephen Schneck.

9504367067

3. May 1988

a. The Arizona Republican Party

As described in Section II of this brief, respondents conducted a mass mailing that included solicitations sent to Arizona Republican voters. According to the Arizona Republican Party, a registered federal political committee, E. Kenneth Twichell purchased mailing labels for this aspect of the mailings using check number 814 drawn from his personal checking account.

A copy of that $156 check, dated May 10, 1988 and payable to "AZ. Republican Party," was provided to the Office of the General Counsel by this political committee. As illustrated below, this payment too, was reimbursed by the Associations.

Specifically, the NAREA wrote a check to E. Kenneth Twichell in the same amount of $156 and on the very same day, May 10, 1988. The check is numbered 9093 and its purpose as noted on the face of the check and on the check register is "Seminar Expense." Respondent Twichell was provided with an opportunity to explain this transaction at his November 2, 1990 deposition. Although he initially identified his wife's notation in their check register as a check written to the "Arizona Republic Party," E. Kenneth Twichell Deposition at 223, after objections by his counsel he became less certain. Id. at 225.[46] He did, however, note that this was "a very funny dollar amount." Id. at 223. When asked whether he had received the corporate check of $156 as a reimbursement for his personal check for this same amount written on the same day, he could only reply "Not that I remember." Id. at 228. Although he could not recall a specific trip associated with this payment, he asserted that the payment was for a seminar

9504367006 68

---

46. Indeed, by letter dated January 4, 1991, counsel continued to argue that this check register entry reflected something other than a check written to the Arizona Republican Party. He stated "[w]ith regard to the statement about the Arizona Republican party, I vehemently disagree with you [sic] characterization that Mr. Twichell may have written a check to that entity. That was never established during the lengthy interrogation by Mr. Bernstein." Mr. Twichell has never produced this particular check despite Commission subpoenas calling for all documents reflecting financial activity between Mr. Twichell and "any political party."

expense as indicated on the check stub. Id. at 229.

In fact, the copy of the check provided by the Arizona Republican Party shows that Mr. Twichell's initial statement that the check went to the Arizona Republican Party was quite correct. Moreover, the Twichell's check register confirms the connection between his May 10th $156 personal check and the May 10th NAREA check to him for $156: Mr. Twichell's spouse notes the transaction as "Deposit from NAREA to cover a check." Thus, NAREA paid indirectly for mailing labels used in the Associations' mass mailings, and the evidence shows that the notation of purpose of "Seminar expense" is false.

b. Durenberger for U.S. Senate '88

As noted earlier, Robert Johnson and E. Kenneth Twichell wrote checks for $500 primary election contributions to the Durenberger Committee in March, 1988.[47] In May of that year the Durenberger Committee reported additional $500 contributions from respondents Johnson and Twichell. As now discussed, Robert Johnson's use of a cashier's check in March 1988 to funnel prohibited funds into a federal political committee was not an isolated practice. Rather, on at least one other occasion, cashier's checks were purchased with corporate funds in the names of corporate officials and contributions then made to a federal candidate.

Specifically the Durenberger for Senate Committee reported

---

47. As discussed previously, it appears Mr. Twichell was reimbursed for this contribution made in his name. There is no direct evidence that Mr. Johnson was reimbursed for his March contribution.

9504367006 69

receiving a contribution on May 12, 1988 from Robert Johnson. It also reported receiving a contribution from E. Kenneth Twichell on May 27, 1988. Although the Commission's subpoena to Robert Johnson called for the production of all of Mr. Johnson's campaign contribution checks in 1988, Mr. Johnson did not present any personal checks to the Commission evidencing this contribution, nor did it appear to be listed in his check register. At his deposition Robert Johnson admitted attending a 1988 fundraiser for the Durenberger Committee in the Minnesota home of his attorney, D. Randall King. Robert Johnson Deposition at 217. Robert Johnson further stated he "probably" made a contribution to this Committee. Robert Johnson Deposition at 282.[48]

The Durenberger Committee provided this Office with materials relating to the fundraising event including check copies from contributors and copies of contributor cards to the May 1988 fundraising event.[49] The Durenberger Committee also provided

9504367070

---

48. Mr. Twichell denied making a contribution to the Durenberger Committee in May of 1988, testifying that he made but a single $500 contribution to the Durenberger Committee as represented by his March 1988 check numbered 733 that was discussed with the reimbursed March 1988 contributions. E. Kenneth Twichell Deposition at 213. Mr. Twichell was unable to state why the Durenberger Committee listed a receipt date from him as May 12, 1988 on its reports, but suggested that because he had contributed only $500 to this committee in March of 1988 their "accounting is two months behind." Id. at 214. Mr. Twichell did recall attending a fundraiser for Senator Durenberger in Minnesota and information obtained from the Durenberger Committee indicates that this event was held in May 1988.

49. Testimony also indicates that the Associations may have made corporate expenditures for a mailing to Minnesota members in connection with this fundraising event for Senator Durenberger. Jean Johnson Deposition at 46-47; Rossi Affidavit at ¶ 9.

copies of two consecutively numbered cashiers' checks payable to the Durenberger Committee and drawn on Valley National Bank of Arizona. Each check is dated May 25, 1988. Check Number 55243 was for $500 and lists Robert Johnson's name on the front. Check Number 55244 was for $500 and lists E. Kenneth Twichell's name on the front. Both men personally signed contributor cards indicating their attendance at the May 21, 1988 fundraising event, and purporting to enclose contribution checks, presumably the cashier's checks.[50]

Once again, a search of NAREA's financial records reveals the source of these funds. Specifically, on May 25, 1988 this corporation wrote check number 9163 to "cash" for $1,000. The purpose of this check was noted on the check memo line and in the check register as "St. Paul Program," an apparent attempt to portray this expenditure as one of the many seminars put on by the Associations. The information on the back of this corporate check, however, reveals that the "Program" it funded was not an NAREA seminar: Valley National Bank's endorsement on the back of the check reads "500.00 each cashier's check no. 55243 55244 Issued the Within Payee." Id. Thus, the evidence demonstrates that a corporate check drawn on the NAREA's account was used to purchase two cashier's checks in the names of Robert Johnson and E. Kenneth Twichell. Mr. Johnson and Mr. Twichell then used these two cashier's checks to contribute NAREA corporate funds to the

---

50. The printed contributor cards indicate the contribution amount requested was $100, but on both contributor cards the $100 is changed to $500. As redacted, the checked box states "Yes, I will be attending and enclosed is my $500 contribution."

9504367067 1

Durenberger Committee in their names.

Moreover, John Steensland, identified as president of NAREA, also made a contribution to the Durenberger Committee in May of 1988 in connection with this fundraising event. The Durenberger Committee reported a $1,000 contribution from Mr. Steensland on May 27, 1988. On the same day as the NAREA's $1,000 check for the "St. Paul Program" (May 25, 1988) and three checks later, NAREA wrote check number 9166 for $1,000 to John Steensland, for the ostensible purpose of "Seminar Expenses." In light of the persistent pattern of corporate reimbursement of Associations officials' contributions, the conclusive proof that the NAREA check written just 3 checks earlier on the same day was converted into ostensibly permissible individual contributions, and the demonstrated falsity of the Associations' contemporaneous descriptions of purpose, there is strong evidence that NAREA contributed $1,000 to the Durenberger Committee using the name of John Steensland.

c. Robert Johnson's Contribution to the Presidential Trust

The evidence further demonstrates that Robert Johnson used funds from an association to make a $10,000 contribution in his own name to the Presidential Trust, a project of the Republican National Committee. During the first half of 1988, NAREA, NARA-MU, IREI, and Todd Publishing, Inc. all made substantial payments to Mr. Johnson; most of these were classified as rental payments. Some payments were made in a regular pattern while

9504367072

others were episodic and varying widely in amount.[51] According to the Associations' records, Mr. Johnson received a large net salary payment ($114,090.18) from IAM near the end of 1988, but received only modest salary payments, from Todd Publishing, Inc., during the first half of 1988. On May 24, 1988, Robert Johnson, as well as his son Todd, each received a $1,000 gross salary payment, netting $737.40 from Todd Publishing, Inc. On the same day, using the next successive Todd Publishing check (number 8335), Robert Johnson wrote a check to himself for a $10,000 gross salary payment, netting $7,374.00. The accompanying check register appears to be in Mr. Johnson's hand and reads "Salary for Special Consultants." According to his personal check register produced to the Commission, Mr. Johnson deposited this Todd Publishing, Inc. check into his checking account on or about May 25, 1988.[52]

This $10,000 gross payment for "Salary for Special Consultants" does not resemble, in timing or in amount, any of the regular payments the various Associations made to Mr. Johnson. Three days later, however, Mr. Johnson wrote a check for $10,000 from his personal checking account, made payable to the Presidential Trust. Indeed, by the book balance in Mr. Johnson's check register, absent this infusion of company money the account would not have contained sufficient funds to cover the $10,000

9504336706713

---

51. For example, NARA and IREI each paid Mr. Johnson $3000 per month as rent for office space, Todd Publishing paid him $1,500 for rental space, while NAREA made episodic rental payments of varying amounts.

52. The check register shows an $8,111.40 deposit, which is the precise total of this payment together with the previous Todd Publishing, Inc. salary check ($737.40 + $7,374 = $8,111.40).

contribution when it was made. Furthermore, as previously noted, notwithstanding repeated attempts by the Commission to solicit contemporaneous documentary support for the legitimate corporate purpose of payments such as this one, Mr. Johnson has steadfastly maintained that none exist. Therefore, in view of these facts, and of the apparent practice of Mr. Johnson and his Associations in 1988 of making political contributions indirectly from the Associations' accounts, there is strong evidence that Robert Johnson directed a contribution from Todd Publishing, Inc. to a federal political committee using his name.

4. July 1988 - The Presidential Trust

In the summer of each year, NAREA was flush with cash derived from annual membership renewals.[53] Therefore, witnesses testified, the Associations regularly paid bonuses to employees at the end of the membership drive. Specifically, records show that on July 5, 1988 NAREA paid E. Kenneth Twichell a bonus of $20,000. Additionally, on July 1, 1988, NAREA paid Timothy Cloud a $1,000 bonus. Shortly thereafter, on July 19, 1988, NAREA again made payments to these two individuals, this time in the amounts of $10,000 each. On that very same day, E. Kenneth Twichell and Timothy Cloud each contributed exactly this amount to the Presidential Trust, a fundraising arm of the Republican National

9504367074

---

53. In response to interrogatories, NAREA produced a membership application form indicating that once a year, on June 1st, NAREA billed its members for the $95 annual membership dues. See October 11, 1988 Response. Mr. Twichell confirmed the June 1 renewal date, but remembered the annual dues to be $85 rather than $95. E. Kenneth Twichell Deposition at 126. Consequently, membership dues were received throughout the month of June.

Committee.

The following facts are undisputed. NAREA issued check number 9470 on July 19, 1988, in the amount of $10,000 to E. Kenneth Twichell. Robert Johnson signed this check. No purpose is noted on the face of the check. The check register contains two entries noting the purpose of the check. The top entry notes "Moving Expense;" the entry beneath it has been crossed out and is partially illegible. The same $10,000 was deposited into E. Kenneth Twichell's joint checking account on the very same day. The $10,000 deposit is described in his personal check register as "Deposit (from Ken's boss)." Immediately beneath this deposit is an entry for the Twichell's personal check number 952. This check, also dated July 19, 1988, was written to the Presidential Trust and signed by E. Kenneth Twichell.

NAREA issued a second check for $10,000 on July 19, 1988. The recipient of this check was Timothy Cloud. The check in question was consecutive in number to the one issued to E. Kenneth Twichell. Robert Johnson also signed this check and, again, did not note a purpose on the face of the check. The Association's check register contains a single entry describing this check as for "Moving Expense." Timothy Cloud deposited this $10,000 into his checking account on July 19, 1988. His balance prior to this deposit was $23.76. Also on this date Timothy Cloud issued his personal check number 428 for $10,000 to the Presidential Trust.

Under oath, Robert Johnson, E. Kenneth Twichell and Timothy Cloud all stated that these payments were made by the Associations for activities respondents Twichell and Cloud performed in

9504367067 5

connection with an office relocation. Moreover, the respondents testified that these two $10,000 contributions were made independently of each other and were made because each had the necessary funds and wished to do so. Respondents did not deny, however, that the $10,000 contributed to the Presidential Trust was anything other than the very same $10,000 given to them by the Associations. Thus, the only fact in dispute is whether they received their $10,000 checks in order to contribute to political committees.

In that regard, respondents tell similar stories. According to their account, in July 1988 the Associations moved their offices and respondents assisted in this effort. Mr. Twichell was also said to have supervised construction of the Associations' new building. Timothy Cloud was said to have supervised the installation of the computer system in the new offices. Because of the purported high costs of professional movers, E. Kenneth Twichell and Timothy Cloud allegedly moved the office's contents using Mr. Twichell's pick up truck and Mr. Cloud's car. Respondents assert that these tasks encompassed more than Mr. Twichell's and Mr. Cloud's usual hours. According to their testimony, they expected to be rewarded for their efforts by the Associations, but had no agreement with the Mr. Johnson regarding what, if any, compensation they would receive.

Mr. Twichell and Mr. Cloud were said to have moved the entire contents of the offices, including files, boxes, computers, and

9504367067 6

furniture. E. Kenneth Twichell Deposition at 239-42.[54] Contrary to this representation, this Office has learned that respondents greatly exaggerated the scope of their activities regarding the office move. Furniture was not moved from the old office to the new office because according to one witness, Mr. Johnson purchased "all new office furniture" for the new offices. Patricia Davidson Deposition at 130.[55] Jean Johnson also noted that a new computer system was installed in the new building. Jean Johnson Deposition at 105. More significantly, it appears E. Kenneth Twichell was not truthful when he claimed that he and Mr. Cloud moved the entire office themselves.[56] Again, witness testimony reveals that the Associations hired professional movers who moved the contents of the office except the computers. Patricia Davidson Deposition at 129.[57]

9504367067 7

---

54. Mr. Twichell further noted that the Associations had movers remove contents of storage bins, but that he and Mr. Cloud handled the contents of the office. E. Kenneth Twichell Deposition at 245.

55. The Office of General Counsel has located copies of checks evidencing payments for this new furniture. Specifically, on May 9, 1988 NAREA paid $7,000 to Designers Research using check number 9084, with the purpose of this check noted in the lower left corner of the instrument as "Office Furniture." Additionally, on July 6, 1988 NAREA paid $1,976.70 to D&D Inc. with the lower left hand corner of this check listing the purpose of the check as for "Furniture".

56. Todd Johnson (Robert Johnson's adult son) and "the mail room kid" were also mentioned as possibly helping with the move, but testimony was uniform that the bulk of the work was done by Mr. Twichell and Mr. Cloud. E. Kenneth Twichell Deposition at 246.

57. Mrs. Davidson initially testified that the Associations hired a moving company to conduct the move but subsequently became confused by the phrase "professional movers." When the question was clarified she testified that persons not regularly employed by

As illustrated above, key components of respondents' explanation for the $10,000 payments have been undercut: the use of professional movers necessarily diminishes the roles allegedly played by E. Kenneth Twichell and Timothy Cloud; and the purchase of new furniture indicates that less than the entire office was moved.

Because respondents have given other than credible accounts of the circumstances surrounding their receipt of $10,000 from NAREA, greater weight must be given to the testimony of witnesses that these sums were given with the express purpose so that E. Kenneth Twichell and Timothy Cloud could contribute to the Presidential Trust. Persons who were employees of the Associations testified that it was common knowledge that E. Kenneth Twichell and Timothy Cloud received these payments in order to make political contributions. Specifically, Jean Johnson testified that paying Timothy Cloud $10,000 was "far too much" for a bonus. Jean Johnson Deposition at 33. She also stated that she had heard around the office that Tim Cloud had made a $10,000 contribution using money given to him by the Associations. Jean Johnson Deposition at 25 and 29. Additionally, she testified that she had conversations with Mr. Cloud in which he stated he had made a copy of the $10,000 check given to him by Robert Johnson in order to protect himself from possible income tax liability. Id.

9504367067 8

(Footnote 57 continued from previous page)
the Associations conducted the move, they were paid for this activity, and they did not do a very good job. Patricia Davidson Deposition at 131-33. On July 7, 1988 NARA/MU paid $1,488.75 to All Methods Moving Systems which may have been a payment for this service.

at 29-31. Mrs. Johnson testified that although Mr. Cloud never specifically stated that the was a quid pro quo between the check written by the Associations and Mr. Cloud's contributions, she drew this conclusion. Id.

Witness Patricia Davidson also was certain that the reimbursements occurred. Her knowledge came from her discussions with other employees as well as from at least two personal discussions with Mr. Cloud regarding the impermissibility of the reimbursements. She testified:

> Well, to my knowledge what I remember hearing about was that Mr. Johnson had written them [E. Kenneth Twichell and Timothy Cloud] each $10,000 checks, and that they had in turn contributed $10,000 to the campaign, or had contributed $10,000 to the campaign, you know, simultaneously. They certainly didn't have -- I know Tim didn't have $10,000 to contribute.

Patricia Davidson Deposition at 142. According to Mrs. Davidson she discussed this situation with Mr. Cloud on at least two occasions. The first such instance occurred in the Associations' computer room where Mr. Cloud informed her that Mr. Johnson had given him $10,000, that Mr. Cloud had put this amount into his account, and that Mr. Cloud had then contributed that amount to a political committee.[58] Patricia Davidson Deposition at 144. Mrs. Davidson related a second conversation that she had with Mr. Cloud regarding Mr. Cloud's reimbursed contributions. She stated she called Mr. Cloud because she was concerned that he would not

58. Mrs. Davidson identified the recipient committee as the Bush for President Committee, but the recipient was actually the Presidential Trust.

9504367067 9

tell the truth to the Federal Election Commission regarding the contributions in question. Id. at 148. Her concern for Mr. Cloud stemmed from the fact that she believed that he had made the contribution in question because he feared for his job. Id. at 144.

Mrs. Davidson also discussed Mr. Twichell's $10,000 contribution with him when she inquired about the origin of a presidential tie that he was wearing. At that time Mr. Twichell confirmed that he had made such $10,000 contribution. Patricia Davidson Deposition at 148-49. Additionally, Timothy Cloud also told Mrs. Davidson that Robert Johnson also wrote a check for $10,000 to E. Kenneth Twichell and that Mr. Twichell was told to contribute to the campaign. Id. at 149. Thus, there is evidence that Mr. Cloud informed others that his contribution and that of E. Kenneth Twichell were both from the funds of the Associations.

Other evidence bolsters the case that the two men received their $10,000 checks with the expectation that they would contribute to the Presidential Trust. For example, NAREA's check register for the first check that was written, Mr. Twichell's, contains an entry that was scratched over and is partially illegible. A careful examination of this reveals what appear to be the letters "R-e-i-m-b-u-r-s-". At his deposition Robert Johnson was asked whether this word looked like "reimbursement." He responded negatively, and stated he could not figure out what it might have said. Robert Johnson Deposition at 268. Further, although the two $10,000 payments have been characterized as rewards for moving assistance, both men had already received

9504367068O

substantial bonuses just two short weeks before the $10,000 payments. E. Kenneth Twichell received a $20,000 bonus on July 5, 1988. E. Kenneth Twichell Deposition at p. 247. Timothy Cloud testified he received a "substantial raise" near the time of the office move. Timothy Cloud Deposition at p. 98.[59] It seems particularly implausible that the Associations would then award two more substantial bonuses in close proximity in time to the first set of bonuses.

Additionally, the financial position of Mr. Cloud in 1988 militates against the fact that the $10,000 he received were his funds to spend as he wished. At the time he received the funds Mr. Cloud had a mere $23.76 in his checking account and was paid between $16,000 and $18,000 per year by the Associations in salary payments. Timothy Cloud Deposition at 97. Moreover, Mr. Cloud consistently had checks returned for insufficient funds in almost every month of 1988. See Timothy Cloud Deposition at 129-39. It is unlikely that someone in the financial position of Mr. Cloud would voluntarily turn over an entire bonus that was more than half of his yearly salary. It is particularly unlikely that he would do so to make what has been identified as the first, and only, political contribution of his life. See Timothy Cloud Deposition at 139.

Consequently, in light of the misrepresentations regarding respondents' activities surrounding the move, the testimony of

9504367068 1

---

59. A review of the financial statements of NAREA reveals that Mr. Cloud received a $1,000 bonus at this time and not a salary increase.

witnesses that Mr. Cloud stated to witnesses that he and Mr. Twichell had indeed been given these funds in order to contribute to the Presidential Trust, the partially illegible notation in NAREA's checkbook and the evidence above that respondents had been reimbursed by the Associations for other contributions, there can be little doubt but that these $10,000 contributions also were reimbursed.

B. Violations of the Act

As illustrated above, the Associations' books and records are replete with instances where payments were made to individuals who shortly thereafter contributed a like amount to federal political committees. In three instances there is irrefutable proof that corporate funds paid for cashier's checks purchased in the names of corporate officials who subsequently made political contributions. In other instances contemporaneous personal check register entries specifically connect Association checks and personal contributions. Although Respondents Johnson and Twichell have denied that the reimbursements occurred, they have not offered any evidence indicating that these corporate payments were bona fide business expenses. Consequently, and in view of their misrepresentations regarding the Bush letters, it appears the Associations made corporate contributions in the names of others.

Accordingly, this conduct violated a number of provisions of the Act. Pursuant to 2 U.S.C. § 441f, no person shall make a contribution 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

9504367006882

another person. Additionally, the Act prohibits corporations from making contributions in connection with a federal election, and prohibits officers and directors from consenting to such corporate contributions. 2 U.S.C. § 441b(a). The Act defines a contribution to include "any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value."

In the instant case, NAREA, IREI, and Todd Publishing, all used corporate funds to make contributions using the name of employees. Consequently, the Office of the General Counsel recommends that there is probable cause to believe these corporations violated 2 U.S.C. §§ 441b(a) and 441f. Additionally, this Office recommends that Robert Johnson, as an officer and/or a director of all of these corporations, violated 2 U.S.C. § 441b(a) by consenting to these corporate contributions and violated 2 U.S.C. § 441f by assisting in the making of contributions in the names of others as well as by allowing his name to be used. As discussed below, this Office further recommends that these violations are knowing and willful.

IV. KNOWING AND WILLFUL VIOLATIONS

This brief has related a pattern of serious violations of the Act by Robert G. Johnson and the corporations he controls. The respondents undertook a massive direct mail project to advocate the election of George Bush and solicit contributions to his campaign. Moreover, the Associations repeatedly used corporate funds to pay for, or to reimburse individuals for political contributions. The net effect of these activities was to infuse

9504367068 3

corporate dollars into the federal political process, in express violation of federal law. The evidence also demonstrates that the violations detailed herein are knowing and willful violations of law. The Act provides that the Commission may find probable cause to believe knowing and willful violations of the Act have occurred. See 2 U.S.C. § 437g(5)(C). In order to prove a knowing and willful violation, the respondents must not only committed specific acts prohibited by the FECA, they must have done so with an active awareness that they were violating the law when the illegal act was done, or did so with an evil motive or purpose. See e.g. Morissette v. United States, 342 U.S. 246 (1952); AFL-CIO v. Federal Election Commission, 628 F.2d 97 (D.C. Cir. 1980); National Right To Work Committee v. Federal Election Commission, 716 F.2d 1401 (D.C. Cit. 1983).

As an initial matter, there is no doubt that Robert Johnson was fully apprised of the applicable law yet nevertheless chose to conduct his illegal activities. He acknowledged that he was issued a fundraising guide book by the Bush for President Committee that explained the applicable provisions of the law. He testified that he read this book. Robert Johnson Deposition at 193. He also testified that he knew the maximum permitted contribution to be $1,000 per candidate, per election, and was aware that corporations are prohibited from making contributions to federal elections. Id. at 192.

Moreover, Robert Johnson contends that he, and others on his behalf, inquired of the Commission's Information Services Division and established that Mr. Twichell's mailing was permissible so

9504367068 4

long as he personally absorbed all the costs associated with the mailing. Id. at 191-92. Thus, he was given explicit notice that the Act prohibited the corporations from paying for direct mail solicitations for the Bush campaign. Moreover, the testimony of Jean Johnson, the Association's Director of government relations is unequivocal that she informed Robert Johnson that it was illegal to reproduce Bush Committee campaign materials to use in the Associations' mailings. Jean Johnson Deposition at 75-77.

In fact, the evidence indicates that the mass mailings continued to go out in late March and into April of 1988, after the Bush for President Committee ordered Mr. Johnson to cease and desist from this activity, and indeed even after the Commission formally notified NAREA of a complaint filed as a result of one of the early mailings. Thus, with full knowledge of the Act's prohibitions and limitations, and despite express warnings from others that these activities were prohibited by law, the Respondents undertook the massive corporate-funded mail campaign, and the activities continued in spite of requests that Mr. Johnson cease them, and in the face of a possible government investigation.

Next, plainly aware of the Act's contribution limitations and the prohibition on corporate funding, and specifically aware of the prohibitions on contributions made in the name of another, Robert Johnson Deposition at 192, Robert Johnson directed the Associations' hidden payments for federal campaign contributions. Mr. Johnson concealed the corporate source of these contributions by causing subordinates to write personal checks and reimbursing

9504367006885

them from the Associations' funds, and also by forwarding cashier's checks in the names of individuals which had been bought by corporate check. Mr. Johnson hid these illegal payments within the books of his corporations by ascribing to them ostensibly legitimate corporate purposes (e.g., "office supplies", "seminar expenses", "moving expenses", "St. Paul program").[60] Indeed, much of these illegal transactions took place after Mr. Johnson had protested, in his April 4, 1988 response to the complaint about the mailings: "It is a sad day for America when I must now use corporate money, time and efforts to respond to a false charge or implication that corporate funds were used in a campaign."

Respondents' full knowledge of the illegality of their activities is inferable too from the repeated false and perjured statements made to the government in their concerted attempts to cover up the activities. Robert Johnson testified that he personally stamped his identifying fundraiser code of the materials used in the mailings, when, in fact, the stuffers report that the Associations paid them in part to perform this activity. He stated on various occasions that the mailings were a personal project of Mr. Twichell, were sent to only a limited number of members of NAREA, and that he did not see any activities regarding the mailings. To the contrary, the evidence indicates that the mailings were a huge undertaking of his office, talked about by the staff, and that in fact Mr. Johnson was personally involved in

60. The efforts taken to disguise the contributions are evidence that respondents were aware of, and attempted to evade the law. United States v. Hopkins, 916 F.2d 207, 213-15 (5th Cir. 1990).

9504367006886

them. Robert Johnson initially stated that no contributions were received as a result of the Bush letters. In fact, witnesses testified that Mr. Johnson routinely called the Bush Campaign headquarters and monitored contributions made using his fundraiser code. Mr. Johnson also repeatedly denied under oath that the reimbursement activity took place, when the evidence shows that he personally forwarded cashier's checks bought by NAREA to the Durenberger Committee and personally wrote two consecutive $10,000 checks to Kenneth Twichell and Timothy Cloud in exchange for personal checks from these individuals to a federal political committee.

Moreover, Robert Johnson deliberately manufactured evidence submitted to the Commission, creating an invoice for submission to the Commission and actually initialing this invoice as paid by E. Kenneth Twichell, when he knew that the Associations had in fact made no contemporaneous attempt to recoup corporate expenses incurred on the mailings. This submission contained other falsehoods. Mr. Twichell admitted that his purported basis for "select[ing]" the complainant to receive a letter was false. His further statement that he typed the response himself to avoid using corporate funds is contradicted by Patricia Davidson who testified that she typed this response.

For all these reasons, this Office recommends that Respondents' violations were in knowing and willful violation of the Act.

The Commission also found reason to believe that IAM violated 2 U.S.C. §§ 441b(a) and 441f. IAM was founded in April, 1988 but

9504367006887

did not appear to be actively conducting business until August, 1988. Thus, although this organization was in existence at the time the Bush letters were being produced and mailed, the evidence is inconclusive regarding what role it played. Moreover, none of the corporate payments used in connection with federal elections appear to have come from IAM's corporate till. Consequently, we do not make any probable cause to believe recommendations as to this organization at this time.

V. GENERAL COUNSEL'S RECOMMENDATIONS

1. Find probable cause to believe Robert G. Johnson knowingly and willfully violated 2 U.S.C. §§ 441f and 441b(a).

2. Find probable cause to believe National Association of Review Appraisers and Mortgage Underwriters knowingly and willfully violated 2 U.S.C. §§ 441b(a), and 441d(a).

3. Find probable cause to believe Todd Publishing, Inc. knowingly and willfully violated 2 U.S.C. §§ 441f and 441b(a).

4. Find probable cause to believe Professional Women's Appraisal Association knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441d(a).

5. Find probable cause to believe National Association of Real Estate Appraisers knowingly and willfully violated 2 U.S.C. §§ 441f, 441d(a) and 441b(a).

6. Find probable cause to believe International Real Estate Institute, Inc., also known as International Institute of Valuers knowingly and willfully violated 2 U.S.C. §§ 441f and 441b(a).

7/12/91
Date

Lawrence M. Noble
General Counsel

Attachment
Chart

9504367068

ATTACHMENT

	Contributions[1/]	Corporate Activity	Donor Activity
1. a.	$1,000, E. Kenneth Twichell, Bush for President Committee, 1/26/88	NAREA check to E. Kenneth Twichell "outside services", $2,400, 1/25/88	Twichells deposit $2,280 as "bonus check" 1/26/88
b.	$1,000, Tamara Twichell, Bush for President Committee, 1/26/88		
2.	$1,000, Stephen Schneck, Mary Schneck, Bush for President Committee, 1/25/88	International Institute of Valuers (a.k.a. International Real Estate Institute) check to Stephen Schneck, "Reimbursement for Seminar Expenses," $1,150, 1/26/88	
3.	$1,000, Todd Johnson, Bush for President Committee, 1/26/88	Todd Publishing check to Todd Johnson "reimbursement of printing", $1,155 1/26/88	
4.	$500, E. Kenneth Twichell, Durenberger for Senate Committee 3/4/88	NAREA check to E. Kenneth Twichell "seminar expenses," $520, 3/4/88	Twichells deposit $1,533.03 as "Ken's paycheck and $500 to cover check" 3/6/88
5.	$500, Stephen Schneck Durenberger for Senate, 3/4/88, cashier's check #51289	NAREA check to "Cash" for $500, "office supplies," 3/4/88, cashed at Valley National Bank, cashier's check #51289 Purchased	

9504367 0689

1/ The dates listed in the Contributions Category are the check dates, except for the Steensland contribution. The dates listed in the Corporate Activity Category are taken from the checkbook registers of the Associations. The information in the Donor Activity category is drawn from information produced by the respondents.

	Contributions	Corporate Activity	Donor Activity
6.	$156, E. Kenneth Twichell, 5/10/88, Arizona Republican Party	NAREA check to E. Kenneth Twichell, "Seminar Expense" $156, 5/10/88	Twichells deposit $156 as "deposit from NAREA to cover a check" 5/11/88
7.	a. $500, E. Kenneth Twichell, Durenberger For Senate Committee, cashier's check #55244, 5/25/88 b. $500, Robert Johnson, Durenberger For Senate Committee, cashier's check #55243, 5/25/88	NAREA check to "Cash," for $1,000, "St. Paul Program," 5/25/88, cashed at Valley National Bank, Cashier's checks #55243 and #55244 purchased	
8.	$1,000, John Steensland, Durenberger for Senate Committee, 5/27/88	NAREA check to John Steensland "seminar expense" $1,000 5/25/88	
9.	$10,000, Robert Johnson, Presidential Trust, 5/28/88	Todd Publishing check to Robert Johnson, "Salary for Special "Consultants," $7,374 net ($10,000 gross), 5/24/88	Robert Johnson deposit 5/25/88
10.	$10,000, Tim Cloud, Presidential Trust, 7/19/88	NAREA check to Tim Cloud, "moving expenses", $10,000 7/19/88	Cloud checking account balance at time of $10,000 deposit: $23.76
11.	$10,000, E. Kenneth Twichell, Presidential Trust, 7/19/88	NAREA check to E. Kenneth Twichell "moving expenses" 7/19/88	$10,000 recorded in Twichell register as "from Ken's Boss"

9504367006900

FEDERAL ELECTION COM

WASHINGTON D C 20463

Jul

D. Randall King, Esquire
Merchant & Gould
100 Northwest Center
55 East Fifth Street
Saint Paul, MN 55101

Re:

Dear Mr. King:

This is in response to your lette
enclosing sworn affidavits from Mary A
and Todd Johnson. (Unsigned affidavits
submitted by letter dated May 7, 1991).

We note that the Commission's most
dated June 10, 1991, outlined areas in
fully complied with the Commission's su
You have not otherwise responded to thes
assert that further compliance would app
the relief requested in a civil action
Commission. As you recognize, however,
far been issued. Therefore, the subpoe
outstanding and compliance with them i

We again remind you that if you
conclusion of the investigation in t
advance that goal by responding comp
the outstanding subpoenas. If you
matter, please contact Patty Reilly

Sinc

Law
Gen

BY: Lo
A

FEDERAL ELECTION COMMISSION
WASHINGTON D C 20463

July 17, 1991

D. Randall King, Esquire
Merchant & Gould
100 Northwest Center
55 East Fifth Street
Saint Paul, MN 55101

Re: MUR 2984
Stephen Schneck
Mary Schneck
Todd Johnson
John Steensland
Tamara Twichell

Dear Mr. King:

This is in response to your letter dated July 9, 1991, enclosing sworn affidavits from Mary A. Schneck, Stephen Schneck, and Todd Johnson. (Unsigned affidavits of these individuals were submitted by letter dated May 7, 1991).

We note that the Commission's most recent correspondence, dated June 10, 1991, outlined areas in which your clients have not fully complied with the Commission's subpoenas issued to them. You have not otherwise responded to these subpoenas, and instead assert that further compliance would appear unnecessary because of the relief requested in a civil action you have filed against the Commission. As you recognize, however, no court relief has thus far been issued. Therefore, the subpoenas to your clients remain outstanding and compliance with them is now overdue.

We again remind you that if you seek for your clients a conclusion of the investigation in this matter, you can best advance that goal by responding completely, and immediately, to the outstanding subpoenas. If you have any questions about this matter, please contact Patty Reilly, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

OGC 1878

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE SERVICES BRANCH

BEFORE THE FEDERAL ELECTION COMMISSION 91 JUL 16 AM 10:15

IN THE MATTER)
)
) MUR 2984

AFFIDAVIT

91 JUL 16 PM 2:27

I, Kelly Rossi, being first duly sworn, depose and say as follows:

1. I reside at 18002 North 31st Street, Phoenix, Arizona 85032

2. I talked with Mr. Richard Tisinger of the Federal Election Commission on May 31, 1991 and June 7, 1991.

3. Previously, I talked with Mr. Robert Raich of the Federal Election Commission on October 30, 1989 and July 18, 1990.

4. From November of 1987 to June of 1989 I worked for Mr. Robert Johnson and his associations, including the National Association of Real Estate Appraisers, Inc. ("NAREA"), the National Association of Review Appraisers and Mortgage Underwriters, Inc. ("NARA/MU"), the International Real Estate Institute, Inc. ("IREI"), and the Professional Women's Appraisal Association, Inc. ("PWAA"). I worked full time in a variety of positions for the associations and part time as a stuffer for mailings.

4. Beginning in February of 1988 I worked on a mailing project for the associations, including NARA/MU. The mailings involved letters sent out over the signature of Mr. Robert Johnson. The letters asked for contributions to George Bush's 1988 election campaign ("Bush letters").

5. I remember the Bush letters because there were so many. Between 50,000 and 100,000 Bush letters were sent. I base this estimate on the sheer volume of letters and the large number of stuffers on the project. Usually only one stuffer worked on a project to avoid confusion, but there were so many Bush letters that multiple stuffers had to work on the Bush letters.

6. I also remember the Bush letters because they were more complicated than most mailings I did for the associations. The Bush letters had three inserts: a letter, a contribution card, and a return envelope. I had to stamp a code number on the back of the contribution card and on the return envelope. To the best of my recollection the number had 04 in it. I also had to stamp something on the return envelope, which I believe included the name Lucy Cole. I also had to match the name and address on each letter to a name and address on a pre-addressed envelope.

9504336700692

7. I further remember the Bush letters because Robert Johnson was more involved with the Bush letters than with other mailings from the associations. Generally Mr. Johnson did not concern himself with mailings. On the Bush letters, however, he made sure that the stuffers had returned their projects on time. He became especially concerned after the printer had made a mistake so that some of the ink ran on some of the material prepared for the Bush letters.

8. I think that the letters I personally prepared were sent only to NARA/MU members because generally the mailings I worked on went to association members. Occasionally, the mailings I worked on went to non-members, but this was limited to instances of membership drives or to announce seminars.

9. I remember one other political mailing the associations did. It was for Senator David Durenberger from Minnesota. The letter involved a fund-raising dinner held for Senator Durenberger in Minnesota at the home of Randy King, Robert Johnson's attorney.

10. While working for the associations I heard that some employees of the associations received bonus checks of $10,000 conditioned on contributing the money to George Bush. I have no personal knowledge of this.

Further the affiant sayeth not.

Kelly J. Rossi
Kelly Rossi

Subscribed and sworn to before me, on this 15th day of July, 1991.

Pamela Jane Atwater
Notary Public
expires 5/31/94

9504367070693

OGC 2212

SKADDEN, ARPS, SLATE, MEAGHER & FLOM

1440 NEW YORK AVENUE, N.W.
WASHINGTON, D.C. 20005-2107

(202) 371-7000

FAX (202) 393-5760

DIRECT DIAL
(202) 371-

BOSTON
BRUSSELS
CHICAGO
HONG KONG
LONDON
LOS ANGELES
NEW YORK
SAN FRANCISCO
SYDNEY
TOKYO
TORONTO
WILMINGTON

August 14, 1991

Lawrence M. Noble, Esq.
General Counsel
Federal Election Commission
999 E Street, Northwest
Washington, D.C. 20463
Attn: Patty Reilly, Esq.

Re: MUR 2484

Dear Mr. Noble:

Attached please find a completed Designation of Counsel form for National Association of Real Estate Appraisers, Inc.; National Association of Review Appraisers and Mortgage Underwriters, Inc.; International Real Estate Institute, Inc. (a.k.a. International Institute of Valuers, Inc.); Todd Publishing, Inc.; Professional Women's Appraisal Association, Inc.; International Association Managers, Inc.; and Robert G. Johnson, the Respondents in MUR 2484. Please date-stamp the extra copy for our files.

Sincerely,

Kenneth A. Gross

Attachment

91 AUG 13 AM 10:40

RECEIVED
FEDERAL ELECTION COMMISSION
SECRETARIAT

91 AUG 15 AM 10:47

95043670694

STATEMENT OF DESIGNATION OF COUNSEL

MUR 2984

NAME OF COUNSEL: Kenneth A. Gross

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.

91 AUG 13 AM 10:40

8/8/91
Date

Signature
Robert G Johnson

RESPONDENT'S NAME: National Association of Real Estate Appraisers, Inc., National Association of Review Appraisers and Mortgage Underwriters, Inc., International Real Estate Institute, Inc., (a.k.a. International Instituteof Valuers, Inc.), Todd Publishing, Inc., Professional Women's Appraisal Association, Inc., International Association Managers, Inc., Robert G. Johnson

ADDRESS: 8383 East Evans Road, Scottsdale, Arizona 85260-3614

HOME PHONE:

BUSINESS PHONE: (602) 948-8000

9504336700695

RECEIVED
F.E.C.
SECRETARIAT
91 AUG 14 PM 4:47

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
John Steensland)
Stephen Schneck) MUR 2984
Mary Schneck)
Tamara Twichell)

SENSITIVE

EXECUTIVE SESSION

AUG 20 1991

GENERAL COUNSEL'S REPORT

I. BACKGROUND

This matter arose from a complaint and a referral from the Department of Labor alleging that the National Association of Real Estate Appraisers, Inc., ("NAREA") may have violated 2 U.S.C. § 441b(a) by using corporate facilities to solicit persons for the Bush for President Committee, and may have also impermissibly reimbursed certain employee contributions. The Commission has previously made numerous reason to believe determinations in this matter.[1] On March 26, 1991 the Commission found reason to believe the above-captioned respondents and Todd Johnson violated 2 U.S.C. § 441f regarding certain contributions alleged to have been reimbursed by corporate entities. Also on that date the

1. Specifically, on on August 30, 1988 the Commission found reason to believe the National Association of Real Estate Appraisers ("NAREA") violated 2 U.S.C. § 441b(a) and that E. Kenneth Twichell violated 2 U.S.C. §§ 441d(a) and 441a(a)(1)(A). Additionally, on September 19, 1989, the Commission found reason to believe Robert Johnson violated 2 U.S.C. §§ 441f and 441b(a). Also on that date the Commission determined that the National Association of Review Appraisers and Mortgage Underwriters, International Association Managers and NAREA, each violated 2 U.S.C. §§ 441f and 441b(a). Moreover, on March 26, 1991, the Commission determined that there was reason to believe the International Real Estate Institute and Todd Publishing, Inc. each knowingly and willfully violated 2 U.S.C. §§ 441f and 441b(a). Also on March 26, 1991 the Commission found reason to believe Professional Women's Appraisal Association ("PWAA") knowingly and willfully violated 2 U.S.C. § 441b(a).

9504367006 9

Commission approved subpoenas for these respondents.

On May 10, 1991 this Office received initial responses submitted on behalf of three of these five respondents.[2] Because these responses were incomplete, this Office sent counsel a letter requesting full compliance with all subpoenas. (Attachment One) Subsequently, counsel submitted further responses on July 12, 1991. As his own letter notes, however, this second set of responses is also incomplete. (Attachment Two).

The materials respondents have failed to produce are crucial to this investigation. Neither Tamara Twichell nor John Steensland have responded to their subpoenas in any manner. Moreover, although respondents Stephen and Mary Schneck have partially responded, they have not produced all materials called for by their subpoenas, such as their check registers and saving account statements.[3]

Counsel stated that he has not responded to the subpoenas because of the pendency of an action he filed in District Court in Phoenix, Arizona requesting that the Commission's investigation be "stayed" in this matter as to some of the respondents. On July 17, 1991, this Office informed counsel that because no court relief has been issued, the subpoenas remained outstanding and

9504367006997

---

2. All respondents in this matter are represented by the same counsel.

3. The only apparently complete response was submitted on behalf of Todd Johnson who denied that he was reimbursed for his contribution and who stated that he had "none" of the documents requested by the Commission. In view of his statement that he does not possess documents responsive to the subpoenas, this Office does not recommend that the Commission seek judicial enforcement of this subpoena.

were overdue. Consequently, in view of the need to obtain the subpoenaed information to complete the investigation as to these respondents, and in light of respondents' lack of cooperation to date, we recommend that the Commission authorize this Office to file suit to judicially enforce these subpoenas.

II. RECOMMENDATIONS

1. Authorize the Office of the General Counsel to file civil suit for relief in United States District Court against Tamara Twichell, John Steensland, Stephen Schneck and Mary Schneck.

2. Approve the appropriate letter.

8/14/91
Date

LMNoble(ZP)
Lawrence M. Noble
General Counsel

Attachments
1. June 10, 1991 letter to Counsel
2. July 12, 1991 letter from Counsel
3. July 17, 1991 letter to Counsel

Staff Assigned: Patty Reilly

95043670698

OGC

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 2984
John Steensland; Stephen Schneck; Mary Schneck; Tamara Twichell.	)	

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on August 20, 1991, do hereby certify that the Commission decided by a vote of 5-1 to take the following actions in MUR 2984:

1. Authorize the Office of the General Counsel to file civil suit for relief in United States District Court against Tamara Twichell, John Steensland, Stephen Schneck and Mary Schneck.

2. Approve the appropriate letter as recommended in the General Counsel's report dated August 14, 1991.

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

Attest:

8-22-91
Date

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

9504367069 9

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 28, 1991

D. Randall King, Esquire
Merchant & Gould
100 Northwest Center
55 East Fifth Street
Saint Paul, MN 55101

Re: MUR 2984
Stephen Schneck
Mary Schneck
John Steensland
Tamara Twichell

Dear Mr. King:

On April 5, 1991 the Commission forwarded subpoenas to your clients in the above-captioned matter. To date, these subpoenas remain outstanding. Specifically, Tamara Twichell and John Steensland have not responded to their subpoenas in any manner. Moreover, as discussed in our July 17, 1991 letter, the Schnecks have not produced all documents called for by their subpoenas. Consequently, on August 20, 1991 the Commission authorized the Office of the General Counsel to seek judicial enforcement of these subpoenas.

You have previously expressed a desire to expeditiously resolve this matter. That end will be best achieved by complying fully and completely with these subpoenas within five days of your receipt of this letter. In the event you do not completely respond, this Office will proceed with a subpoena enforcement action.

If you have any questions please contact Colleen Miller at (202) 376-5690.

Sincerely,

Lawrence M. Noble
General Counsel

9504367000

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

FAX (202) 393 5760
DIRECT DIAL
(202) 37

BOSTON
BRUSSELS
CHICAGO
HONG KONG
LONDON
LOS ANGELES
NEW YORK
SAN FRANCISCO
SYDNEY
TOKYO
TORONTO
WILMINGTON

August 23, 1991

VIA FAX

Lawrence M. Noble, Esq.
General Counsel
Federal Election Commission
999 E Street, Northwest
Washington, D.C. 20463
Attn: Jonathan Bernstein, Esq.
Patty Reilly, Esq.

Re: MUR 2984
National Association of Real Estate Appraisers, Inc.; National Association of Review Appraisers and Mortgage Underwriters, Inc.; International Real Estate Institute, Inc. (a.k.a. International Institute of Valuers, Inc.); Todd Publishing, Inc.; Professional Women's Appraisal Association, Inc.; International Association Managers, Inc.; and Robert G. Johnson

Dear Mr. Noble:

On August 15, 1991, we received portions of the investigative file concerning the General Counsel's probable cause recommendations against the above-referenced respondents. Although the respondents did not receive all the documents requested, your letter states that respondents response is due on August 30, 1991.

For the following reasons, we are requesting an additional twenty days to respond to the probable cause recommendations:

1. Fifteen days is insufficient to respond to the broad allegations, in some cases knowing and willful allegations, against six respondents. The allegations are based on an investigation file that has taken more than three years to complete.

9504367701

2. On August 8, 1991, I was asked to serve as co-counsel in this matter and because this case involves several depositions and documents, I need additional time to become familiar with the background on this case.

Thank you for your consideration of this request.

Sincerely,

Kenneth A. Gross

9504367702

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

August 28, 1991

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

RE: MUR 2984
Robert G. Johnson
National Association of Real Estate Appraisers, Inc., et. al.

Dear Mr. Gross:

This is in response to your letter dated August 23, 1991, which we received on that same day, requesting an extension of twenty days to respond to the General Counsel's Brief in the above-captioned matter. After considering the circumstances presented in your letter, I have granted the requested extension. Please note that this is the second extension of time that your clients have requested to respond to this brief. Consequently, your response is due no later than the close of business on September 19, 1991.

If you have any questions, please contact Patty Reilly, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,

Lawrence M. Noble
General Counsel

Lois G. Lerner

BY: Lois G. Lerner
Associate General Counsel

cc: D. Randall King

9504367703

06C 2419

MERCHANT & GOULD

Merchant, Gould, Smith, Edell, Welter & Schmidt
Professional Association
Patent, Trademark & Copyright Lawyers

1000 Norwest Center
55 East Fifth Street
Saint Paul, Minnesota
U.S.A. 55101-2701
FAX 612/298-1160
Telex 297470 MANDG Stp
612/298-1055

Direct dial:

John D. Gould
Phillip H. Smith
Robert T. Edell
Paul A. Welter
Cecil C. Schmidt
John S. Sumners
Alan G. Carlson
Micheal L. Schwegman
Earl D. Reiland
Raymond A. Bogucki
Charles E. Golla
Douglas J. Williams
Douglas A. Strawbridge
Albert L. Underhill
D. Randall King
Michael B. Lasky
Curtis B. Hamre
Michael D. Schumann
Michael L. Mau
John A. Clifford
Mark J. DiPietro
Steven W. Lundberg
Warren D. Woessner
Timothy R. Conrad
***
David G. Johnson
Alan W. Kowalchyk
Michael S. Sherrill
Daniel W. McDonald
R. Carl Moy
Robert C. Freed
Daniel J. Kluth
Wendy M. McDonald
Linda M. Byrne
Mark D. Schuman
Randall A. Hillson
John P. Sumner
Brian H. Batzli
David K. Tellekson
John J. Gresens
Paul E. Lacy
John L. Knoble
Michelle M. Michel
Philip P. Caspers
Gregory A. Sebald
A. James Nelson
Robert C. Beck
George H. Gates
Gregory M. Taylor
Kristine M. Strodthoff
Thomas E. Jurgensen
Steven C. Bruess
Joel A. Rothfus
Mark A. Krull
Kevin W. Raasch
Karl G. Schwappach
Matthew J. Goggin
Antony C. Mundelius
Mark J. Gebhardt

CONFIRMATION

September 6, 1991

91 SEP -9 PM 3:46

FEDERAL ELECTION COMMISSION
SECRETARIAT

VIA FACSIMILE
CONFIRMATION TO FOLLOW

V. Colleen Miller
Office of the General Counsel
Federal Election Commission
999 E Street N.W.
Washington, D.C. 20463

91 SEP -9 PM 12:16

FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

RE: MUR 2984
Stephen Schneck, Mary Schneck,
John Steensland, Tamara Twichell
International Association Managers, Inc. et al. v.
Federal Election Commission
Civ. No. 91-804 PHX PGR
Our Ref: M&G 3230.23-US-AA

Dear Colleen:

This letter is responsive to Mr. Noble's letter to Mr. King, dated August 28, 1991.

As you know, Plaintiffs' Motion for Preliminary Injunction is set to be heard on September 16, 1991, in connection with the above-referenced civil action. Among other things, Plaintiffs' Motion requests that the Court

> Enjoin the FEC and its officers, agents, and employees from any further investigation of the nine additional respondents unless and until the FEC concludes its investigation with respect to the five original respondents.

Recognizing that the "nine additional respondents" include Stephen Schneck, Mary Schneck, John Steensland, and Tamara Twichell, the Court's ruling on Plaintiffs' Motion will determine the status of the FEC's investigation with respect to these

9504367074

individuals. Accordingly, we believe it is in the best interests of all parties to postpone the issue of compliance with the FEC subpoenas until after the scheduled hearing.

If you have any comments or questions, please do not hesitate to contact Mr. King or me.

Sincerely,

MAK ll

Mark A. Krull

MAK/lmd

9504367705

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

September 13, 1991

D. Randall King, Esquire
Merchant & Gould
100 Northwest Center
55 East Fifth Street
Saint Paul, MN 55101

RE: MUR 2984
E. Kenneth Twichell

Dear Mr. King:

Based on a complaint filed with the Federal Election Commission on May 21, 1988, information supplied by your client, and based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Commission previously made reason to believe determinations regarding your client. Specifically, on August 30, 1988 the Commission found reason to believe E. Kenneth Twichell violated 2 U.S.C. §§ 441a(a)(1)(A) and 441d(a). Additionally, on September 19, 1989, the Commission found reason to believe Mr. Twichell violated 2 U.S.C. §§ 441f and 441b(a).

After considering all the evidence available to the Commission, the Office of the General Counsel is prepared to recommend that the Commission find probable cause to believe that knowing and willful 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.

9504367706

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.

Should you have any questions, please contact Patty Reilly, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Brief

9504367070 7

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
E. Kenneth Twichell	)	MUR 2984
	)	

GENERAL COUNSEL'S BRIEF

I. BACKGROUND

This matter involves allegations that E. Kenneth Twichell, as a director of the National Association of Real Estate Appraisers ("NAREA"), consented to corporate expenditures by this organization in connection with the 1988 presidential election of George Bush. Additionally, E. Kenneth Twichell allowed his name to be used to effectuate certain corporate contributions. Moreover, in his capacity as a director of NAREA, E. Kenneth Twichell consented to these corporate contributions made in his name.

E. Kenneth Twichell is the managing director of NAREA, a trade association with ties to the real estate field. His job includes responsibilities for NAREA's day to day operations, membership relations, and seminar programs. This trade association, and others located at the same address, are all controlled by Robert G. Johnson. Mr. Johnson was a co-chairman for the state of Arizona for the George Bush for President Committee ("the Bush Committee"), the authorized political committee of George Bush's campaign for the 1988 Republican presidential nomination. Robert Johnson is also president of International Association Managers, Inc. (IAM"), an

9504367708

organization managing the various trade associations described briefly below.[1]

The largest of the trade associations managed by IAM is NAREA, a Minnesota corporation with its principal place of business in Scottsdale, Arizona. In 1988, its membership was estimated as between 12,000 to 14,000 persons.[2]

Another trade association managed by IAM is the National Association of Review Appraisers and Mortgage Underwriters, Inc. ("NARA/MU"). This organization is composed of persons who review the reports of real estate appraisers. It is a not for profit corporation without capital stock, incorporated in Minnesota, and has its principal place of business in Scottsdale, Arizona. In 1988, its membership was estimated as between 5,500 and 6,000 persons.

A related trade association is the International Real Estate Institute, Inc., also known as International Institute of Valuers ("IREI"). This organization provides services similar to NAREA in

9504367709

---

1. The General Counsel previously made numerous probable cause to believe recommendations regarding Robert Johnson and organizations he controls, including the National Association of Real Estate Appraisers, the National Association of Review Appraisers and Mortgage Underwriters, International Real Estate Institute (also known as the International Institute of Valuers) and Todd Publishing, Inc. See General Counsel's Brief dated July 12, 1991. This brief is limited solely to the General Counsel's recommendations regarding E. Kenneth Twichell. Thus, to the extent this brief discusses others, such discussions are limited to their relationships to the activities of Mr. Twichell.

2. As used in this brief, "member" means only a person paying dues to any the Associations. It is not used as a term of art within the meaning of the FECA. See 11 C.F.R. §§ 100.8(b)(4)(iv) and 114.1(e). See also Federal Election Commission v. National Right To Work Committee, 459 U.S. 197 (1982).

an international forum and contains both national and international members. In 1988 its membership is unknown; during 1990 its membership was estimated at 2,000 persons.

IAM also manages the Professional Women's Appraisal Association ("PWAA"). This corporation provides services similar to NAREA, but its membership is limited to women. In 1988 its membership was estimated as between 300 to 500 persons.

Another corporation owned by Robert Johnson is Todd Publishing, Inc. This for-profit company has published materials on behalf of the associations noted above.

Robert Johnson is primarily responsible for the operation and fiscal management of each entity. He also has ultimate responsibility for running each of these organizations and signs the checks for each.[3] Second in charge of this organizational structure is respondent E. Kenneth Twichell, who is currently responsible for managing NAREA. Key employees of the organizations in 1988 included Patricia Davidson who had responsibilities relating to PWAA, Jean Johnson who was responsible for government relations, Timothy Cloud who ran the organizations' computers, and Stephen Schneck who had responsibilities for seminar programs. All of the entities described above currently conduct business from 8383 East Evans Road in Scottsdale, Arizona. For the purposes of this brief we refer to NAREA, NARA/MU, and PWAA as "the Associations".

9504367107 10

---

3. During 1988, the time period in question, Deborah Johnson, Robert Johnson's spouse, also had the authority to sign his name on corporate checks. The PWAA checks were also signed by Patricia Davidson, an employee of the Associations in 1988.

Respondent E. Kenneth Twichell began his employment with Robert Johnson and his organizations in 1985. Initially, he was employed by NARA/MU as a computer operator. E. Kenneth Twichell Deposition at 58. At that time his duties included membership correspondence, maintaining members' addresses, running computer solicitations for persons to join the organization, entering information into the computer, and assisting in creating mailing materials for educational seminars. Id. He further testified that he may have performed computer services for the other organizations. Id. at 59. Subsequently, Mr. Twichell "quickly moved up the corporate ladder," moving out of the computer department and assisted in organizing educational seminars for both NARA/MU and IREI. Id. at 60. This change in job status occurred approximately eight months after he joined the organizations. His work responsibilities were said to expand during the following six month period to include responsibilities for all the daily correspondence and telephone calls from members, supervising, handling projects for NARA/MU and IREI, and "handling all the business with the Association." Id. at 60-61. Mr. Twichell's responsibilities again expanded in April of 1986 when he traveled to New York and arranged to move NAREA to its new location in Scottsdale, Arizona. Id. at 62. At that time Mr. Twichell became the managing director of NAREA, with responsibility for all record keeping, correspondence, and solicitations sent to potential members. Id. at 64. He also continued his other duties described above, and also had the authority to hire and fire employees. Id. at 64 and 74-76. He

9504367071 1

testified that he reported to both Robert Johnson and Stephen Schneck at the start of his employment, but eventually reported to only Robert Johnson. Id. at 77-78. E. Kenneth Twichell testified that "[i]n 1988 I saw everything that went out to the members, including newsletters, guidelines, booklets; all the mailings...." Id. at 73.

B. Procedural Posture of the Matter

Based on a complaint filed pursuant to 2 U.S.C. § 437g(a)(1), on August 30, 1988 the Commission found reason to believe NAREA violated 2 U.S.C. § 441b(a). Also on that date the Commission determined that there was reason to believe E. Kenneth Twichell violated 2 U.S.C. §§ 441d(a) and 441a(a)(1)(A). Additionally, based on information discovered during the course of its supervisory responsibilities, see 2 U.S.C. § 437g(a)(2), on September 19, 1989, the Commission found reason to believe E. Kenneth Twichell violated 2 U.S.C. §§ 441f and 441b(a).[4] The Commission further determined on that date that there was reason to believe NAREA violated 2 U.S.C. §§ 441f and 441b(a). The General Counsel now recommends that the Commission find probable cause to believe that E. Kenneth Twichell knowingly and willfully violated 2 U.S.C. §§ 441f and 441b(a).

9504367012

---

4. Also on September 19, 1989, the Commission found reason to believe Robert Johnson violated 2 U.S.C. §§ 441f and 441b(a) and that NARA/MU and IAM each violated 2 U.S.C. §§ 441f and 441b(a). Moreover, on March 26, 1991, the Commission determined that there was reason to believe that IREI, as well as Todd Publishing, Inc., knowingly and willfully violated 2 U.S.C. §§ 441f and 441b(a). Also on March 26, 1991 the Commission found reason to believe PWAA knowingly and willfully violated 2 U.S.C. § 441b(a).

The results of this investigation are detailed in three sections below. First, violations of the Act are presented regarding fundraising solicitations benefiting federal candidates in 1988. Second, additional violations of the Act are regarding certain corporate contributions, corporate reimbursement of such contributions, and corporate contributions made in the names of others. Third, we present evidence regarding the knowing and willful nature of these violations.

II. SOLICITATIONS SENT ON BEHALF OF THE BUSH FOR PRESIDENT COMMITTEE

A. The Complaint

The genesis of this matter was a signed, sworn, and notarized complaint filed with the Commission on March 21, 1988 by John R. Lair. The complainant has been designated as a Certified Real Estate Appraiser by NAREA and has paid dues to this organization. The ten page complaint included a letter dated February 4, 1988 on the letterhead of NAREA ("the Bush Letter"). This letter was signed by E. Kenneth Twichell, identified in the letter as the managing director of NAREA. Additionally, the complaint included certain correspondence between the complainant and Mr. Twichell.

This letter solicited campaign contributions to George Bush's 1988 presidential nomination campaign. It specifically pointed to the importance of financial support for the Bush campaign "to help the National Association of Real Estate Appraisers obtain a great deal of influence with the person who will most probably be the next President of the United States." The letter exhorted all the

9504367013

members of NAREA as a group to contribute in order to have the maximum possible impact:

> Your contribution, added together with every member's contribution will create the impact that we have the power required to influence important political (Real Estate) decisions....
>
> * * *
>
> Your contribution of $100.00 is needed right now. Yours, together with a united membership effort could create the biggest financial support of his entire campaign.... The total impact of this effort will be very meaningful to the Association.

Mr. Twichell's letter also stated that "I have personally paid for this stationery, all the mailing costs, etc., so as not to violate any Federal Election laws or place any financial burdens on the Association."

The letter was personally addressed to the complainant and enclosed a two-sided contributor card of the Bush Committee and a postage-prepaid return envelope addressed to the Bush Committee in Washington, D.C. On the contributor card was stamped "AZ 04" and across the front of the return envelope was stamped "Attn: Lucy Cole."

Mr. Lair attached to the complaint his letter dated February 18, 1988 addressed to Mr. Twichell. In it he protested that Mr. Twichell had engaged in political activity without divorcing himself from the Association. The complaint also enclosed E. Kenneth Twichell's response to Mr. Lair dated February 23, 1988, in which he reiterated NAREA's support for George Bush and stated the importance of members' political support for Bush's campaign: "Our's [sic] is not an endorsement of a Democrat or Republican, but of a person who we do have a

9504367014

relationship with, and one which will surely recognize our organization should he be elected to the Presidency." Complaint at 8. According to Mr. Lair, in a telephone conversation with Mr. Twichell after receipt of this letter, the complainant pointed out that first class postage for a mailing to the entire NAREA membership, estimated to be 14,000, would exceed Mr. Twichell's personal contribution limitation of $1,000 as established at 2 U.S.C. § 441a(a)(1)(A). In fact, according to the signed, sworn complaint, Mr. Lair asserted to Mr. Twichell that under the contribution limitations imposed by the Federal Election Campaign Act of 1971, as amended, Mr. Twichell could not have sent out more than 4,545 letters. Mr. Twichell allegedly responded "How do you know how many letters I mailed?" Complaint at 2.

B. Responses To the Complaint From E. Kenneth Twichell, Robert Johnson, and the Associations

NAREA responded to the complaint by submitting a single response containing a cover letter from Robert Johnson and enclosing certain materials from E. Kenneth Twichell. This document was dated April 4, 1988. It contained a letter from E. Kenneth Twichell which was acknowledged before a notary but was not sworn to. Mr. Twichell admitted sending out the Bush letters, asserting that he personally paid for all of the expenses. Mr. Twichell further asserted that although he was not totally familiar with federal election laws, he took "extreme efforts so as not to violate any laws." Twichell April 4, 1988 Response at 1. He stated these efforts included calling the Federal Election Commission's Information Division and inquiring whether he could

9504367015

use corporate letterhead for the mailing. He stated he received such permission.

Mr. Twichell's response also noted his conversation with Mr. Lair prior to the filing of the complaint. This statement for the first time claimed that the Bush letter was sent to a small number of persons rather than the entire NAREA membership. Mr. Twichell states that he informed Mr. Lair that he was aware of the election laws and that he only "mailed [the Bush letters] to a select few. He [Mr. Lair] was selected because in addition to his Real Estate Activities, he was on th [sic] Board of the Association of Pork Producers." Id. The response further notes that Mr. Twichell received the corporation's approval to put out the letters. Id. He further avers that after sending out the Bush Letters he received positive and negative phone calls. "Because of the negative calls, I would not have proceeded with [mailing to]... the rest of the membership even if it were ok [sic] to do so." Id. The letter ends with a postscript noting, "I typed this myself on white paper so I wouldn't use corporate funds." Id.

Attached to this response were documents purporting to be an invoice from NAREA to Mr. Twichell for expenses associated with the mailing, a separate "Statement of Expenses," and a copy of the front of a personal check drawn on Mr. Twichell's joint checking account purporting to pay for the expenses associated with the Bush letters. The NAREA invoice, dated March 3, 1988, lists "Services/Products furnished to E. Kenneth Twichell" and includes a charge for a mailing list rental for 2,500 names of NAREA

9504367076

members ($125); a letter processing charge for 2,500 letters and envelopes ($60); a mailing charge for mailing 2,500 pieces at 22 cents ($550); and a charge for machine time ($25). Thus, the amount said to have been billed to Mr. Twichell by NAREA for the mailings was $760. A notation of the bottom of this invoice includes the word "Paid" with the initials RGJ. (Robert Johnson later testified that these initials were his and he placed them on the invoice in order that there would be no doubt that the reimbursement had occurred. Robert Johnson Deposition at 204.)

The separate document entitled "Statement of Expenses" appears on plain paper without letterhead and is undated. It includes entries for letterhead and envelopes totaling $186, and was said to bring the total cost for the entire Bush mailing to $946. The bottom of this document includes the entry: "I stuffed the envelopes myself and no Corporate Employees [sic] time was used."

As noted, a copy of the front of Mr. Twichell's personal check to NAREA was also attached to this response to the complaint. This check for $760 is dated March 3, 1988, the same date as the NAREA invoice. The check number is 747. It is payable to "NATL. ASSOC. OF REAL ESTATE APPS." and is drawn from the joint account of E. Kenneth Twichell and Tamara Twichell.[5]

Robert Johnson's April 4, 1988 response asserts that the NAREA "has not provided any financial support to any candidate for

---

5. Tamara Twichell is the spouse of E. Kenneth Twichell.

9504367717

any office." Robert Johnson April 4, 1988 Response. It includes the statement:

> Mr. E. Kenneth Twichell did get printed, at his own expense, our letterhead and envelopes. Further, he rented our mailing list at market rates and paid for all expenses associated with the [Bush letters]. He also reimbursed NAREA for the use of the equipment. NAREA paid for nothing.

This response was acknowledged before a notary, and its contents were signed and sworn to. That notary was E. Kenneth Twichell.

By letter dated April 6, 1988, Robert Johnson submitted a supplemental response, explaining that he acquired contribution cards from the Bush for President Committee headquarters in Washington, D.C., as well as from other fundraising chairmen. Mr. Johnson explained that he affixed on these cards two pieces of information: "AZ 04" and "Attn: Lucy Cole." This letter contained a postscript noting: "Again, none of the campaign efforts were done at corporate expense or on corporate time." Thus, in response to the complaint E. Kenneth Twichell, Robert Johnson, and the Associations asserted that they had made mailings on behalf of George Bush, that these mailings went to "a select few" of the Associations' members, that the costs of the mailings were borne by Mr. Twichell personally, and that no corporate funds were expended in either the solicitation effort or in the effort to respond to the complaint.

9504367018

C. Information Received From the Bush For President Committee

The Commission also received materials from the Bush for President Committee regarding the NAREA's mailing. According to an affidavit submitted by Margaret C. Alexander, Finance Director for the Bush for President Committee, she became aware that NAREA was soliciting funds on behalf of the Bush for President Committee (referred to as "GBP") in "early March of 1988." Margaret Johnson Affidavit at ¶ 1. She made the following sworn statement:

> I first became aware of the letter which is the subject of the complaint in MUR 2593 in early March of 1988. At that time I was informed by Fred Bush, the Deputy Finance Chairman of GBP, that the campaign had received a copy of an unauthorized letter soliciting funds. I was asked by Fred Bush to attempt to ensure that no further such letters were sent.
>
> I immediately telephoned Robert G. Johnson, the Executive Director of the National Association of Real Estate Appraisers, and a co-chairman for the State of Arizona of GBP's fundraising efforts. I told Mr. Johnson that I was holding a copy of the fundraising letter sent out on his Association's letterhead, and that this letter had never been seen or approved by any person at GBP headquarters prior to its being sent. I therefore asked him if he would please speak to his Association's Managing Director, Mr. Twichell, and asked him to cease and desist in sending out the communication immediately.

Margaret Johnson Affidavit at ¶¶ 3 and 4. In her affidavit Ms. Alexander goes on to explain the significance of the markings

9504367019

on the enclosures of the solicitation letter:

> Our envelopes do not state "Attn: Lucy Cole," [sic] nor do they contain the code "AZ04" [sic]. Lucy Cole is an event coordinator in the campaign's finance office and "AZ04" is the code given to Mr. Robert Johnson by GBP for the purpose of allowing us to know for which contributions he was responsible. Persons who volunteer to assist GBP with fundraising, such as Mr. Johnson, are given as a matter of course approximately 200-250 reply cards (without their code stamped thereon and without any particular person's name on the cover). I have no knowledge where Mr. Twichell obtained the envelopes used in the mailing and, if they were Mr. Johnson's, where envelopes beyond Mr. Johnson's original allotment were obtained, or how they were altered.
>
> Mr. Johnson, as a volunteer fundraiser with the title of Co-Chairman of the Arizona Fundraising Committee, had no authority to send, or approve the sending of, mass mailings without prior review and approval from the campaign headquarters. All volunteer fundraisers, including Mr. Johnson, were explicitly informed of this fact when they agreed to assist the GBP fundraising efforts.

Id. at ¶¶ 6-7. Thus, as of March, 1988, Robert Johnson, E. Kenneth Twichell, and the Associations had explicit knowledge that the Bush for President Committee disavowed their fundraising efforts and that, as far as the Bush Committee was concerned, Mr. Johnson and Mr. Twichell were acting outside the scope of authority that had been extended by the Bush Committee to Mr. Johnson.

D. Additional Evidence Provided By the Respondents

During the course of the investigation in this matter, the Commission issued numerous subpoenas to the respondents requiring

9504367072 0

them to submit certain documents, answer certain questions under oath, and to appear and give sworn testimony. Below we briefly summarize the relevant portions of this aspect of the investigation.

As an initial matter, many of the Commission's requests for documents from the Associations and other entities controlled by Robert Johnson did not result in the production of the requested materials. In particular, respondents did not produce past invoices from bills paid by the Associations for the year 1988. Robert Johnson gave sworn testimony that such invoices were not routinely maintained in the business of the Associations. Robert Johnson Deposition at 151-54. In fact, the only invoice respondents have ever provided to the Commission in this matter is an exculpatory document by which NAREA purportedly billed E. Kenneth Twichell for costs associated with these mailings.

Respondents further explained the scope of the Bush letters in response to the Commission's Interrogatories. For example, in the NAREA's response to interrogatories dated October 11, 1988, Robert Johnson asserted that the exact number of persons receiving the Bush letter was "presently unknown but thought to be less than 2,500 persons.[6] This response further indicates that the Bush letter was sent only to NAREA's membership. Additionally, this response notes that "no contributions were received as a result of [the Bush letters]." A letter from counsel accompanying these

6. This response was "acknowledged" before a notary, but was not sworn to, nor was there an affirmation that the statements were true.

9504367072 1

interrogatories states that the solicitations were prepared by Mr. Twichell after regular business hours. October 11, 1988 Letter from Counsel at 2. Additionally, presumably referring to the February 4th date on the solicitation and the March 3rd dates on both the NAREA invoice and Mr. Twichell's reimbursement check, it states, "[t]he reimbursement took place less than one month after the expense was incurred.... all costs were reimbursed." Id. This document further describes Mr. Twichell's duties regarding this solicitation as "folding, stuffing, sealing, and affixing of postage." Id. at 3.[7]

Testimony given by Robert Johnson and E. Kenneth Twichell at their respective depositions taken on November 1 and 2, 1990 provided additional details about the mailing. For example, Robert Johnson identified the response dated April 4, 1988 that he had previously sent to the Federal Election Commission, and admitted that he stamped the contribution envelopes and cards with "Attn: Lucy Cole" and "AZ 04." He was unsure whether or not he was provided with stamps by the Bush Committee in order to place this information on the envelopes, but believed this to be the case. Robert Johnson Deposition at 211-12. Mr. Johnson initially testified that he could not recall whether anyone helped him stamp

9504367022

7. This October 11, 1988 letter from counsel to the Commission contains an admission that "Mr. Twichell admits the solicitation was not authorized by the Vice President or his agents." This information did not appear on the solicitation letter as required by 2 U.S.C. § 441d(a).

these materials, but when pressed he gave unequivocal denials:

> Q: [Ms. Reilly]: So was it your testimony that you did it all yourself in terms of the stamping?
>
> A: [Robert Johnson] That's correct.
>
> Q: No employees helped you?
>
> A: That's correct.

Id. at 213.

Additionally, E. Kenneth Twichell testified at his deposition that he obtained the contributor cards (stamped with "AZ 04") and the reply envelopes (stamped with "Attn: Lucy Cole") on a shelf located in the back room of the Associations' previous headquarters located at 8715 Via De Commercio in Scottsdale, Arizona.[8] E. Kenneth Twichell Deposition at 291-2. E. Kenneth Twichell testified with great specificity as to the location of these cards, indicating the cards were positioned in the right hand side of the shelf "[j]ust stacked up, you know, nice." Id. at 292. He further indicated that he had no idea how these materials had come to be placed in this location. Id. at 292-94.

During their depositions, Mr. Johnson and Mr. Twichell attempted to clarify certain points. For example, according to the sworn testimony of both corporate officials, their original estimate provided to the Commission regarding the number of Bush letters was inaccurate. Instead of the 2,500 figure previously cited in their responses to interrogatories, Robert Johnson

9504367023

---

8. In July, 1988 the Associations moved to new headquarters that are also located in Scottsdale. The move is discussed in greater detail in Section III.

testified that he believed the actual number of solicitations to be 1,000 pieces or less. Robert Johnson Deposition at 197. This number was further reduced in the deposition testimony of E. Kenneth Twichell given the following day. He stated he believed the mailings to number only about 800 letters and that he selected these 800 from a larger number prepared by him. E. Kenneth Twichell Deposition at 268. He testified that he caused the Associations' computer to generate, at random, 2,500 persons from among the entire NAREA membership, id. at 273, but that numerous letters were discarded prior to mailing:

> I guess it was a feeling I had about 'em. I mean, when you're in the business you tell sort of by the title, the company; you know, I was trying to pick appraiser firms, maybe some bigger ones that I knew about that, you know, one of these guys might contribute.

Id. at 280. Eventually, the entire mailing was said to fit into two boxes with approximately 400 letters in each box. Id. at 281.

Mr. Twichell also fully described his activities regarding the Bush letters, stating that he had the permission of Robert Johnson to conduct the mailing. He stated that he wrote and prepared the letter. E. Kenneth Twichell Deposition at 274-75. Additionally, he testified that he had corporate stationary prepared for this mailing and that he personally paid for this stationary. Id. at 276. Mr. Twichell further stated that he signed each letter and the letters were sent to the persons to whom they were addressed by first class mail. Id. at 276-83. Mr. Twichell also testified that he had no knowledge of other Bush letters sent by the Associations and was unaware of any

9504367024

other letters sent to any other members of the Associations. Id. at 284-85. Additionally, Robert Johnson confirmed under oath that he was aware of the mailing but claimed he did not see any corporate employees stuffing envelopes regarding it. Robert Johnson Deposition at 206. He further testified that the Associations did not conduct any other political mass mailings other than this particular one supporting Vice President George Bush. Robert Johnson Deposition at 220-1 and 235.

E. Results of the Investigation

At the outset, there are credibility questions evident from juxtaposing Mr. Twichell's deposition testimony with other information. For example, in Mr. Twichell's April 4, 1988 response to the Commission he attempted to refute the allegation that he sent the Bush letter to the entire NAREA membership. Instead, he explained that he sent the mailing only "to a select few," and that Mr. Lair, the complainant, had been included in this group "because in addition to his Real Estate Activities he was on th [sic] Board of the Association of Pork Producers." Twichell April 4, 1988 Response. In contrast, Mr. Twichell's deposition testimony revealed that at the time he sent out the Bush letters he did not even know that Mr. Lair was a member of an "Association of Pork Producers." E. Kenneth Twichell Deposition at 309-10. Thus, Mr. Twichell conceded that his original explanation for the complainant's selection was untrue, calling into question whether he in fact made any "select[ion]" at all.

There is also tension in another respect between Mr. Twichell's testimony and his previous submission that

9504367025

impeaches the credibility of his assertion as to the number of letters sent. The NAREA invoice submitted by the respondents shows that this entity absorbed costs for postage for 2,500 letters. Mr. Twichell testified that although he initially generated 2,500 letters and envelopes on the Associations' computer, he discarded more than two thirds of this amount, arriving at a mailing composed of 800 pieces. E. Kenneth Twichell Deposition at 281. He further testified that after this selection process he stuffed the letters into mailing envelopes along with a contributor card and a reply envelope addressed to the Bush Committee. He then ran the mailing envelopes through the Associations' postage meter, which sealed these envelopes in the process. E. Kenneth Twichell Deposition at 268, 278-83. Since the March 3rd invoice was supposedly prepared after all the letters had been mailed, the inclusion of a charge for postage of 2,500 letters, rather than 800 or 1,000 letters, casts doubt on the later downward revision of the number of letters sent, or on the invoice itself.

Despite these inconsistencies, Mr. Twichell has repeatedly maintained that the Bush letters were limited in number, were sent only to members of the NAREA, were paid for in their entirety by him, were his own personal project, and did not involve the expenditure of any corporate funds. As noted below, however, in the course of this investigation the Commission has received substantial evidence regarding the Bush letters from a variety of other sources directly contradicting this version of the facts.

9504367026

This Office obtained sworn affidavits from three persons ("stuffers") who asserted under oath that they worked on the Bush letters and other projects of the Associations. These persons all had considerable work experience with the Associations.[9] In some instances the stuffers have produced contemporaneous work records detailing work they performed regarding the Bush letters. Additionally, sworn testimony was also obtained from Patricia Davidson, the former executive director of PWAA, and Jean Johnson, a former employee of NAREA and IAM.[10] This Office also received information from the Arizona Republican Party.

1. Scope of the Corporate Involvement

First, all of the stuffers specifically recall preparing for the Associations' solicitation letters on behalf of George Bush. Indeed, the contemporaneous written record produced by stuffer Molly Rugolo explicitly describes the project as "Bush ltr." The

9504367027

---

9. For example, one stuffer, Laura Ashbaugh, worked for the Associations from approximately September 1986 until December, 1989. Another, Molly Rugolo, worked for the Associations from sometime in 1984 until the summer of 1989. A third, Kelly Rossi, was employed by the Associations starting in November of 1987 until June of 1989. Mrs. Rossi had both full time and part time duties.

10. As indicated in the deposition testimony of E. Kenneth Twichell, the Associations had a high turnover rate of its employees. Some were discharged by Mr. Twichell; others were said to have left voluntarily. E. Kenneth Twichell Deposition at 75-76. The Office of the General Counsel believes that Mrs. Ashbaugh and Mrs. Rugolo left their positions voluntarily. Mrs. Rossi was said to have sought the assistance of the Department of Labor regarding whether or not she was fired as a result of pregnancy. Id. at 90-91. That matter resulted in a settlement agreement. Patricia Davidson was terminated by the Associations. Mrs. Johnson, who is unrelated to Robert Johnson, left the Associations on "very good terms." E. Kenneth Twichell Deposition at 92-93.

stuffers place this mailing activity as beginning as early as February, 1988 and ending in April, 1988.[11] Moreover, each of the stuffers was paid by the Associations for the work that they performed. See Ashbaugh Affidavit at ¶ 7. Rugolo Affidavit at ¶ 5 and 6. Rossi Affidavit at ¶ 4.

The stuffers uniformly assert that they stuffed thousands upon thousands of Bush letters on behalf of the Associations. For example, Laura Ashbaugh testified based on her contemporaneous records that she personally stuffed 22,562 Bush letters. Ashbaugh Affidavit at ¶ 14. Molly Rugolo's contemporaneous records indicate the project was composed of many thousands of pieces, Rugolo Affidavit at ¶¶ 8 and 9, and she stated her belief that in total there were "tens of thousands of Bush letters." Rugolo Affidavit at ¶ 11. Similarly, Kelly Rossi estimated between 50,000 to 100,000 Bush letters were sent. Rossi Affidavit at ¶ 5.

The stuffers describe in detail the work they performed for this massive direct mail solicitation. They explain that the Bush letters project was composed of a letter from the Associations, a contributor card, a reply envelope addressed to the Bush Committee, and a mailing envelope. According to their sworn statements, their activities included stamping the information "AZ 04" on the contributor card, stamping "Attn: Lucy Cole" on

9504367028

---

11. Mrs. Ashbaugh avers that she began stuffing Bush letters in February, 1988 and continued this project until April, 1988. Ashbaugh Affidavit at ¶ 5. Her records detailing her specific activities are incorporated into her affidavit. Mrs. Rugolo testifies that her work occurred in late March of 1988. Rugolo Affidavit at ¶¶ 8 and 9. Additionally, Mrs. Rossi swears that she worked on letters soliciting funds for George Bush during February of 1988. Rossi Affidavit at ¶ 4.

the reply envelope to the Bush Committee, and placing these three pieces into the mailing envelope, along with the solicitation letter. As discussed more fully below, in some instances the stuffers signed the letters for the person named on the signature line and placed the letters that they signed (which were personally addressed) into the corresponding personally addressed envelopes. All of the stuffers were steadfast in their belief that the letters which they stuffed solicited funds for the Bush Committee, all specifically recall stamping a number and a phrase on the materials which they placed into envelopes. In fact, one stuffer described the project as "very grueling...[with] a tremendous number of letters and great pressure to finish the projects as quickly as possible." Rugolo Affidavit at ¶ 5. Thus, the affidavits and documentary evidence directly contradict E. Kenneth Twichell's numerous statements that this was an isolated mailing project paid for from his personal funds on which only he worked.

Additionally, all of the stuffers directly contradict Mr. Twichell's statements that the Bush letters were sent out by him in a short time period estimated to be as short as two days and possibly as long as six days. See E. Kenneth Twichell Deposition at 281, 287, and 291. Specifically, Mrs. Ashbaugh began to work on the Bush letters in February and continued until April. Ashbaugh Affidavit at ¶ 5. Her statements are bolstered by her contemporaneous records that are attached to her affidavit and show that she worked on this project over a three month period. Additionally, Mrs. Rugolo swore that she worked on the

9504367029

Bush letter during the month of March. Rugolo Affidavit at ¶ 5. Her contemporaneous records for a two week period are also attached to her affidavit and show that she worked on this project during that period. Mrs. Rossi swore that she worked on the Bush letters during February of 1988. Rossi Affidavit at ¶ 4. Indeed, the stuffers' testimony that the Bush letters were a long term project of the Associations is bolstered by the copy of the Bush letter provided by Mr. Lair. That letter is dated February 4, 1988, but the first class postage meter stamp on the envelope is dated February 16, 1988.

Other evidence also supports the conclusion that the Bush letters were a continuous project of the Associations. For example, according to the records of the Bush Committee, it received a steady stream of contributions under Robert Johnson's fundraising code from real estate appraisers across the country from February, 1988 until May 1988. Moreover, 165 of these contributions totaling $11,799 were from outside the state of Arizona yet were nevertheless designated with Robert Johnson's contributor code of "AZ 04."[12] Further, another former employee of the Associations, Mrs. Jean Johnson, testified that the Bush letters were produced using the Associations' computer system.

9504367730

---

12. Many of these contributions were from individuals with occupations listed as either real estate appraiser or otherwise associated with the real estate field. These contributions spanned the periods between February 9, 1988 until August 8, 1988, and were in amounts ranging from $5 to $500. The contributions came from 33 states, as well as Puerto Rico and the District of Columbia.

She further testified that the Associations' computers were so busy generating the Bush letters that letters for her own work projects would "often be put on the back burner because the computer was being taken up by this stuff." Jean Johnson Deposition at 65. Thus, Mr. Twichell's statements regarding the limited production of an 800 piece Bush letter occupying perhaps two to six of his evenings are patently untrue. In fact, as proven above, the Bush letter was an extended project involving corporate facilities. Moreover, as discussed below, instead of the 800 copies of a single version of this letter, the Associations generated numerous versions of this letter to many thousands of persons both inside and outside the Associations.

2. Mailings to Members of the Associations

As previously detailed, the complaint enclosed the Bush letter, averring that the mailing was composed of a one page letter signed by E. Kenneth Twichell, a business reply envelope addressed to the Bush Committee with "Attn: Lucy Cole" affixed to the front, and a two-sided contributor card with "AZ 04" affixed in the upper right corner of the first side and on the bottom of the opposite side. Thus, the mailing was purportedly composed of three pieces, including the solicitation letter on NAREA letterhead signed by Mr. Twichell. Mr. Twichell stated that this mailing was the only one conducted by the Associations. E. Kenneth Twichell Deposition at 284-85.

The evidence is clear that the number of members within the Associations who received Bush solicitation letters has been grossly understated. As an initial matter, the very text of the

95043670731

letter sent by Mr. Twichell belies the representation that only a limited mailing was intended. For example, Mr. Twichell's letter speaks to the addressee's contribution "added together with every member's contribution," and your contribution "together with a united membership effort could create the biggest financial support of his entire campaign." (Emphasis supplied). Thus, a plain reading of the letter indicates that it was targeted to the entire membership of NAREA, the organization managed by E. Kenneth Twichell.

This reading is firmly supported by the testimony of the witnesses who assert that the mailings went to many more persons besides the limited number of members of NAREA cited by Mr. Twichell. For example, Mrs. Rugolo states that the letters she worked on went to members of NAREA; Mrs. Ashbaugh noted that the project included letters for both NAREA and NARA/MU; and Mrs. Rossi noted that the project was for NARA/MU. See Rugolo Affidavit at ¶ 5, Ashbaugh Affidavit at ¶ 6, and Rossi Affidavit at ¶ 4. Additionally, Jean Johnson testified that it was her belief that the Bush letters were sent to "every member in every association except for IREI." Jean Johnson Deposition at 62. She specifically recalled that letters were sent to members of PWAA and because that organization was the smallest and least prestigious of the Associations, she was confident that letters were sent to members of NAREA and NARA/MU, as well. Jean Johnson Deposition at 73. Patricia Davidson also testified that she believed that the mailings went to the entire membership of NAREA,

95043670732

but she was unsure whether the mailings also went to members of NARA/MU and PWAA. Patricia Davidson Deposition at 76-78.[13]

Further evidence that the mailings were sent to the entire membership of NAREA, NARA/MU and PWAA is the testimony that the stuffers signed the names of persons associated with these organizations to the Bush letters. Mr. Twichell, Mr. Johnson, and Patricia Davidson testified that under the Associations' ordinary practice, Mr. Twichell's signature appeared on mass mailings to NAREA members, while Robert Johnson's or possibly Stephen Schneck's[14] signature appeared on mailings to NARA/MU members, and the signature of the director of PWAA would normally appear on mailings to PWAA members. See, e.g., Robert Johnson Deposition at 222-23, E. Kenneth Twichell Deposition at 148-49 and 153, and Patricia Davidson Deposition at 41-42. The investigation in this matter reveals that the Bush letters sent to members of the Associations were personally addressed, signed in ink by the stuffers, and matched with a personally addressed envelope. See Ashbaugh Affidavit at ¶¶ 14-18. Rugolo Affidavit at ¶ 9. The stuffers signed the name of the printed signatory. According to their sworn testimony, all the stuffers indicate that they signed the name of Robert Johnson on these letters. See Ashbaugh

9504367033

---

13. Mrs. Davidson's uncertainty was based on her belief that letters to members of NARA/MU would only go out over the signature of Robert Johnson. She assumed his signature was not used in the mailings and thus was unsure whether NARA/MU members were solicited. She did not remember whether PWAA members were solicited.

14. As discussed further in the next section, Mr. Schneck is Robert Johnson's brother-in-law and an employee of the Associations.

Affidavit at ¶ 6. Rugolo Affidavit at ¶ 5. Rossi Affidavit at ¶ 4. Moreover, Laura Ashbaugh, the stuffer who worked on the Associations' Bush letters during a three month period, indicates that she also signed the names of E. Kenneth Twichell, possibly Stephen Schneck and Patricia Davidson, the Executive Director of PWAA. Ashbaugh Affidavit at ¶ 6. Jean Johnson supported the fact that other names were signed, specifically recalling a conversation in which Mrs. Davidson had qualms regarding whether her name would be used. Jean Johnson Deposition at 72-3. Thus, Mr. Twichell's claim that he himself signed each and every Bush letter is not supported by the evidence. The collective memories of these witnesses is compelling evidence that members of NARA/MU and PWAA, as well as NAREA, were targeted by the Associations' Bush letters, and that E. Kenneth Twichell's statements to the contrary are untrue.

3. Mailings to Arizona Republicans

According to the stuffers, a second type of letter was also sent out. This letter was described as also soliciting funds for the Bush Committee. Unlike the other, these letters contained preprinted signatures, were not personally addressed in the salutation, and were placed into envelopes with mailing labels on them, rather than in preprinted envelopes. See Ashbaugh Affidavit at ¶¶ 11-13. Rugolo Affidavit at ¶ 8. Thus, for this second type of letter, the stuffers stamped the reply envelope and contributor card as previously described and placed them into the envelope with the solicitation letter. They did not have to sign the

9504367034

letter or match the letter to the envelope. They were required to place labels on the envelopes.

The distinction between letters signed by the stuffers and those with preprinted signatures was explained in testimony of stuffer Laura Ashbaugh who stated she believed this second type of letter was sent out to registered Republican voters in Arizona. Ashbaugh Affidavit at ¶ 13. Mrs. Ashbaugh testified that she believed this to be the case because she stuffed Bush letters addressed to her neighbors who she knew were not members of the Associations. Id. And, indeed, the Bush Committee accepted numerous small contributions designated with the "AZ 04" contribution number from persons residing in Arizona. These contributions totaled $15,574.50 and spanned the period between September 17, 1987 (Robert Johnson's personal contribution) until July 22, 1988. Mrs. Ashbaugh's testimony is also supported by Jean Johnson, the person at the Associations responsible for federal and state relations, as well as by the Arizona Republican Party.

Specifically, Jean Johnson testified that at the request of Robert Johnson she called the Arizona Republican Party and requested to purchase mailing labels. Jean Johnson Deposition at 87-88. She further testified that she wrote a letter to the State Party requesting these mailing labels. Id. at 88-89. She added that she may have made such a request to the State Party on more than one occasion. Id.

Information from the Arizona Republican Party confirms that the Associations had, in fact, ordered sets of mailing labels on

9504367035

two occasions. The State Party also produced documents relating to these two orders, including check copies with which payment was made. The internal State Party documents include a set of forms for each order. One form is headed "Job Number" and a second form is entitled "COMPUTER SERVICES ORDER FORM."

According to the State Party, the Associations placed their first order on March 15, 1988 and received 41,075 mailing labels for four counties in Arizona. December 14, 1990 letter from Arizona Republican Party. The Job Number form lists this job as 88122, lists the candidate as "Bush" and the purpose as "Presidential". It indicates an order for 41,075 pressure sensitive labels with a total amount billed as $493. The accompanying Computer Order Form lists the Customer as "Bush" and the "Contact" as Jean Johnson. The State Party also provided a copy of the check used to pay for these labels. The check, dated March 16, 1988, is payable to the Arizona Republican Party and is drawn on the account of Robert G. Johnson. The lower left of the check indicates that it was for "labels". The word "computer" appears on the top of check. The State Party reported this amount (identifying Mr. Johnson) on its 1988 April Quarterly Report filed with the Commission.[15]

The Associations placed a second order for 12,954 mailing labels to voting households in Coconino County. According to the State Party, the date the Associations placed this order is

---

15. Robert Johnson recalled the existence of a mailing list of Arizona Republicans but could not provide any information regarding its use by the Associations. Robert Johnson Deposition at 232-33 and 226-27.

9504367736

unknown, but the Computer Services Order Form lists a Requested Delivery Date of March 24, 1988. Payment was made on May 5, 1988. December 14, 1990 letter from Arizona Republican Party. The State Party's documentation of this order includes a Job Number Form headed 88132 listing the "Candidate" as "Bush" and under "purpose" lists Jean Johnson's name. The cost of the 12,954 pressure sensitive labels is listed as $156. This information is repeated on the Computer Services Order Form. The State Party also provided a copy of a check used for payment. It is dated May 10, 1988, is made payable to "AZ REPUBLICAN PARTY" and is drawn on the account of E. Kenneth Twichell or Tamara Twichell.[16] Thus, there is clear evidence that the Associations obtained the names of more than 50,000 Arizona Republican voters and these persons as well as members of the Associations were also targets of the Bush letters.

As illustrated above, witnesses testified that the Associations conducted a massive solicitation effort on behalf of the Bush for President Committee. These letters went to members of NAREA, NARA/MU, and PWAA. Additionally, based upon evidence submitted by the stuffers, Jean Johnson, and the Arizona Republican Party, registered voters in Arizona were also solicited by the Associations. Consequently, the evidence shows that the sworn representations that the mailing was a personal project of E. Kenneth Twichell and was limited solely to 800 members of NAREA are untrue.

9504367037

---

16. The corporate reimbursement of Mr. Twichell for this amount is discussed in Section III.

4. Funds Allegedly Expended By E. Kenneth Twichell

In addition to the claim that Mr. Twichell sent only a modest mailing to selected members, he was also said to have personally borne all the costs of that mailing. In response to the original complaint, Messrs. Johnson and Twichell produced an NAREA invoice to Mr. Twichell for $760. This invoice, assertedly for costs attendant to a mailing of 2,500 pieces, was dated March 3, 1988. Mr. Johnson himself wrote "Paid" at the bottom of the invoice, Robert Johnson Deposition at 204, and respondents attached a copy of Mr. Twichell's personal check of the same date said to evidence payment. Because the NAREA invoice omitted the cost of the stationery that was used, respondents included a separate "Statement of Expenses" evidencing an additional $186 expense to a printing company for stationery and envelopes. Mr. Twichell specifically confirmed under oath that the mailing cost a total of $946, that he personally paid $186 to a printer for stationary and envelopes, and that he reimbursed NAREA for its cost of $760. E. Kenneth Twichell Deposition at 322-25. Aside from the issue of the extent of the mailings, as discussed below, a number of questions are raised regarding the authenticity of the NAREA invoice and whether Mr. Twichell actually made <u>any</u> payments for the mailings.

Mr. Twichell was said to have paid Dean DuChene Printing $186 for printing the stationary used for the Bush solicitation letters. He first testified that he paid the printing costs from his personal checking account. E. Kenneth Twichell Deposition at 276-77. Mr. Twichell's check register, however, does not reveal a

9504367738

personal check written to this vendor. When informed that his check register did not appear to include an entry for such a check, he changed his story and claimed that he made this payment in cash. Id. at 322-25.

Patricia Davidson testified that she was present with Mr. Johnson and Mr. Twichell in March of 1988 when they discussed the complaint by Mr. Lair which the Associations had received from the Federal Election Commission.[17] Mrs. Davidson also asserted that Mr. Johnson, Mr. Twichell, and Mr. Cloud[18] had a conversation at the time the complaint was received regarding setting the price for the mailing. Patricia Davidson Deposition at 74.[19] Mrs. Davidson further testified that no price had been set for the mailing until the Associations received complaints, and that it was her understanding that prior to that time Mr. Twichell had made no payments to the Associations for the mailing. Patricia Davidson Deposition at 74-76.[20] Thus, according to Mrs. Davidson

9504367039

---

17. The Commission received the complaint on March 21, 1988. Respondents were notified by letter dated March 23, 1988. Allowing three days for mailing, it appears respondents would have received the complaint on March 26, 1988.

18. As discussed further in the next section, Mr. Cloud ran the Associations' computer system.

19. Although Mrs. Davidson's deposition testimony acknowledges her animus towards Robert Johnson and the Associations, she testified with great specificity regarding the events in question and her testimony is supported by other evidence.

20. Mrs. Davidson further challenged the terms of respondents' April 4, 1988 letter. Specifically, she disputed Mr. Twichell's statement that he had typed the letter himself so as not to expend corporate funds. Mrs. Davidson testified under oath that she typed the letters submitted by both Robert Johnson and E. Kenneth Twichell in their initial response to the Commission. Patricia Davidson Deposition at 93 and 100-01. As noted supra,

the entire process of constructing the NAREA invoice to Mr. Twichell began only around the time the Associations were notified by the Commission that a complaint had been received.

Records produced by respondents in response to Commission subpoena support Mrs. Davidson's account. Specifically, the front of Mr. Twichell's personal reimbursement check to NAREA was dated March 3, 1988, the same date appearing on the NAREA invoice. This check, drawn on the Twichells' joint checking account, is numbered 747.[21] An examination of Mr. Twichell's check register which was also produced to the Commission reveals, however, that this check is not listed with Mr. Twichell's other checks written in early March. Rather, this check is listed with Mr. Twichell's checks written in late March and early April. In fact, Mr. Twichell's own check register shows that his two immediately preceding checks, numbers 745 and 746, are both dated March 30, 1988, after the respondents were notified of the Lair complaint and nearly four weeks after the March 3, 1988 date appearing on the face of the check. Indeed, both the Twichells' and NAREA's bank records show that the deposit of this check did not take place until April 1, 1988.[22] Consequently, the apparent back-dating of this

9504367040

(Footnote 20 continued from previous page)
Mr. Twichell himself has conceded that another statement in this letter was false.

21. According to Mr. Twichell's testimony, his wife maintained the couple's checking account. E. Kenneth Twichell Deposition at 19.

22. The date this check was negotiated likely appears on the back of the check itself, but as previously noted, respondents have only produced the front of this check.

check indicates that the invoice was not created on March 3, 1988 as respondents claim, but was constructed after the respondents received the complaint in this matter, i.e. March 26th or thereafter.

Mrs. Davidson also challenged whether the $760 purportedly paid by E. Kenneth Twichell to the Associations was a bona fide payment by him to the Associations. She stated, "I can guarantee Mr. Twichell never personally, without any type of reimbursement, paid for any of this." Patricia Davidson Deposition at 73-74.[23] Again, the documentary evidence submitted by the Associations supports Mrs. Davidson's speculation that Mr. Twichell would have received reimbursements from the Associations for any payments he made to them for the mailings. As noted, the placement of check number 747 in the Twichell's check register indicates his check to the Associations for the Bush mailings was actually issued on or around March 30-31, 1988; it was deposited by NAREA on April 1, 1988. On March 29, 1988 Robert Johnson signed a check payable to Mr. Twichell for $1,600. This check was written on the account of the International Institute of Valuers, Inc. (also known as IREI). Mr. Twichell's check register notes the deposit of this same amount on March 30, 1988 as "Deposit -- Ken." The Twichells' check register reveals that absent this $1,600 deposit they would not have had sufficient funds in their account to cover both the $760 check to NAREA and their $801.98 house payment paid

95043670741

---

23. The basis of this recollection is that she recalls Mr. Johnson and Mr. Twichell joking regarding the need to construct this invoice. Patricia Davidson Deposition at 73-74.

on April 1, 1988. Thus, it appears this payment effectively negated Mr. Twichell's purported reimbursement to NAREA for mailing costs borne by the Associations.[24]

In sum, E. Kenneth Twichell has specifically stated in his "acknowledged" statement to the Commission that the March 3, 1988 NAREA invoice was for the expenses he personally incurred in sending out his purported 800 piece mailing. April 4, 1988 Response at 2. The evidence indicates, however, that this assertedly exculpatory invoice from NAREA to its managing director was manufactured. The evidence further indicates that E. Kenneth Twichell submitted a back-dated check drawn on his personal checking account to make it appear that NAREA had billed for the costs of the mailings and been reimbursed for such costs, when in fact, it had not.

F. Violations of The Act

Pursuant to 2 U.S.C. § 441b(a), corporations are prohibited from making contributions and expenditures in connection with federal elections. It is also unlawful for a corporate officer or director to consent to any contribution or expenditure by a

9504367042

---

24. The memo line of the $1,600 IREI check reads "London Program," with the check register indicating the purpose of this check as "Expense for London Seminar." Although this Association check purports to be a travel advance to Mr. Twichell, he testified that it was never his practice to deposit travel advances into his personal account; instead, he cashed them and carried cash with him. E. Kenneth Twichell Deposition at 179-181. Scrutiny of the Twichells' check register demonstrates that it is unlikely this check was a travel advance, because there were no substantial cash withdrawals which followed the deposit, and no checks for the next two months appear to be remotely travel related. Thus, it appears that descriptions of the purpose of checks written in the Associations' records cannot be given great weight.

corporation in connection with a federal election. Id. "Contribution" and "expenditure" are defined at 2 U.S.C. § 441b(b)(2) to include "any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value." [25]

There is inconsistent information regarding E. Kenneth Twichell's status with NAREA. Initially, in response to the Commission's interrogatories, Robert Johnson identified E. Kenneth Twichell as both an officer and a director of this organization. This response identified three officers in total: John E. Steensland, President; Robert Johnson, Chairman of Nominations and Executive Committee; and E. Kenneth Twichell, Managing Director. This same response identified seven directors of NAREA. E. Kenneth Twichell was also listed as one of those directors. See Robert Johnson's Interrogatory response on behalf of NAREA dated October 6, 1988.

9504367043

---

25. Incorporated trade associations are permitted to make partisan communications to their members and executive and or administrative personnel and their families. 2 U.S.C. § 441b(b)(4)(C); 11 C.F.R. § 114.3(a)(2). The bulk of the Bush letters, however, went outside any restricted class in that they also targeted Arizona voters. In any event, by reproducing Bush Committee campaign materials (contributor card and return envelope), see 11 C.F.R. § 114.3(c)(1)(ii), and by providing the envelope for return of the contributions, the Associations went beyond the communication exception and facilitated the making of contributions to George Bush for President, in violation of section 441b(a). See Advisory Opinion ("A.O.") 1987-29, 2 Fed. Election Camp. Fin. Guide [CCH] ¶ 5912 (citing A.O. 1982-2). For these reasons, it is unnecessary to reach the issue whether persons paying dues to the Associations are "members" for the purpose of the Act and the Commission's Regulations. See A.O. 1988-38, 2 Fed. Election Camp. Fin. Guide [CCH] ¶ 5940, at p. 11,500-501 (citing opinions).

A July 3, 1989, letter from counsel called this status into question, asserting, "[t]o the extent that we indicated that Mr. Twichell was an officer of the National Association of Real Estate Appraisers, we were in error. Mr. Twichell is not an officer of the company. He is, however, a member of the Board of Directors of the corporation." See July 3, 1989 letter. Mr. Twichell also denied while under oath that he was either an officer or a member of the boards of directors of any of the corporate entities. E. Kenneth Twichell Deposition at 64 and 127.

Mr. Twichell's designation of counsel statements filed in this matter identify him as "Managing Director" of NAREA. See E. Kenneth Twichell Designation of Counsel Statements dated September 20, 1988 and April 6, 1990. The by-laws of NAREA produced to the Commission provide for a board of directors, but do not provide for a set number or titles for such directors, nor do the by-laws list by name any officers or directors. Robert Johnson testified, however, that E. Kenneth Twichell was responsible for managing NAREA. Robert Johnson Deposition at 159-60. It is unclear, however, whether E. Kenneth Twichell's title of "Managing Director" is one officially conferred by this Corporation.

Even if an individual is not oficially designated an officer or director in the corporate documents, that person can still be liable under 2 U.S.C. § 441b(a) for his actions undertaken on behalf of the corporation. In instances where an individual exercises executive, policymaking or decisionmaking authority, and such an individual has played a significant role in orchestrating

9504367744

prohibited corporate contributions and expenditures, that individual is treated as a corporate officer or director for the purposes of section 441b liability. See General Counsel's Report dated June 8, 1990 in MUR 2840.[26]

E. Kenneth Twichell is squarely within this functional definition of a corporate officer or director. Testimony was uniform that Mr. Twichell was responsible for the day to day operation of NAREA, and that he was second in command to Robert Johnson. See E. Kenneth Twichell Deposition at 118. Robert Johnson Deposition at 50. He also had authority to hire and fire employees of the Associations, and exercised this authority. E. Kenneth Twichell Deposition at 74-76. Moreover, E. Kenneth Twichell played a significant role in the Associations' prohibited corporate expenditures, and stated under oath that the

9504367045

---

26. A functional test has been used by the courts in construing other federal statutes. For example, the courts have looked at an employee's actual job responsibilities, and not mere title, in determining whether an individual is an officer within section 16(b) of Securities Exchange Act. C.R.A. Realty Corp. v. Crotty, 878 F.2d 562 (2nd Cir. 1989) (citing cases) ("employee" not an "officer" despite official title). Similarly, in interpreting the Labor-Reporting and Disclosure Act, a functional test has also been used. See Marshall v. Local Lodge, 1784, International Association of Machinists and Aerospace Workers, AFL-CIO, 509 F. Supp. 90 (D. Maryland 1981) (delegates to union lodge constitute "officers" due to grant and exercise of policymaking authority). Most recently, the Eleventh Circuit construed the Age Discrimination in Employment Act to conclude that a member/shareholder of a professional corporation functioned as a "partner" rather than "employee" eligible to sue under this statute. Fountain v. Metcalf, Zima, & Co. P.A., 925 F.2d 1398 (11th Cir. 1991) (citing cases).

mailings were undertaken at his initiative.[27] Under these circumstances, whatever Mr. Twichell's official title may be, he is appropriately liable in his corporate capacity for consenting to the contributions in question. Consequently, this Office recommends that the Commission find probable cause to believe E. Kenneth Twichell violated 2 U.S.C. § 441b(a).[28]

The Commission initially found reason to believe E. Kenneth Twichell violated 2 U.S.C. § 441a(a)(1)(A). This section of the Act limits individuals to contributing $1,000 per election to the authorized committee of a candidate. The Commission made this determination by relying upon Mr. Twichell's initial statements that he had personally paid for the Bush Mailings. As developed above, the payments in question appear to have been made by NAREA and the other Associations, although Mr. Twichell was directly involved in this process in his capacity of a corporate official. Consequently, it does not appear that Mr. Twichell exceeded his personal contribution limitation and this Office recommends that

9504367746

---

27. E. Kenneth Twichell's authority did not extend to all facets of NAREA's operations. For example, he testified that he did not see the financial statements regularly provided to the Associations by their accounting firm. E. Kenneth Twichell Deposition at 126-27. Mr. Twichell did not have check signing authority for either NAREA or the other corporations. See E. Kenneth Twichell Deposition at 114-15. Robert Johnson was the person who was the person who was primarily responsible for the fiscal management of the Associations, and who authorized corporate for expenses, including expenses made regarding the Bush mailings. Thus, while it is appropriate that E. Kenneth Twichell be held liable in his capacity of a corporate officer, he is not the sole corporate officer responsible for these corporate expenditures.

28. The knowing and willful aspect of these violations is discussed at Section IV.

the Commission find no probable cause to believe E. Kenneth Twichell violated 2 U.S.C. § 441a(a)(1)(A).[29]

III. CORPORATE PAYMENTS FOR CONTRIBUTIONS

Another aspect of this matter are allegations that the E. Kenneth Twichell was reimbursed for the $10,000 contribution he made to the Presidential Trust, a project of the Republican National Committee. Robert Johnson identified himself as a trustee of the Presidential Trust. Robert Johnson Deposition at 254. On September 19, 1989, the Commission determined that there was reason to believe E. Kenneth Twichell violated 2 U.S.C. §§ 441b(a) and 441f.

A. The Investigation

E. Kenneth Twichell and Robert Johnson have steadfastly denied any reimbursements occurred. At his November 2, 1991 deposition, E. Kenneth Twichell denied that the Associations had reimbursed his contributions. See E. Kenneth Twichell Deposition

---

29. The Commission also found reason to believe E. Kenneth Twichell violated 2 U.S.C. § 441d(a). This section of the Act provides that whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate, or solicits any contribution through any broadcast station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public political advertising, such communication shall clearly state the name of the person who paid for the communication and state whether the communication is authorized by the candidate or the candidate's committee. Again, believing Mr. Twichell to be the source of payments made for the Bush letters, the Commission determined that the Bush letters required a disclaimer, and that Mr. Twichell was the person who should have affixed this disclaimer. Although he wrote a check to NAREA purportedly in payment, NAREA and the other corporations actually paid massive amounts for the Bush letters, and NAREA apparently paid Mr. Twichell back for his check. Therefore, this Office will recommend that the Commission take no further action against Mr. Twichell regarding this violation.

9504367047

at 264-5.[30] Robert Johnson also specifically denied reimbursing anyone for any contributions. See Robert Johnson Deposition at p. 286. Timothy Cloud, the Associations' computer room operator who also made a $10,000 contribution to the Presidential Trust on the same day as Mr. Twichell, also denied that corporate reimbursements had occurred. Timothy Cloud Deposition at 89-109.

Nevertheless, the investigation in this matter reveals a clear pattern of contributions by persons closely associated with

---

30. These denials were first made in affidavits submitted by respondents following reason to believe determinations. They are summarized below:

E. Kenneth Twichell Affidavit of 10/16/89: ¶ 4. I have never received any company checks in any amount from any of the organizations listed in the factual and legal analysis for personal checks I wrote for the Bush for President Campaign.

¶ 5. I have never been reimbursed for campaign contributions....

¶ 6. I have never made a contribution in my name knowing that the contribution was consented or contributed from an expenditure by a corporation or by any corporate officer or director of a corporation.

Robert Johnson Affidavit of 10/15/89: ¶ 7. I know of no corporate officer or director or any corporation of which I am affiliated with that has contributed money to a federal election in the name of another person.

Robert Johnson affidavit of 11/2/89: ¶ 5. I have never caused any checks to be drawn on the account of any company or association listed in ... the Factual and Legal Analysis of MUR 2984 for the purpose of directly or indirectly benefiting any candidate for federal office or any political party of [sic] 1988.

¶ 8. I have never used company funds to make contributions for the Bush for President Campaign....

¶ 9. I know of no checks originating from NAREA, NARA/MU, or IAM which were used to reimburse employees for personal checks for the Bush campaign.

9504367048

Robert Johnson, which were either paid from, or reimbursed from corporate funds. The evidence further reveals that E. Kenneth Twichell was reimbursed from NAREA's corporate till for certain contributions and consented to such contributions in his capacity as NAREA's managing director. Moreover, these corporate dollars flowed through E. Kenneth Twichell's personal checking account, and the contributions were then made using his name. Thus, he permitted his name to be used to effectuate corporate contributions. As discussed below, this scheme enabled tens of thousands of prohibited corporate dollars to flow into federal elections in 1988.

These illegal contributions were made over a period of months, beginning in January of 1988 and ending in July of that year. They range in amount from the $156 E. Kenneth Twichell paid to the federal account of a state party committee, to the $10,000 he paid to the Presidential Trust, a federal fundraising operation of the Republican National Committee. This Office has received documents relating to these contributions from the Associations themselves and from the recipient entities. Corroborating testimony was provided from a number of witnesses. Regarding some of the contributions, the documentary evidence conclusively demonstrates the prohibited contributions and thus contradicts respondent's repeated sworn denials. As to others, the consistent pattern of corporate payment coupled with individual contribution

9504367049

defies coincidence.[31] All in all, there is probable cause to believe E. Kenneth Twichell was an intricate part of a scheme to illegally convert substantial corporate funds for use in connection with federal elections.

These contributions are discussed chronologically below. They are also summarized in the chart attached to this brief. Contributions other than those of E. Kenneth Twichell are included in order to show the persistent pattern of illegality.

1. January 1988 - George Bush for President, Inc.

The first set of illegal contributions involves five contributions made to the Bush for President Committee in January, 1988. The Bush Committee reported receiving contributions from E. Kenneth Twichell and his wife, Tamara Twichell, as well as, Todd Johnson (Robert Johnson's adult son), and Stephen Schneck and his wife Mary Schneck. Mary Schneck is Robert Johnson's sister; her husband is employed with the Associations. Examination of materials provided by respondents, as well as of the Commission's matching fund records provided by the Bush Committee, shows that on January 25th and 26th, E. Kenneth Twichell, his spouse Tamara K. Twichell, Todd Johnson

2504367050

---

31. The Commission repeatedly subpoenaed all contemporaneous supporting documents which would demonstrate the legitimate corporate purpose of these payments. Robert Johnson and E. Kenneth Twichell both vigorously maintained that none exist.

and Stephen L. Schneck each issued $1,000 checks to the Bush Committee.[32] In this same two day period, Associations' checks were written to each of these employees in amounts exceeding the contributions involved.

Specifically, on January 25, 1988, NAREA issued a check to E. Kenneth Twichell, in the amount of $2,400. The accompanying NAREA check register describes this payment to its managing director as a "bonus." The check was made out by Robert Johnson and signed by him.[33] In the Twichell's check register, Tamara Twichell recorded the deposit of $2,280 (the proceeds of this check less $120) on January 26th as a "bonus check." That same day, the Twichells each wrote separate checks for $1,000 to the Bush Committee.

On January 25, 1988, Stephen Schneck wrote a check for $1,000 to the Bush Committee, enclosing a contribution card signed by him and his spouse splitting the contribution between them. On January 26th, the International Institute of Valuers (also known as IREI) issued check number 7720 to Mr. Schneck for $1,150,

9504367051

---

32. Mr. Schneck's check was drawn on his joint checking account and signed by him. It appears that his spouse, Mary Schneck, indicated her intent to contribute one half of the contributed amount using a signed writing. See 11 C.F.R. § 110.1.

33. As previously noted, Robert Johnson had signature authority on all of the Associations' checking accounts. It appears that Deborah Johnson also signed his name to corporate checks. Based on a comparison between Robert Johnson's signature as identified by him at his deposition, Robert Johnson Deposition at 266-67, and as it appears on affidavits signed by him, this check appears to be one signed by him. Checks noted in Sections III.A.2. (NAREA checks for $520 and $500), III.A.3a. (NAREA check for $156), and III.A.3b. (two NAREA checks for $1,000) appear to have been signed on Mr. Johnson's behalf.

described in the check register as "Reimbursement for Seminar Expenses." Also on January 26th, Todd Johnson wrote a check for $1,000 to the Bush Committee. On the same day, Robert Johnson wrote his son a check for $1,155 drawn on the account of Todd Publishing, Inc. The memo line is blank; it is described in the check register as "Reimbursement for Printing Costs."

At his deposition, Mr. Twichell could not recall whether or not he had been solicited to make this contribution. E. Kenneth Twichell Deposition at 202-07. He did, however, recall details regarding the actual making of his contribution. He testified that his and his spouse's contributions were made independently of each other, that he and his spouse made out their checks at different times, and that he forwarded his check by mail to the Bush Committee in an envelope containing only his check and no other checks. Id. at 209-11.

At his deposition, Mr. Twichell did not specifically recall the January 25, 1988 $2,400 bonus check from NAREA, but nevertheless asserted that it was for work that he did at the office and that it was a "[g]eneral bonus for working hard." E. Kenneth Twichell Deposition at 261. He further speculated that he must have told his wife that the NAREA check was a bonus check since it did not indicate this information on its face, yet Mrs. Twichell wrote this description of it in the check register. Id. at 262-63. He further denied that there was any connection between this corporate check and their contributions made the same day it was deposited. Id. 261. Nonetheless, the Twichells' check register establishes that except for their house payment, the Bush

9504367052

checks were substantially larger than any of their other checks for that month and the next month, and that absent the "bonus" the Twichells lacked sufficient funds to cover both these checks.

Mr. Twichell's testimony also appears less than credible regarding the transmittal of his contribution to the Bush Committee. The Bush Committee's matching fund records cast doubt on Mr. Twichell's testimony that he separately forwarded his contributions check and instead strongly suggest that at least three of the four contribution checks were forwarded together. Specifically, the Committee deposited the checks of E. Kenneth Twichell, Tamara Twichell, and Stephen Schneck as part of the same deposit on the same day, February 28, 1988. The Bush Committee made at least seven separate deposits of contributions on this date. The batch/sequence numbers of the three deposited items of the Twichell's and the Schneck's checks are consecutive. It appears most unlikely that these three checks would be listed sequentially as part of the same deposit on the same date if E. Kenneth Twichell's check was sent separately as he testified.

The Schnecks and Todd Johnson also denied that they were reimbursed for their contributions. None of the respondents have offered an explanation for this unusual coincidence of five persons associated with Robert Johnson purportedly independently deciding to contribute to the very same political candidate and within the same period receiving funds from these three

9504367053

corporations.[34]

2. March 1988 - Durenberger for U.S. Senate '88

The second pattern of reimbursed contributions occurred in March, 1988. Robert Johnson organized a fundraiser in Phoenix, Arizona for the Durenberger for Senate Committee in March of 1988. The Durenberger Committee provided to the Commission a letter dated March 3, 1988, and signed by Mr. Johnson. It states: "Enclosed are three checks, each for $500.00 for the Sunday, March 6th fund raiser here in Phoenix. The funds are for myself (Robert G. & Deborah S. Johnson), E. Kenneth Twichell, and Stephen & Mary Schneck." In turn, the Durenberger Committee disclosed receiving contributions of $500 from E. Kenneth Twichell on March 9, 1988. It also disclosed contributions from the other persons noted in the letter on this date.

At his deposition, E. Kenneth Twichell identified his check number 733, dated March 4, 1988, as his $500 contribution to the Durenberger Committee. This contribution is noted in the Twichells' check register as "Contribution" and notes the date as March 4, 1988. On that very same date, E. Kenneth Twichell received two checks from the Associations. NARA/MU paid Mr. Twichell his regular salary of $1,033.03. NAREA wrote a second check numbered 8815 for $520. This check and the NAREA check register both contained notations that the purpose of the

95043670754

---

34. These reimbursed corporate contributions made to the Bush Committee were submitted for matching funds pursuant to 26 U.S.C. § 9031 et. seq. Thus, these corporate contributions were in part matched by dollars from the public fisc.

check was for seminar reimbursement.[35]

The Twichells deposited these two checks into their checking account on March 6, 1988. It appears that $20 was returned to the depositor, because the total deposit was for $1,533.03, i.e. $1,033.03 and $500. The Twichell's check register explicitly describes this transaction as "Ken's Paycheck + 500 to cover check." Based upon the documents produced by the Twichells, it appears that this $500 check written to the Durenberger Committee was the only check of that amount written by the Twichells for all of 1988. Thus, notwithstanding the described corporate purpose of seminar reimbursement, Tamara Twichell's contemporaneous recording of the transaction clearly links the NAREA corporate check to the $500 contribution to the Durenberger Committee and is strong evidence that NAREA paid Mr. Twichell for his campaign contribution.

The conclusion that E. Kenneth Twichell's contribution was reimbursed is strengthened by the irrefutable evidence that NAREA reimbursed another contribution made simultaneously with E. Kenneth Twichell's. Specifically, the March 3rd letter noted above purported to enclose a $500 contribution check for Stephen Schneck. Although Mr. Schneck denied that the Associations reimbursed him for his contributions, the Durenberger Committee produced to this Office certain materials relating to contributions made by the named respondents. The materials include a bank check drawn on Valley National Bank of Scottsdale,

---

35. Although this check contains the purported signature of Robert Johnson, it appears that it was signed on his behalf.

9504367075 5

Arizona and payable to the Durenberger Committee. The check is numbered 51289, dated March 4, 1988, and lists the name "Stephen L. Schneck" on the front of the check. On March 4, 1988, the same day Mr. Twichell was reimbursed for his Durenberger contribution noted above, and the same day as the $500 cashier's check (number 51289) was submitted to the Durenberger committee, NAREA issued check number 8816 for $500, payable to "cash." The check's memo line states its purpose as "office supplies," but the back contains the handwritten words "Durenberger for U.S. Senate 88" and "Stephen L. Schneck," as well as Valley National Bank's endorsement that the NAREA check paid for "Cashier's Check No. 51289," i.e. the cashier's check representing Stephen Schneck's purported contribution.

3. May 1988

a. The Arizona Republican Party

As described in Section II of this brief, Robert Johnson and E. Kenneth Twichell, using the facilities of the Associations, conducted a mass mailing that included solicitations sent to Arizona Republican voters. According to the Arizona Republican Party, a registered federal political committee, E. Kenneth Twichell purchased mailing labels for this aspect of the mailings using check number 814 drawn from his personal checking account. A copy of that $156 check, dated May 10, 1988 and payable to "AZ. Republican Party," was provided to the Office of the General Counsel by this political committee. As illustrated below, NAREA also reimbursed its managing director for this payment.

Specifically, NAREA wrote a check to E. Kenneth Twichell in

9504367075 6

the same amount of $156 and on the very same day, May 10, 1988. The check is numbered 9093 and its purpose as noted on the face of the check and on the check register is "Seminar Expenses." Respondent Twichell was provided with an opportunity to explain this transaction at his November 2, 1990 deposition. Although he initially identified his wife's notation in their check register as a check written to the "Arizona Republic Party," E. Kenneth Twichell Deposition at 223, after objections by his counsel he became less certain. Id. at 225.[36] He did, however, note that this was "a very funny dollar amount." Id. at 223. When asked whether he had received the corporate check of $156 as a reimbursement for his personal check for this same amount written on the same day, he could only reply "Not that I remember." Id. at 228. Although he could not recall a specific trip associated with this payment, he asserted that the payment was for a seminar expense as indicated on the check stub. Id. at 229.

In fact, the copy of the check provided by the Arizona Republican Party shows that Mr. Twichell's initial statement that the check went to the Arizona Republican Party was quite correct. Moreover, the Twichell's check register confirms the connection

9504367057

---

36. Indeed, by letter dated January 4, 1991, counsel continued to argue that this check register entry reflected something other than a check written to the Arizona Republican Party. He stated "[w]ith regard to the statement about the Arizona Republican party, I vehemently disagree with you [sic] characterization that Mr. Twichell may have written a check to that entity. That was never established during the lengthy interrogation by Mr. Bernstein." Mr. Twichell has never produced this particular check despite Commission subpoenas calling for all documents reflecting financial activity between Mr. Twichell and "any political party."

between his May 10th $156 personal check and the May 10th NAREA check to him for $156: Mr. Twichell's spouse notes the transaction as "Deposit from NAREA to cover a check." Thus, NAREA paid indirectly for mailing labels used in the Associations' mass mailings, it made this indirect payment using the personal checking account of its managing director, and the evidence shows that the notation of purpose of "Seminar expenses" is false.

b. Durenberger for U.S. Senate '88

As noted earlier, E. Kenneth Twichell and Robert Johnson wrote checks for $500 primary election contributions to the Durenberger Committee in March, 1988.[37] In May of that year the Durenberger Committee reported additional $500 contributions from E. Kenneth Twichell and Robert Johnson. As now discussed, cashier's checks were purchased with corporate funds in the names of these two corporate officials and contributions then made to a federal candidate.

Specifically the Durenberger for Senate Committee reported receiving a contribution on May 12, 1988 from Robert Johnson. It also reported receiving a contribution from E. Kenneth Twichell on May 27, 1988. At his deposition Robert Johnson admitted attending a 1988 fundraiser for the Durenberger Committee in the Minnesota home of his attorney, D. Randall King. Robert Johnson Deposition at 217. Robert Johnson further stated he "probably" made a contribution to this Committee. Robert Johnson Deposition at

9504367075 8

---

37. As discussed previously, it appears Mr. Twichell was reimbursed by NAREA for this contribution made in his name.

282.[38]

The Durenberger Committee provided this Office with materials relating to the fundraising event including check copies from contributors and copies of contributor cards to the May 1988 fundraising event.[39] The Durenberger Committee also provided copies of two consecutively numbered cashiers' checks payable to the Durenberger Committee and drawn on Valley National Bank of Arizona. Each check is dated May 25, 1988. Check Number 55243 was for $500 and lists Robert Johnson's name on the front. Check Number 55244 was for $500 and lists E. Kenneth Twichell's name on the front. Both men personally signed contributor cards indicating their attendance at the May 21, 1988 fundraising event, and purporting to enclose contribution checks, presumably the cashier's checks.[40]

9504367075 9

---

38. Mr. Twichell denied making a contribution to the Durenberger Committee in May of 1988, testifying that he made but a single $500 contribution to the Durenberger Committee as represented by his March 1988 check numbered 733 that was discussed with the reimbursed March 1988 contributions. E. Kenneth Twichell Deposition at 213. Mr. Twichell was unable to state why the Durenberger Committee listed a receipt date from him as May 12, 1988 on its reports, but suggested that because he had contributed only $500 to this committee in March of 1988 their "accounting is two months behind." Id. at 214. Mr. Twichell did recall attending a fundraiser for Senator Durenberger in Minnesota and information obtained from the Durenberger Committee indicates that this event was held in May 1988.

39. Testimony also indicates that the Associations may have made corporate expenditures for a mailing to Minnesota members in connection with this fundraising event for Senator Durenberger. Jean Johnson Deposition at 46-47; Rossi Affidavit at ¶ 9.

40. The printed contributor cards indicate the contribution amount requested was $100, but on both contributor cards the $100 is changed to $500. As redacted, the checked box states "Yes, I will be attending and enclosed is my $500 contribution."

Once again, a search of NAREA's financial records reveals the source of these funds contributed by its president and managing director. Specifically, on May 25, 1988 this corporation wrote check number 9163 to "cash" for $1,000. The purpose of this check was noted on the check memo line and in the check register as "St. Paul Program," an apparent attempt to portray this expenditure as one of the many seminars put on by the Associations. The information on the back of this corporate check, however, reveals that the "Program" it funded was not an NAREA seminar: Valley National Bank's endorsement on the back of the check reads "500.00 each cashier's check no. 55243 55244 Issued the Within Payee." Id. Thus, the evidence demonstrates that a corporate check drawn on the NAREA's account was used to purchase two cashier's checks in the names of E. Kenneth Twichell and Robert Johnson. Mr. Twichell and Mr. Johnson then used these two cashier's checks to contribute NAREA corporate funds to the Durenberger Committee in their names. Moreover, each signed the contribution card indicating that the contribution as his own, when, in fact, the evidence clearly indicates that the funds were those of NAREA.

9504367076O

3. July 1988 - The Presidential Trust

In the summer of each year, NAREA was flush with cash derived from annual membership renewals.[41] Therefore, witnesses testified,

---

41. In response to interrogatories, NAREA produced a membership application form indicating that once a year, on June 1st, NAREA billed its members for the $95 annual membership dues. See October 11, 1988 Response. Mr. Twichell confirmed the June 1 renewal date, but remembered the annual dues to be $85 rather than $95. E. Kenneth Twichell Deposition at 126. Consequently,

the Associations regularly paid bonuses to employees at the end of the membership drive. Specifically, records show that on July 5, 1988 NAREA paid E. Kenneth Twichell a bonus of $20,000. Additionally, on July 1, 1988, NAREA paid Timothy Cloud a $1,000 bonus. Shortly thereafter, on July 19, 1988, NAREA again made payments to these two individuals, this time in the amounts of $10,000 each. On that very same day, E. Kenneth Twichell and Timothy Cloud each contributed exactly this amount to the Presidential Trust, a fundraising arm of the Republican National Committee.

The following facts are undisputed. NAREA issued check number 9470 on July 19, 1988, in the amount of $10,000 to E. Kenneth Twichell. Robert Johnson signed this check. No purpose is noted on the face of the check. The check register contains two entries noting the purpose of the check. The top entry notes "Moving Expense;" the entry beneath it has been crossed out and is partially illegible. The same $10,000 was deposited into E. Kenneth Twichell's joint checking account on the very same day. The $10,000 deposit is described in his personal check register by Tamara Twichell as "Deposit (from Ken's boss)." Immediately beneath this deposit is an entry for the Twichell's personal check number 952. This check, also dated July 19, 1988, was written to the Presidential Trust and signed by E. Kenneth Twichell.

9504367061

(Footnote 41 continued from previous page)
membership dues were received throughout the month of June.

NAREA issued a second check for $10,000 on July 19, 1988. The recipient of this check was Timothy Cloud. The check in question was consecutive in number to the one issued to E. Kenneth Twichell. Robert Johnson also signed this check and, again, did not note a purpose on the face of the check. NAREA's check register contains a single entry describing this check as for "Moving Expense." Timothy Cloud deposited this $10,000 into his checking account on July 19, 1988. His balance prior to this deposit was $23.76. Also on this date Timothy Cloud issued his personal check number 428 for $10,000 to the Presidential Trust.

Under oath, Robert Johnson, E. Kenneth Twichell and Timothy Cloud all stated that these payments were made by the Associations for activities Mr. Twichell and Mr. Cloud performed in connection with an office relocation. Moreover, both Mr. Twichell and Mr. Cloud testified that these two $10,000 contributions were made independently of each other and were made because each had the necessary funds and wished to do so. Neither one denied, however, that the $10,000 contributed to the Presidential Trust was anything other than the very same $10,000 given by the Associations. Thus, the only fact in dispute is whether they received their $10,000 checks in order to contribute to political committees.

In that regard, Mr. Twichell and Mr. Cloud tell similar stories. According to their account, in July 1988 the Associations moved their offices and respondents assisted in this effort. Mr. Twichell was also said to have supervised construction of the Associations' new building. Timothy Cloud was

9504367062

said to have supervised the installation of the computer system in the new offices. Because of the purported high costs of professional movers, E. Kenneth Twichell and Timothy Cloud allegedly moved the office's contents using Mr. Twichell's pick up truck and Mr. Cloud's car. These tasks allegedly encompassed more than Mr. Twichell's and Mr. Cloud's usual hours. According to their testimony, they expected to be rewarded for their efforts by the Associations, but had no agreement with Mr. Johnson regarding what, if any, compensation they would receive.

Mr. Twichell and Mr. Cloud were said to have moved the entire contents of the offices, including files, boxes, computers, and furniture. E. Kenneth Twichell Deposition at 239-42.[42] Contrary to this representation, this Office has learned that they greatly exaggerated the scope of their activities regarding the office move. Furniture was not moved from the old office to the new office because according to one witness, Mr. Johnson purchased "all new office furniture" for the new offices. Patricia Davidson Deposition at 130.[43] Jean Johnson also noted that a new computer system was installed in the new building. Jean Johnson Deposition

9504367076 3

---

42. Mr. Twichell further noted that the Associations had movers remove contents of storage bins, but that he and Mr. Cloud handled the contents of the office. E. Kenneth Twichell Deposition at 245.

43. The Office of General Counsel has located copies of checks evidencing payments for this new furniture. Specifically, on May 9, 1988 NAREA paid $7,000 to Designers Research using check number 9084, with the purpose of this check noted in the lower left corner of the instrument as "Office Furniture." Additionally, on July 6, 1988 NAREA paid $1,976.70 to D&D Inc. with the lower left hand corner of this check listing the purpose of the check as for "Furniture".

at 105. More significantly, it appears E. Kenneth Twichell was not truthful when he claimed that he and Mr. Cloud moved the entire office themselves.[44] Again, witness testimony reveals that the Associations hired professional movers who moved the contents of the office except the computers. Patricia Davidson Deposition at 129.[45]

As illustrated above, key components of the explanation for the $10,000 payments have been undercut: the use of professional movers necessarily diminishes the roles allegedly played by E. Kenneth Twichell and Timothy Cloud; and the purchase of new furniture indicates that less than the entire office was moved.

Because Mr. Twichell, Mr. Johnson, and Mr. Cloud have all given other than credible accounts of the circumstances surrounding NAREA's two $10,000 payments, greater weight must be given to the testimony of witnesses that these sums were given with the express purpose so that E. Kenneth Twichell and Timothy Cloud could contribute to the Presidential Trust. Persons who were employees of the Associations testified that E. Kenneth

9504367064

---

44. Todd Johnson (Robert Johnson's adult son) and "the mail room kid" were also mentioned as possibly helping with the move, but testimony was uniform that the bulk of the work was done by Mr. Twichell and Mr. Cloud. E. Kenneth Twichell Deposition at 245-46.

45. Mrs. Davidson initially testified that the Associations hired a moving company to conduct the move but subsequently became confused by the phrase "professional movers." When the question was clarified she testified that persons not regularly employed by the Associations conducted the move, they were paid for this activity, and they did not do a very good job. Patricia Davidson Deposition at 131-33. On July 7, 1988 NARA/MU paid $1,488.75 to All Methods Moving Systems which may have been a payment for this service.

Twichell and Timothy Cloud received these payments in order to make political contributions. Specifically, Jean Johnson testified that paying Timothy Cloud $10,000 was "far too much" for a bonus. Jean Johnson Deposition at 33. She also stated that she had heard around the office that Timothy Cloud had made a $10,000 contribution using money given to him by the Associations. Jean Johnson Deposition at 25 and 29. Additionally, she testified that she had conversations with Mr. Cloud in which he stated he had made a copy of the $10,000 check given to him by Robert Johnson in order to protect himself from possible income tax liability. Id. at 29-31. Mrs. Johnson testified that although Mr. Cloud never specifically stated that there was a quid pro quo between the check written by the Associations and Mr. Cloud's contributions, she drew this conclusion. Id.

Witness Patricia Davidson also was certain that the reimbursements occurred. Her knowledge came from her discussions with other employees as well as from at least two personal discussions with Mr. Cloud regarding the impermissibility of the reimbursements. She testified:

> Well, to my knowledge what I remember hearing about was that Mr. Johnson had written them [E. Kenneth Twichell and Timothy Cloud] each $10,000 checks, and that they had in turn contributed $10,000 to the campaign, or had contributed $10,000 to the campaign, you know, simultaneously. They certainly didn't have -- I know Tim didn't have $10,000 to contribute.

Patricia Davidson Deposition at 142. According to Mrs. Davidson she discussed this situation with Mr. Cloud on at least two

9504367065

occasions. The first such instance occurred in the Associations' computer room where Mr. Cloud informed her that Mr. Johnson had given him $10,000, that Mr. Cloud had put this amount into his account, and that Mr. Cloud had then contributed that amount to a political committee.[46] Patricia Davidson Deposition at 144. Mrs. Davidson related a second conversation that she had with Mr. Cloud regarding Mr. Cloud's reimbursed contributions. She stated she called Mr. Cloud because she was concerned that he would not tell the truth to the Federal Election Commission regarding the contributions in question. Id. at 148. Her concern for Mr. Cloud stemmed from the fact that she believed that he had made the contribution in question because he feared for his job. Id. at 144.

Mrs. Davidson also discussed Mr. Twichell's $10,000 contribution with him when she inquired about the origin of a presidential tie that he was wearing. At that time Mr. Twichell confirmed that he had made such a $10,000 contribution. Patricia Davidson Deposition at 148-49. Additionally, Timothy Cloud also told Mrs. Davidson that Robert Johnson also wrote a check for $10,000 to E. Kenneth Twichell and that Mr. Twichell was told to contribute to the campaign. Id. at 149. Thus, there is evidence that Mr. Cloud informed others that his contribution and that of E. Kenneth Twichell were both from the funds of the Associations.

---

46. Mrs. Davidson identified the recipient committee as the Bush for President Committee, but the recipient was actually the Presidential Trust.

9504367076 6

Other evidence bolsters the case that the two men received their $10,000 checks with the expectation that they would contribute to the Presidential Trust. For example, NAREA's check register for the first check that was written, Mr. Twichell's, contains an entry that was scratched over and is partially illegible. A careful examination of this reveals what appear to be the letters "R-e-i-m-b-u-r-s-". At his deposition Robert Johnson was asked whether this word looked like "reimbursement." He responded negatively, and stated he could not figure out what it might have said. Robert Johnson Deposition at 268. Further, although the two $10,000 payments have been characterized as rewards for moving assistance, both men had already received substantial bonuses just two short weeks before the $10,000 payments. E. Kenneth Twichell received a $20,000 bonus on July 5, 1988. E. Kenneth Twichell Deposition at 247. Timothy Cloud testified he received a "substantial raise" near the time of the office move. Timothy Cloud Deposition at 98.[47] It seems particularly implausible that the Associations would then award two more substantial bonuses in close proximity in time to the first set of bonuses.[48]

Consequently, in light of the misrepresentations regarding

---

47. A review of the financial statements of NAREA reveals that Mr. Cloud received a $1,000 bonus at this time and not a salary increase.

48. At the time Mr. Cloud received the funds with which to make this contribution he had only $23.76 in his checking account, made a salary between $16,000 and $18,000 per year, and regularly had checks returned for insufficient funds. Additionally, he testified he had never before, nor has never since, made a contribution to any other political committee.

9504367007667

respondent's activities surrounding the move, the testimony of witnesses that Mr. Cloud stated to witnesses that he and Mr. Twichell had indeed been given these funds in order to contribute to the Presidential Trust, the partially illegible notation in NAREA's checkbook and the evidence above that respondents had been reimbursed by the Associations for other contributions, there can be little doubt but that these $10,000 contributions also were reimbursed. Consequently, it appears E. Kenneth Twichell consented to this corporate contribution and permitted his name to be used to effectuate this contribution.

F. Violations of the Act

As illustrated above, the Associations' books and records are replete with instances where payments were made to individuals who shortly thereafter contributed a like amount to federal political committees. In three instances there is irrefutable proof that corporate funds paid for cashier's checks purchased in the names of corporate officials who subsequently made political contributions. In other instances contemporaneous personal check register entries specifically connect the Associations' checks and personal contributions. Although Robert Johnson and E. Kenneth Twichell have denied that the reimbursements occurred, they have not offered any evidence indicating that these corporate payments were bona fide business expenses. Consequently, and in view of their other misrepresentations regarding the Bush letters, it appears the Associations made corporate contributions in the names of others. Moreover, the evidence is clear that E. Kenneth Twichell, as the managing director of NAREA consented to these

9504367076 8

corporate payments. This conclusion is most compelling in instances where the funds entered and left his personal checking account and where his name was then used to effectuate the corporate contribution.

Pursuant to 2 U.S.C. § 441f, no person shall make a contribution 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 person. Additionally, the Act prohibits corporations from making contributions in connection with a federal election, and prohibits officers and directors from consenting to such corporate contributions. 2 U.S.C. § 441b(a). The Act defines a contribution to include "any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value."

In the instant case, NAREA made numerous contributions using the name of E. Kenneth Twichell. Moreover, Mr. Twichell as managing director of NAREA and the person in charge of its day to day operations, consented to these contributions.[49] Consequently, the Office of the General Counsel recommends that there is probable cause to believe E. Kenneth Twichell violated 2 U.S.C. §§ 441b(a) and 441f. As discussed below, this Office further recommends that these violations were knowing and willful.

IV. KNOWING AND WILLFUL VIOLATIONS

This brief has related a pattern of serious violations of the

---

49. Mr. Twichell's status within NAREA is discussed at Section II.F.

9504367069

Act including a massive direct mail project advocating the election of George Bush and soliciting contributions to his campaign in which E. Kenneth Twichell was intricately involved. Moreover, the pattern of violations also includes corporate reimbursements of Mr. Twichell and other individuals. Again, this activity, particularly those contributions made using NAREA funds and using Mr. Twichell's name, was undertaken with the specific knowledge and consent of E. Kenneth Twichell. The net effect of these activities was to infuse corporate dollars into the federal political process, in express violation of federal law.

The evidence also demonstrates that the violations detailed herein are knowing and willful violations of law. The Act provides that the Commission may find probable cause to believe knowing and willful violations of the Act have occurred. See 2 U.S.C. § 437g(5)(C). In order to prove a knowing and willful violation, the respondents must not only have committed specific acts prohibited by the FECA, they must have done so with an active awareness that they were violating the law when the illegal act was done, or done so with an evil motive or purpose. See, e.g., Morissette v. United States, 342 U.S. 246 (1952); AFL-CIO v. Federal Election Commission, 628 F.2d 97 (D.C. Cir. 1980); National Right To Work Committee v. Federal Election Commission, 716 F.2d 1401 (D.C. Cir. 1983).

As an initial matter, there is no doubt that E. Kenneth Twichell was fully apprised of the applicable law yet nevertheless chose to conduct his illegal activities. He testified that he knew the maximum permitted contribution to be $1,000 per

9504367070

candidate, and that he knew this information at the time he made caused a $1,000 contribution by NAREA to be made using his name to the Bush Committee in January, 1988. E. Kenneth Twichell Deposition at 205. He also testified that he was aware that before he began his purported 800 piece mailing he knew that there were rules and regulations regarding federal elections and he called the Federal Election Commission to seek advice regarding how such a mailing might be conducted within the structures of the Act. E. Kenneth Twichell Deposition at 266-67. In fact, at his deposition, Mr. Twichell noted that he knew that there was nothing NAREA "could do as a company" and that any activities conducted to support the election of George Bush would have to be undertaken by him personally. Id. at 266. Thus, E. Kenneth Twichell was on notice of the Act's prohibitions and limitations.

The knowing and willful nature of the violations are further underscored by the evidence indicating that the mass mailings continued to go out in late March and into April of 1988, after the Bush for President Committee ordered Mr. Johnson to cease and desist from this activity and to so inform Mr. Twichell, and indeed even after the Commission formally notified NAREA of a complaint filed as a result of one of the early mailings. Thus, with full knowledge of the Act's prohibitions and limitations, and despite express warnings from others that these activities were prohibited by law, E. Kenneth Twichell assisted with a massive corporate-funded mail campaign, and these activities continued in spite of requests to cease them, and in the face of a possible government investigation.

9504367077 1

Next, plainly aware of the Act's contribution limitations and the prohibition on corporate funding, E. Kenneth Twichell participated in the Associations' hidden payments for federal campaign contributions. This evidence is particularly compelling regarding E. Kenneth Twichell's May 1988 contribution to the Durenberger Committee where he personally signed a contribution card indicating he was contributing to this committee, when, in fact, he knew that this contribution was made using corporate funds.

Respondent's full knowledge of the illegality of his activities is inferable too from the repeated false and perjured statements made to the government as part of the concerted attempt to cover up the illegal activities. E. Kenneth Twichell testified that he personally prepared the entire Bush solicitation effort and that this project was done solely by him, that he discovered the stamped reply cards in the Associations' offices, and that the mailings were sent to only a select number of NAREA members. Robert Johnson echoed these statements. To the contrary, the evidence indicates that the mailings were a huge undertaking of the Associations in which Mr. Twichell admitted his involvement, were common knowledge of the staff of the Associations, talked about by its staff, and involved the consent of the corporate officers. E. Kenneth Twichell also repeatedly denied under oath that the reimbursement activity took place, when the evidence shows that he was well aware that such activity had in fact occurred, and even used his personal joint checking account to effectuate these contributions. E. Kenneth Twichell

9504367072

made other false statements regarding his purported activities in earning the $10,000 used to contribute to the Presidential Trust. Mr. Twichell stated that he and Mr. Cloud moved the entire offices of the Associations without assistance. This statement is untrue.

Moreover, E. Kenneth Twichell contributed to the effort to deliberately manufacture evidence by creating a false invoice for submission to the Commission, and by submitting a backdated check from his personal account purportedly paying for costs associated with the mailings. He also stated that he had reimbursed NAREA for funds he purportedly expended, when he knew that the Associations had in fact made no contemporaneous attempt to recoup corporate expenses incurred for the mailings. His submissions contained other falsehoods. Mr. Twichell admitted that his purported basis for "select[ing]" the complainant to receive a letter was false. His further statement that he typed the response himself to avoid using corporate funds is contradicted by Patricia Davidson who testified that she typed this response. Additionally, the evidence is clear that for whatever funds E. Kenneth Twichell expended for the mailings, he was reimbursed for this amount by NAREA.

For all these reasons, this Office recommends that E. Kenneth Twichell's violations were in knowing and willful violation of the Act.

9504367073

V. GENERAL COUNSEL'S RECOMMENDATIONS

1. Find no probable cause to believe E. Kenneth Twichell violated 2 U.S.C. § 441a(a)(1)(A).

2. Find probable cause to believe E. Kenneth Twichell knowingly and willfully violated 2 U.S.C. §§ 441f and 441b(a).

9/13/91
Date

Lawrence M. Noble
General Counsel

Attachment
Chart

9504367077 4

ATTACHMENT

	Contributions[1/]	Corporate Activity	Donor Activity
1. a.	$1,000, E. Kenneth Twichell, Bush for President Committee, 1/26/88	NAREA check to E. Kenneth Twichell "bonus," $2,400, 1/25/88	Twichells deposit $2,280 as "bonus check" 1/26/88
b.	$1,000, Tamara Twichell, Bush for President Committee, 1/26/88		
2.	$1,000, Stephen Schneck, Mary Schneck, Bush for President Committee, 1/25/88	International Institute of Valuers (a.k.a. International Real Estate Institute) check to Stephen Schneck, "Reimbursement for Seminar Expenses," $1,150, 1/26/88	
3.	$1,000, Todd Johnson, Bush for President Committee, 1/26/88	Todd Publishing check to Todd Johnson "reimbursement for printing cost," $1,155 1/26/88	
4.	$500, E. Kenneth Twichell, Durenberger for Senate Committee 3/4/88	NAREA check to E. Kenneth Twichell "seminar reimbursement $520, 3/4/88	Twichells deposit $1,533.03 as "Ken's paycheck and $500 to cover check" 3/6/88
5.	$500, Stephen Schneck Durenberger for Senate, 3/4/88, cashier's check #51289	NAREA check to "Cash" for $500, "office supplies," 3/4/88, cashed at Valley National Bank, cashier's check #51289 Purchased	

9504367077 5

1/ The dates listed in the Contributions Category are the check dates. The dates listed in the Corporate Activity Category are taken from the checkbook registers of the Associations. The information in the Donor Activity category is drawn from information produced by the E. Kenneth Twichell and Timothy Cloud.

	Contributions	Corporate Activity	Donor Activity
6.	$156, E. Kenneth Twichell, 5/10/88, Arizona Republican Party	NAREA check to E. Kenneth Twichell, "Seminar Expenses" $156, 5/10/88	Twichells deposit $156 as "deposit from NAREA to cover a check" 5/11/88
7.	a. $500, E. Kenneth Twichell, Durenberger For Senate Committee, cashier's check #55244, 5/25/88 b. $500, Robert Johnson, Durenberger For Senate Committee, cashier's check #55243, 5/25/88	NAREA check to "Cash," for $1,000, "St. Paul Program," 5/25/88, cashed at Valley National Bank, Cashier's checks #55243 and #55244 purchased	
8.	$10,000, Tim Cloud, Presidential Trust, 7/19/88	NAREA check to Tim Cloud, "moving expenses", $10,000 7/19/88	Cloud checking account balance at time of $10,000 deposit: $23.76
9.	$10,000, E. Kenneth Twichell, Presidential Trust, 7/19/88	NAREA check to E. Kenneth Twichell "moving expenses" 7/19/88	$10,000 recorded in Twichell register as "from Ken's Boss"

9504367076

06C2788

SKADDEN, ARPS, SLATE, MEAGHER & FLOM

1440 NEW YORK AVENUE, N.W.
WASHINGTON, D.C. 20005-2107

(202) 371-7000

FAX (202) 393-5760

DIRECT DIAL
(202) 371-

BOSTON
BRUSSELS
CHICAGO
HONG KONG
LONDON
LOS ANGELES
NEW YORK
SAN FRANCISCO
SYDNEY
TOKYO
TORONTO
WILMINGTON

September 16, 1991

BY HAND

Jonathan A. Bernstein, Esq.
Assistant General Counsel
Federal Election Commission
999 E Street, Northwest
Washington, D.C. 20463

Re: MUR 2984
National Association of Real Estate Appraisers, Inc.; National Association of Review Appraisers and Mortgage Underwriters, Inc.; International Real Estate Institute, Inc. (a.k.a. International Institute of Valuers, Inc.); Todd Publishing, Inc.; Professional Women's Appraisal Association, Inc.; International Association Managers, Inc.; and Robert G. Johnson

Dear Mr. Bernstein:

Per your request, I am confirming in writing my September 12, 1991 oral request for information from the Federal Election Commission regarding the above-referenced matter. Specifically, I am seeking the names of the persons who are identified by membership number ("MEMBNO") on the attached computer printout.

As explained on September 12, 1991, this information is needed to adequately respond to the General Counsel's allegation that the Respondent mailed solicitations for contributions to more than approximately 800 members of the National Association of Real Estate Appraisers.

Thank you for your cooperation in this matter.

Sincerely,

Kenneth A. Gross

Attachment

91 SEP 16 PM 12:13

FEDERAL ELECTION COMMISSION

9504367077

All AZ04 Contributions
Sorted by date + Member #

```
2038gCbBBH001 records found
1032_CLE>  restore file AZ04.001
1032_CLE>  consider on
1032_CLE>  f all
261 BUSH001 records found
1032_CLE>  set bush002
1032_CLE>  f all
123347 BUSH002 records found
1032_CLE>  restore file AZ04.002
1032_CLE>  consider on
1032_CLE>  f all
264 BUSH002 records found
1032_CLE>  sort by dte seqn
1032_CLE>  p dte seqn job(a25) emp(a30) city(a15) state histls amt

%S1032-E-BADKEY, unrecognized keyword 'job' (LAYOUT expected)
1032_CLE>  p dte seqn job fmt (a25) emp fmt (a30) city fmt (a15) state histls amt
```

Deposit Dte	MEMBNO	JOB	EMP	City	STATE	Srce	Amount
09/17/1987	437953	Executive Director	Nat'l Assn. of Review Appraise	Scottsdale	AZ	AZ04	1000.00
01/28/1988	466140	Travel Consultant	Int'l Real Est. Inst.	Scottsdale	AZ	AZ04	1000.00
01/28/1988	466146	Managing Director	Nat'l Assoc. of Rl. Est. Appr.	Phoenix	AZ	AZ04	1000.00
01/28/1988	466147			Phoenix	AZ	AZ04	1000.00
01/28/1988	466148			Scottsdale	AZ	AZ04	500.00
01/28/1988	466149	Publication Director	Nat'l Assn. Review Apprs.	Scottsdale	AZ	AZ04	500.00
01/29/1988	466255	Book Publisher	Todd Publishing, Inc.	Scottsdale	AZ	AZ04	1000.00
02/09/1988	467598	Mgr.	SAS Airline	Chicago	IL	AZ04	100.00
02/09/1988	467599	CPA	Self-employed	Minneapolis	MN	AZ04	50.00
02/09/1988	467600		Retired	Fountain Hills	AZ	AZ04	100.00
02/10/1988	467702	General Contractor	KG Construction & Properties	Scottsdale	AZ	AZ04	1000.00
02/10/1988	467735		Retired	Glendale	CA	AZ04	100.00
02/10/1988	467784	Architect	Self-employed	Phoenix	AZ	AZ04	250.00
02/10/1988	467785	Banking	Valley National Bank	Tempe	AZ	AZ04	30.00
02/11/1988	467829	President	World Safety Organization	Doniphan	MO	AZ04	250.00
02/11/1988	467830			Doniphan	MO	AZ04	250.00
02/11/1988	467835	Real Estate Consultant	Self-employed	Glendale	CA	AZ04	50.00

9504367078

Deposit Dte	MEMBNO	JOB	EMP	City	STATE	Srce	Amount
02/12/1988	467844	Real Estate Appraisers	Appraisal Research, Inc.	Syracuse	NY	AZ04	25.00
02/18/1988	467904	Printer - Owner	Creative Litho, Inc.	Glendale	AZ	AZ04	1000.00
02/18/1988	467980	Bank Manager		Buyonne	NJ	AZ04	100.00
02/18/1988	468014	Printer	Self-employed	Tempe	AZ	AZ04	500.00
02/18/1988	468015		Self-employed	Tempe	AZ	AZ04	500.00
02/22/1988	439081	Real Estate Appraiser	Dallman Agency	Shawano	WI	AZ04	5.00
02/22/1988	448977		Self-employed	Columbus	OH	AZ04	50.00
02/22/1988	468523	Reg. Sales Mgr.	Sabena Belgian World Airlines	San Francisco	CA	AZ04	20.00
02/22/1988	468525	Real Estate Appraiser	Self-employed	Santa Maria	CA	AZ04	100.00
02/22/1988	468537	Financial Consultant	Klaers & Associates	St. Paul	MN	AZ04	50.00
02/22/1988	468709	Insurance Agent	J.A. Price, Inc.	Wayzata	MN	AZ04	500.00
02/22/1988	468710			Wayzata	MN	AZ04	500.00
02/22/1988	468711	Realtor	Self-employed	Bakersfield	CA	AZ04	10.00
02/22/1988	468724	Real Estate Broker	Self-employed	El Cajon	CA	AZ04	20.00
02/22/1988	468725	Owner	Copperstate Trophy Co.	Scottsdale	AZ	AZ04	50.00
02/22/1988	468726	Appraiser	Self-employed	Hyde Park	NY	AZ04	10.00
02/22/1988	468727	Realtor	Self-employed	Scottsdale	AZ	AZ04	100.00
02/22/1988	468728	Commerical Real Estate	Self-employed	Perkinston	MS	AZ04	100.00
02/22/1988	468949	Real Estate	Self-employed	Columbia	SC	AZ04	100.00
02/23/1988	469092	Realtor	Self-employed	Belvidere	IL	AZ04	25.00
02/23/1988	469093	Appraiser	Martin Appraisal Service	Danville	CA	AZ04	100.00
02/23/1988	469094	Real Estate Broker	Shields Realty	Encinitas	CA	AZ04	25.00
02/23/1988	469095	Real Estate Appraiser	City of Honolulu	Kailua	HI	AZ04	100.00
02/23/1988	469096	Executive	Continental Dev. Corp.	El Segundo	CA	AZ04	250.00
02/23/1988	469097	Real Estate Appraiser	Self-employed	San Francisco	CA	AZ04	25.00
02/23/1988	469098	CEO	First Federal Savings	Opelousas	LA	AZ04	100.00
02/23/1988	469099	Real Estate Appraiser	Self-employed	Chicago	IL	AZ04	100.00
02/23/1988	469100	Real Estate Appraiser	Self-employed	Bay Harbour Isl	FL	AZ04	50.00
02/23/1988	469101		Self-employed	Scottsdale	AZ	AZ04	25.00
02/24/1988	410061	Priest		Bay Shore	NY	AZ04	1.00
02/24/1988	469255		Self-employed	Chantilly	VA	AZ04	100.00
02/24/1988	469261	Real Estate Broker	Self-employed	Bay Shore	NY	AZ04	1.00
02/24/1988	469295	Real Estate Appraisals	Self-employed	Gardena	CA	AZ04	40.00
02/24/1988	469296	Real Estate	Self-employed	Sarasota	FL	AZ04	100.00
02/24/1988	469297	Real Estate Appraiser and	Robinson Realty and Appraisals	Atlantic Beach	NC	AZ04	250.00
02/24/1988	469298	Realtor and Auctioneer	Rogers Realty and Auction Co.	Mount Airy	NC	AZ04	50.00
02/24/1988	469354			Columbus	IN	AZ04	100.00
02/24/1988	469399	Engineer	Self-employed	Cincinnati	OH	AZ04	15.00
02/24/1988	469400	Vice President	Fred A. Smith Co.	Washington	DC	AZ04	100.00
02/24/1988	469401	R.E. Appraiser	Ragsdale Real Estate Inc.	Mabank	TX	AZ04	25.00
02/24/1988	469420	Sales	Roy H. Long Realty	Tucson	AZ	AZ04	10.00
02/25/1988	466255	Book Publisher	Todd Publishing, Inc.	Scottsdale	AZ	AZ04	1000.00
02/25/1988	469545	Real Estate Dev.	Sterling Dev. Corp.	Richmond	VA	AZ04	100.00
02/25/1988	469609	Real Estate Appraiser		White Bear Lake	MN	AZ04	100.00
02/25/1988	469610	Business Owner	U.S. Farms, Inc.	Grafton	MA	AZ04	500.00
02/25/1988	469611	Real Estate	Self-employed	Farmington	MO	AZ04	100.00
02/25/1988	469612	Attorney		St. Paul	MN	AZ04	25.00
02/26/1988	469831	Realtor	Coldwell Banker Doug Arnold Re	Davis	CA	AZ04	100.00
02/26/1988	469833		Retired	St. Paul	MN	AZ04	500.00
02/26/1988	469834	Real Estate	Sally Coratolo Assoc.	Wilton	CT	AZ04	25.00

9 5 0 4 3 6 7 0 7 7 9

Deposit Dte	MEMBNO	JOB	EMP	City	STATE	Srce	Amount
02/26/1988	469835		Retired	Lehigh Acres	FL	AZ04	10.00
02/26/1988	469836		Retired	Lexington	MA	AZ04	100.00
02/26/1988	469838	Realtor	Sahara Realty	Chicago	IL	AZ04	100.00
02/29/1988	469850	Commercial Real Estate	Masi Boyle Assocs.	Mahwah	NJ	AZ04	25.00
02/29/1988	469854	Printing	Service Web Offset Corp.	Berkeley	IL	AZ04	100.00
02/29/1988	469892			Desert Hot Spri	CA	AZ04	100.00
02/29/1988	469893	Real Estate Appraiser	Self-employed	Bessemer City	NC	AZ04	100.00
02/29/1988	469894			Wake Forest	NC	AZ04	20.00
02/29/1988	469897	Appraiser		St. Paul	MN	AZ04	50.00
02/29/1988	469898	Owner	Cline Realtors	Cincinnati	OH	AZ04	200.00
02/29/1988	469899	Real Estate Appraiser		Alexandria	VA	AZ04	50.00
02/29/1988	469900	Appraiser	Appal. Realty	Cumberland	MD	AZ04	100.00
02/29/1988	469901			Marathon	FL	AZ04	10.00
02/29/1988	469902	Owner	Marciano Real Estate	Hull	MA	AZ04	10.00
02/29/1988	469903			Elk Grove	CA	AZ04	50.00
02/29/1988	469904	CPA		West Palm Beach	FL	AZ04	25.00
03/01/1988	470075	Broker	Leist Real Estate	Olney	IL	AZ04	50.00
03/01/1988	470077	Real Estate Appraiser	Rocky Mountain Appraisal	Boise	ID	AZ04	10.00
03/01/1988	470103			Beech Creek	KY	AZ04	40.00
03/02/1988	470122		Self-employed	Washington	DC	AZ04	50.00
03/07/1988	470217	Realtor	Self-employed	Longmont	CO	AZ04	50.00
03/07/1988	470218		Self-employed	Lakewood	CO	AZ04	100.00
03/07/1988	470219	H. S. D. Inspection Servi	Self-employed	Denver	CO	AZ04	10.00
03/07/1988	470265	Engineer	A. M. Buchman & Assoc.	Brooklandville	MD	AZ04	50.00
03/07/1988	470268	Appraiser		Ponce	PR	AZ04	100.00
03/07/1988	470499	Real Estate Appraiser	California Federal Savings	New Hall	CA	AZ04	100.00
03/07/1988	470500	Appraiser	400 Associates Realty Co.	Hudson	NH	AZ04	100.00
03/08/1988	470524	Appraiser	Self-employed	Redwood City	CA	AZ04	100.00
03/08/1988	470525	Realtor	Self-employed	LaHabra	CA	AZ04	10.00
03/08/1988	470540			Woburn	MA	AZ04	10.00
03/08/1988	470601	Appraiser	Slade Realty Corporation	Westport	MA	AZ04	20.00
03/08/1988	470602	Appraiser	Goodwill Realty	San Diego	CA	AZ04	25.00
03/08/1988	470603	Business Owner	Arizona Mailing Service	Chandler	AZ	AZ04	100.00
03/08/1988	470604	Chairman	McCay Corporation	Bordentown	NJ	AZ04	100.00
03/08/1988	470605	Realtor	Forest Park Realty 7 Insurance	Morrow	GA	AZ04	100.00
03/08/1988	470606	Real Estate Appraiser	Self-employed	Mayfield Height	OH	AZ04	10.00
03/09/1988	470680	Real Estate Agent	Russ Lyon Realty Co.	Scottsdale	AZ	AZ04	100.00
03/10/1988	470918			Norwood	MA	AZ04	100.00
03/10/1988	470919	Clerk	Peachtree Federal Credit Union	Atlanta	GA	AZ04	25.00
03/10/1988	470920			Mandeville	LA	AZ04	25.00
03/10/1988	470921	Realtor/Appraiser	Virginia Realty	Norfolk	VA	AZ04	25.00
03/10/1988	470922	Real Estate Appraiser	Self-employed	Santa Rosa	CA	AZ04	250.00
03/11/1988	471116	Huey Real Estate	Self-employed	Graham	NC	AZ04	75.00
03/11/1988	471135	Physician		Flagstaff	AZ	AZ04	100.00
03/11/1988	471137	Real Estate Broker	Royal Realty	Kingsport	TN	AZ04	100.00
03/15/1988	471589	Business Executive	Lyons Savings	Clarendon Hills	IL	AZ04	100.00
03/15/1988	471590	Real Estate	Self-employed	Scottsdale	AZ	AZ04	50.00
03/15/1988	471591			Scottsdale	AZ	AZ04	200.00
03/15/1988	471592	Banker	United Mortgage Corp.	Bloomington	MN	AZ04	20.00
03/15/1988	471593	Partner	Greenberg Development Company	St. Louis	MO	AZ04	10.00

9504367078

Deposit Dte	MEMBNO	JOB	EMP	City	STATE	Srce	Amount
03/15/1988	471594	Sales Manager	Plastic Products	Eagan	MN	AZ04	50.00
03/15/1988	471595	Real Estate Broker	Self-employed	Irmo	SC	AZ04	50.00
03/15/1988	471601	V.P. Marketing	United Mortgage Corp.	Bloomington	MN	AZ04	25.00
03/18/1988	472184			Woodbury	MN	AZ04	50.00
03/21/1988	472229	Real Estate Broker	Self-employed	Hauley	PA	AZ04	100.00
03/23/1988	472524	Real Estate	Pathfinder Realty	Claremont	NH	AZ04	25.00
03/23/1988	472525	Broker	Self-employed	Fort Pierce	FL	AZ04	100.00
03/23/1988	472526			West Des Moines	IA	AZ04	25.00
03/24/1988	447638	Real Estate Appraiser		Wakefield	RI	AZ04	25.00
03/24/1988	472748	Everhart Appraisal Servic	Self-employed	Scottsdale	AZ	AZ04	500.00
03/24/1988	472759			Paramus	NJ	AZ04	100.00
03/28/1988	469095	Real Estate Appraiser	City of Honolulu	Kailua	HI	AZ04	100.00
03/28/1988	473018	Real Estate	Tryon Properties	Tryon	NC	AZ04	5.00
03/28/1988	473019			Apopka	FL	AZ04	100.00
03/28/1988	473020	President	American Cont. Prop.	New York	NY	AZ04	100.00
03/28/1988	473021	Sales	Hustdd Housing, Inc.	Sauk Rapids	MN	AZ04	25.00
03/29/1988	473173		Self-employed	Fayetteville	NC	AZ04	50.00
03/29/1988	473184	President	United Systems Software Corp.	Chandler	AZ	AZ04	250.00
03/29/1988	473185			Chandler	AZ	AZ04	250.00
03/29/1988	473191	International and Domesti	Self-employed	Fanwood	NJ	AZ04	100.00
03/29/1988	473192			Stockton	MO	AZ04	100.00
03/29/1988	473243	Real Estate Broker	Self-employed	Bedford Hills	NY	AZ04	50.00
03/29/1988	473294	Real Estate Appraiser	Self-employed	Cerritos	CA	AZ04	100.00
03/29/1988	473295		Retired	Lansing	MI	AZ04	15.00
03/29/1988	473297	U.P.	SMI	Ashland	MA	AZ04	100.00
03/30/1988	473352	Appraiser	Jack Keeler Company	Fairfield	CA	AZ04	100.00
03/31/1988	423759	Realtor	Self-employed	Tucson	AZ	AZ04	100.00
03/31/1988	473400	Bartender/Law Student	Alley Cat Pub	Scottsdale	AZ	AZ04	5.00
03/31/1988	473401	Career Consulting	JMC Inc.	Scottsdale	AZ	AZ04	100.00
03/31/1988	473501		Retired	Wellton	AZ	AZ04	10.00
03/31/1988	473502			Scottsdale	AZ	AZ04	100.00
03/31/1988	473503	Teacher	Phoenix Elementary School	Scottsdale	AZ	AZ04	10.00
03/31/1988	473504			New Castle	IN	AZ04	100.00
03/31/1988	473531			Scottsdale	AZ	AZ04	100.00
04/04/1988	473693		Self-employed	Scottsdale	AZ	AZ04	50.00
04/05/1988	473877		Retired	Scottsdale	AZ	AZ04	100.00
04/05/1988	473878		Self-employed	Scottsdale	AZ	AZ04	500.00
04/05/1988	473879	Freedom Travel	Self-employed	Paradise Valley	AZ	AZ04	100.00
04/05/1988	473885	Windshield Repair	Self-employed	Yuma	AZ	AZ04	100.00
04/05/1988	473891		Retired	Scottsdale	AZ	AZ04	25.00
04/05/1988	473914			Scottsdale	AZ	AZ04	25.00
04/05/1988	473932	Real Estate Appraiser		Palo Alto	CA	AZ04	10.00
04/05/1988	473933	Vice Pres.	Skyview Cooling Co.	Yuma	AZ	AZ04	100.00
04/05/1988	473934		Retired	Scottsdale	AZ	AZ04	10.00
04/05/1988	473938			Scottsdale	AZ	AZ04	25.00
04/05/1988	473939			Macon	GA	AZ04	100.00
04/05/1988	473940	Sales	The Pratt Agency	Longmont	CO	AZ04	50.00
04/05/1988	473941			Merced	CA	AZ04	10.00
04/05/1988	473942	Real Estate	Self-employed	Goose Creek	SC	AZ04	50.00
04/05/1988	473943			Scottsdale	AZ	AZ04	150.00

9504367078 1

Deposit Dte	MEMBNO	JOB	EMP	City	STATE	Srce	Amount
04/05/1988	473944			Scottsdale	AZ	AZ04	100.00
04/05/1988	473945		Retired	Yuma	AZ	AZ04	25.00
04/05/1988	473946			Yuma	AZ	AZ04	20.00
04/05/1988	473947		Retired	Scottsdale	AZ	AZ04	10.00
04/05/1988	473948	Mfg.	Plum Creek, Inc.	Phoenix	AZ	AZ04	100.00
04/05/1988	474013			Ossipee	NH	AZ04	100.00
04/05/1988	474344	Real Estate Investor	Self-employed	San Francisco	CA	AZ04	100.00
04/05/1988	474349	Real Estate Appraiser	Self-employed	Madison	WI	AZ04	10.00
04/06/1988	474288					AZ04	10.00
04/06/1988	474289	Sales Associate	A. G. Rowley Real Estate, Inc.	Fort Walton Bea	FL	AZ04	30.00
04/06/1988	474290	Real Estate Appraisal	Self-employed	Kirkland	WA	AZ04	25.00
04/06/1988	474417		Retired	Rio Rico	AZ	AZ04	50.00
04/06/1988	474608	Chief Financial Officer	Famous Restaurants, Inc.	Scottsdale	AZ	AZ04	25.00
04/06/1988	474609	Homemaker		Scottsdale	AZ	AZ04	100.00
04/08/1988	474679	Realtor	Russ Lyon Realty	Paradise Valley	AZ	AZ04	100.00
04/08/1988	474680	Engineer	Motorola	Scottsdale	AZ	AZ04	10.00
04/08/1988	474681		Retired	Scottsdale	AZ	AZ04	100.00
04/08/1988	474690		Retired	Yuma	AZ	AZ04	100.00
04/08/1988	474696		Retired	Scottsdale	AZ	AZ04	100.00
04/08/1988	474700	Real Estate Broker	Dolan Co.	St. Louis	MO	AZ04	25.00
04/08/1988	474701	Vice Pres.	Baldwin Real Estate	La Planta	MD	AZ04	100.00
04/08/1988	474702	Produce Broker	Self-employed	Nogales	AZ	AZ04	100.00
04/08/1988	475275		Retired	Scottsdale	AZ	AZ04	25.00
04/11/1988	474707		Self-employed	Rio Rico	AZ	AZ04	50.00
04/11/1988	474713					AZ04	1.00
04/11/1988	474714			Fords	NJ	AZ04	1.00
04/11/1988	474750	Realtor	Self-employed	Fort Walton Bea	FL	AZ04	25.00
04/11/1988	474754		Retired	Sun City	AZ	AZ04	10.00
04/11/1988	474755			Scottsdale	AZ	AZ04	5.00
04/11/1988	474757	Appraiser		Pittsburgh	PA	AZ04	5.00
04/11/1988	474758	Homemaker		Scottsdale	AZ	AZ04	25.00
04/11/1988	474759	Realtor	Self-employed	Bourbonnais	IL	AZ04	5.00
04/11/1988	474760	Publisher		Los Angeles	CA	AZ04	100.00
04/11/1988	474761		Pitcarin Properties	Flourtown	PA	AZ04	100.00
04/11/1988	474769	Corp. Real Estate	Rubluff, Inc.	Chicago	IL	AZ04	100.00
04/11/1988	474773	Sales Rep.	Zimmer-Ross Assoc.	Scottsdale	AZ	AZ04	50.00
04/11/1988	474781			Yuma	AZ	AZ04	10.00
04/12/1988	474783	Real Estate Broker	Self-employed	Dallas	TX	AZ04	5.00
04/12/1988	474786	Nat'l Prop. Mgr.	Krupp Bros.	Reading	MA	AZ04	25.00
04/12/1988	474795	Real Estate Broker	Self-employed	Columbus	OH	AZ04	25.00
04/12/1988	474801			Yuma	AZ	AZ04	25.00
04/12/1988	474802	Clerk	A B Co.	Yuma	AZ	AZ04	10.00
04/12/1988	474813		Retired	Anaheim	CA	AZ04	10.00
04/12/1988	474817	Prop. Mgr.	Frederick Realty	Baltimore	MD	AZ04	25.00
04/12/1988	474818	Sales	The Arnold Corp.	Mesa	AZ	AZ04	50.00
04/12/1988	474819			Scottsdale	AZ	AZ04	25.00
04/12/1988	474827		Retired	Hemet	CA	AZ04	25.00
04/12/1988	474828	Realtor	Schlott Realtors	New Canaan	CT	AZ04	20.00
04/12/1988	474832	Student		Scottsdale	AZ	AZ04	5.00
04/12/1988	474835		Retired	Scottsdale	AZ	AZ04	25.00

9504367078 2

Deposit Dte	MEMBNO	JOB	EMP	City	STATE	Srce	Amount
04/12/1988	474836		Retired	Scottsdale	AZ	AZ04	7.50
04/12/1988	474837	Student		Phoenix	AZ	AZ04	10.00
04/13/1988	423802		Retired	Yuma	AZ	AZ04	10.00
04/13/1988	474853	General Contractor	Self-employed	Scottsdale	AZ	AZ04	50.00
04/14/1988	456660			Fort Lauderdale	FL	AZ04	100.00
04/14/1988	474899	Insurance Agent	Self-employed	San Bernardino	CA	AZ04	100.00
04/18/1988	474948		Retired	Scottsdale	AZ	AZ04	20.00
04/18/1988	474949		Retired	Scottsdale	AZ	AZ04	10.00
04/18/1988	474950	Realtor	Jennings Real Estate	Westport	MA	AZ04	50.00
04/18/1988	474951			Los Angeles	CA	AZ04	25.00
04/18/1988	474952			New Canaan	CT	AZ04	50.00
04/18/1988	474954			Scottsdale	AZ	AZ04	25.00
04/19/1988	475047	Meeting Coordinator	Direct Selling Assoc.	Upper Marlboro	MD	AZ04	50.00
04/19/1988	475054		Retired	Scottsdale	AZ	AZ04	5.00
04/19/1988	475055	Realtor	Self-employed	Columbus	OH	AZ04	50.00
04/20/1988	475082		Retired	Cave Creek	AZ	AZ04	100.00
04/20/1988	475098		Homemaker	Martinez	GA	AZ04	50.00
04/22/1988	469094	Real Estate Broker	Shields Realty	Encinitas	CA	AZ04	25.00
04/22/1988	475159		Retired	Rio Verde	AZ	AZ04	25.00
04/22/1988	475161	Real Estate Broker	Self-employed	Princeton	NJ	AZ04	50.00
04/22/1988	475162	Teacher		Scottsdale	AZ	AZ04	20.00
04/22/1988	475164	Student		Yuma	AZ	AZ04	10.00
04/22/1988	475186			Scottsdale	AZ	AZ04	10.00
04/22/1988	475191	Business Consultant	Self-employed	Scottsdale	AZ	AZ04	10.00
04/22/1988	475192		Retired	Scottsdale	AZ	AZ04	25.00
04/22/1988	475195	Realtor	Self-employed	Poland	OH	AZ04	50.00
04/26/1988	475245	Computer Programmer	ACHA	Scottsdale	AZ	AZ04	25.00
04/27/1988	475263			Alta Loma	CA	AZ04	25.00
04/28/1988	475288		Retired	Scottsdale	AZ	AZ04	2.00
04/28/1988	475289	Irrigator	The Woods Company, Inc.	Somerton	AZ	AZ04	5.00
04/28/1988	475303		Retired	Scottsdale	AZ	AZ04	25.00
04/28/1988	475305		Self-employed	Scottsdale	AZ	AZ04	25.00
04/28/1988	475306	Director of Engineering	Wyndham P.V. Resort	Scottsdale	AZ	AZ04	50.00
05/03/1988	475351	Appraiser	Self-employed	Santa Barbara	CA	AZ04	50.00
05/06/1988	475404		Retired	Scottsdale	AZ	AZ04	25.00
05/06/1988	475408		Real Estate	New York	NY	AZ04	50.00
05/06/1988	475409	Engin. Aid	Motorola, Inc.	Scottsdale	AZ	AZ04	20.00
05/12/1988	475415	Real Estate Sales	Self-employed	Havelock	NC	AZ04	10.00
05/19/1988	475469	Real Estate	Self-employed	Weymouth	MA	AZ04	50.00
05/19/1988	475501	Sportscaster	KTSP-TV	Scottsdale	AZ	AZ04	20.00
05/19/1988	475502	Real Estate	Self-employed	Atlanta	GA	AZ04	50.00
05/27/1988	475608			Scottsdale	AZ	AZ04	5.00
06/03/1988	475711			Scottsdale	AZ	AZ04	50.00
07/22/1988	457085	Real Estate Broker	Self-employed	Port Aransas	TX	AZ04	25.00
07/22/1988	476143	Accounting Supervisor	United States Marine Corps	Yuma	AZ	AZ04	5.00
07/22/1988	476146		Retired	Trenton	NJ	AZ04	10.00
08/08/1988	476363			San Antonio	TX	AZ04	10.00

1032_CLE> p $tot(amt)

9504367078 3

Amount

27373.50

All AZ04 contribution forms
person with AZ address. 98 contributions

```
1032_CLE>  set bushool

%S1032-E-CMDERR, expected a SET option but you entered 'bushool'
1032_CLE>  set BUSH001
1032_CLE>  f all
261 BUSH001 records found
1032_CLE>  search state eq

%S1032-E-CMDERR, expected an expression but you entered ';'
1032_CLE>  search state eq az
98 records selected in dataset BUSH001
```

95043670784

```
1032_CLE>  set bushool

%S1032-E-CMDERR, expected a SET option but you entered 'bushool'
1032_CLE>  set BUSH001
1032_CLE>  f all
261 BUSH001 records found
1032_CLE>  search state eq

%S1032-E-CMDERR, expected an expression but you entered ';'
1032_CLE>  search state eq az
98 records selected in dataset BUSH001
1032_CLE>  map to bush002 via seqn
99 related records located in BUSH002, current dataset is BUSH002
1032_CLE>  sort by dte seqn
1032_CLE>  p dte seqn job fmt (a25) emp fmt (a30) city fmt (a15) state histls amt
```

P.7

Deposit Dte	MEMBNO	JOB	EMP	City	STATE	Srce	Amount
09/17/1987	437953	Executive Director	Nat'l Assn. of Review Appraise	Scottsdale	AZ	AZ04	1000.00
01/28/1988	466140	Travel Consultant	Int'l Real Est. Inst.	Scottsdale	AZ	AZ04	1000.00
01/28/1988	466146	Managing Director	Nat'l Assoc. of Rl. Est. Appr.	Phoenix	AZ	AZ04	1000.00
01/28/1988	466147			Phoenix	AZ	AZ04	1000.00
01/28/1988	466148			Scottsdale	AZ	AZ04	500.00
01/28/1988	466149	Publication Director	Nat'l Assn. Review Appra.	Scottsdale	AZ	AZ04	500.00
01/29/1988	466255	Book Publisher	Todd Publishing, Inc.	Scottsdale	AZ	AZ04	1000.00
02/09/1988	467600		Retired	Fountain Hills	AZ	AZ04	100.00
02/10/1988	467702	General Contractor	KG Construction & Properties	Scottsdale	AZ	AZ04	1000.00
02/10/1988	467784	Architect	Self-employed	Phoenix	AZ	AZ04	250.00
02/10/1988	467785	Banking	Valley National Bank	Tempe	AZ	AZ04	30.00
02/18/1988	467904	Printer - Owner	Creative Litho, Inc.	Glendale	AZ	AZ04	1000.00
02/18/1988	468014	Printer	Self-employed	Tempe	AZ	AZ04	500.00
02/18/1988	468015		Self-employed	Tempe	AZ	AZ04	500.00
02/22/1988	468725	Owner	Copperstate Trophy Co.	Scottsdale	AZ	AZ04	50.00
02/22/1988	468727	Realtor	Self-employed	Scottsdale	AZ	AZ04	100.00
02/23/1988	469101		Self-employed	Scottsdale	AZ	AZ04	25.00
02/24/1988	469420	Sales	Roy H. Long Realty	Tucson	AZ	AZ04	10.00
02/25/1988	466255	Book Publisher	Todd Publishing, Inc.	Scottsdale	AZ	AZ04	1000.00
03/08/1988	470603	Business Owner	Arizona Mailing Service	Chandler	AZ	AZ04	100.00
03/09/1988	470680	Real Estate Agent	Russ Lyon Realty Co.	Scottsdale	AZ	AZ04	100.00
03/11/1988	471135	Physician		Flagstaff	AZ	AZ04	100.00
03/15/1988	471590	Real Estate	Self-employed	Scottsdale	AZ	AZ04	50.00
03/15/1988	471591			Scottsdale	AZ	AZ04	200.00
03/24/1988	472748	Everhart Appraisal Servic	Self-employed	Scottsdale	AZ	AZ04	500.00
03/29/1988	473184	President	United Systems Software Corp.	Chandler	AZ	AZ04	250.00
03/29/1988	473185			Chandler	AZ	AZ04	250.00
03/31/1988	423759	Realtor	Self-employed	Tucson	AZ	AZ04	100.00
03/31/1988	473400	Bartender/Law Student	Alley Cat Pub	Scottsdale	AZ	AZ04	5.00
03/31/1988	473401	Career Consulting	JMC Inc.	Scottsdale	AZ	AZ04	100.00
03/31/1988	473501		Retired	Wellton	AZ	AZ04	10.00
03/31/1988	473502			Scottsdale	AZ	AZ04	100.00
03/31/1988	473503	Teacher	Phoenix Elementary School	Scottsdale	AZ	AZ04	10.00
03/31/1988	473531			Scottsdale	AZ	AZ04	100.00
04/04/1988	473693		Self-employed	Scottsdale	AZ	AZ04	50.00
04/05/1988	473877		Retired	Scottsdale	AZ	AZ04	100.00
04/05/1988	473878		Self-employed	Scottsdale	AZ	AZ04	500.00
04/05/1988	473879	Freedom Travel	Self-employed	Paradise Valley	AZ	AZ04	100.00
04/05/1988	473885	Windshield Repair	Self-employed	Yuma	AZ	AZ04	100.00
04/05/1988	473891		Retired	Scottsdale	AZ	AZ04	25.00
04/05/1988	473914			Scottsdale	AZ	AZ04	25.00
04/05/1988	473933	Vice Pres.	Skyview Cooling Co.	Yuma	AZ	AZ04	100.00
04/05/1988	473934		Retired	Scottsdale	AZ	AZ04	10.00
04/05/1988	473938			Scottsdale	AZ	AZ04	25.00
04/05/1988	473943			Scottsdale	AZ	AZ04	150.00
04/05/1988	473944			Scottsdale	AZ	AZ04	100.00

9504367078S

Deposit Dte	MEMBNO	JOB	EMP	City	STATE	Srce	Amount
				Scottsdale	AZ	AZ04	100.00
04/05/1988	473945		Retired	Yuma	AZ	AZ04	25.00
04/05/1988	473946			Yuma	AZ	AZ04	20.00
04/05/1988	473947		Retired	Scottsdale	AZ	AZ04	10.00
04/05/1988	473948	Mfg.	Plum Creek, Inc.	Phoenix	AZ	AZ04	100.00
04/06/1988	474417		Retired	Rio Rico	AZ	AZ04	50.00
04/06/1988	474608	Chief Financial Officer	Famous Restaurants, Inc.	Scottsdale	AZ	AZ04	25.00
04/06/1988	474609	Homemaker		Scottsdale	AZ	AZ04	100.00
04/08/1988	474679	Realtor	Russ Lyon Realty	Paradise Valley	AZ	AZ04	100.00
04/08/1988	474680	Engineer	Motorola	Scottsdale	AZ	AZ04	10.00
04/08/1988	474681		Retired	Scottsdale	AZ	AZ04	100.00
04/08/1988	474690		Retired	Yuma	AZ	AZ04	100.00
04/08/1988	474696		Retired	Scottsdale	AZ	AZ04	100.00
04/08/1988	474702	Produce Broker	Self-employed	Nogales	AZ	AZ04	100.00
04/08/1988	475275		Retired	Scottsdale	AZ	AZ04	25.00
04/11/1988	474707		Self-employed	Rio Rico	AZ	AZ04	50.00
04/11/1988	474754		Retired	Sun City	AZ	AZ04	10.00
04/11/1988	474755			Scottsdale	AZ	AZ04	5.00
04/11/1988	474758	Homemaker		Scottsdale	AZ	AZ04	25.00
04/11/1988	474773	Sales Rep.	Zimmer-Ross Assoc.	Scottsdale	AZ	AZ04	50.00
04/11/1988	474781			Yuma	AZ	AZ04	10.00
04/12/1988	474801			Yuma	AZ	AZ04	25.00
04/12/1988	474802	Clerk	A B Co.	Yuma	AZ	AZ04	10.00
04/12/1988	474818	Sales	The Arnold Corp.	Mesa	AZ	AZ04	50.00
04/12/1988	474819			Scottsdale	AZ	AZ04	25.00
04/12/1988	474832	Student		Scottsdale	AZ	AZ04	5.00
04/12/1988	474835		Retired	Scottsdale	AZ	AZ04	25.00
04/12/1988	474836		Retired	Scottsdale	AZ	AZ04	7.50
04/12/1988	474837	Student		Phoenix	AZ	AZ04	10.00
04/13/1988	422802		Retired	Yuma	AZ	AZ04	10.00
04/13/1988	474853	General Contractor	Self-employed	Scottsdale	AZ	AZ04	50.00
04/18/1988	474948		Retired	Scottsdale	AZ	AZ04	20.00
04/18/1988	474949		Retired	Scottsdale	AZ	AZ04	10.00
04/18/1988	474954			Scottsdale	AZ	AZ04	25.00
04/19/1988	475054		Retired	Scottsdale	AZ	AZ04	5.00
04/20/1988	475082		Retired	Cave Creek	AZ	AZ04	100.00
04/22/1988	475159		Retired	Rio Verde	AZ	AZ04	25.00
04/22/1988	475162	Teacher		Scottsdale	AZ	AZ04	20.00
04/22/1988	475164	Student		Yuma	AZ	AZ04	10.00
04/22/1988	475186			Scottsdale	AZ	AZ04	10.00
04/22/1988	475191	Business Consultant	Self-employed	Scottsdale	AZ	AZ04	10.00
04/22/1988	475192		Retired	Scottsdale	AZ	AZ04	25.00
04/26/1988	475245	Computer Programmer	ACHA	Scottsdale	AZ	AZ04	25.00
04/28/1988	475288		Retired	Scottsdale	AZ	AZ04	2.00
04/28/1988	475289	Irrigator	The Woods Company, Inc.	Somerton	AZ	AZ04	5.00
04/28/1988	475303		Retired	Scottsdale	AZ	AZ04	25.00
04/28/1988	475305		Self-employed	Scottsdale	AZ	AZ04	25.00
04/28/1988	475306	Director of Engineering	Wyndham P.V. Resort	Scottsdale	AZ	AZ04	50.00
05/06/1988	475404		Retired	Scottsdale	AZ	AZ04	25.00
05/06/1988	475409	Engin. Aid	Motorola, Inc.	Scottsdale	AZ	AZ04	20.00
05/19/1988	475501	Sportscaster	KTSP-TV	Scottsdale	AZ	AZ04	20.00

9 5 0 4 3 6 7 0 7 8 6

Deposit Dte	MEMBNO	JOB	EMP	City	STATE	Srce	Amount
05/27/1988	475608			Scottsdale	AZ	AZ04	5.00
06/03/1988	475711			Scottsdale	AZ	AZ04	50.00
07/22/1988	476143	Accounting Supervisor	United States Marine Corps	Yuma	AZ	AZ04	5.00

1022_CLE> p stat(amt)

Amount
18574.50

9504367078 7

All AZ04 contributions from persons who do not have an AZ address (including 3 with blank address). 163 contributors and 165 contributions

```
1032_CLE>  set bush001
1032_CLE>  search state eq az
98 records selected in dataset BUSH001
1032_CLE>  f not last
163 BUSH001 records found
1032_CLE>  map to bush002 via seqn
165 related records located in BUSH002, current dataset is BUSH002
1032_CLE>  sort by.dte seqn
1032_CLE>  p dte seqn job fmt (a25) emp fmt (a30) city fmt (a15) state histle amt
```

Deposit Dte	MEMBNO	JOB	EMP	City	STATE	Srce	Amount
02/09/1988	467598	Mgr.	SAS Airline	Chicago	IL	AZ04	100.00
02/09/1988	467599	CPA	Self-employed	Minneapolis	MN	AZ04	50.00
02/10/1988	467735		Retired	Glendale	CA	AZ04	100.00
02/11/1988	467829	President	World Safety Organization	Doniphan	MO	AZ04	250.00
02/11/1988	467830			Doniphan	MO	AZ04	250.00
02/11/1988	467835	Real Estate Consultant	Self-employed	Glendale	CA	AZ04	50.00
02/12/1988	467844	Real Estate Appraisers	Appraisal Research, Inc.	Syracuse	NY	AZ04	25.00
02/18/1988	467980	Bank Manager		Bayonne	NJ	AZ04	100.00
02/22/1988	439081	Real Estate Appraiser	Dallman Agency	Shawano	WI	AZ04	5.00
02/22/1988	448977		Self-employed	Columbus	OH	AZ04	50.00
02/22/1988	468523	Reg. Sales Mgr.	Sabena Belgian World Airlines	San Francisco	CA	AZ04	20.00
02/22/1988	468525	Real Estate Appraiser	Self-employed	Santa Maria	CA	AZ04	100.00
02/22/1988	468537	Financial Consultant	Kiesre & Associates	St. Paul	MN	AZ04	50.00
02/22/1988	468709	Insurance Agent	J.A. Price, Inc.	Waysata	MN	AZ04	500.00
02/22/1988	468710			Waysata	MN	AZ04	500.00
02/22/1988	468711	Realtor	Self-employed	Bakersfield	CA	AZ04	10.00
02/22/1988	468724	Real Estate Broker	Self-employed	El Cajon	CA	AZ04	20.00
02/22/1988	468726	Appraiser	Self-employed	Hyde Park	NY	AZ04	10.00
02/22/1988	468728	Commerical Real Estate	Self-employed	Perkinston	MS	AZ04	100.00
02/22/1988	468949	Real Estate	Self-employed	Columbia	SC	AZ04	100.00
02/23/1988	469092	Realtor	Self-employed	Belvidere	IL	AZ04	25.00
02/23/1988	469093	Appraiser	Martin Appraisal Service	Danville	CA	AZ04	100.00
02/23/1988	469094	Real Estate Broker	Shields Realty	Encinitas	CA	AZ04	25.00
02/23/1988	469095	Real Estate Appraiser	City of Honolulu	Kailua	HI	AZ04	100.00
02/23/1988	469096	Executive	Continental Dev. Corp.	El Segundo	CA	AZ04	250.00
02/23/1988	469097	Real Estate Appraiser	Self-employed	San Francisco	CA	AZ04	25.00
02/23/1988	469098	CEO	First Federal Savings	Opelousas	LA	AZ04	100.00
02/23/1988	469099	Real Estate Appraiser	Self-employed	Chicago	IL	AZ04	100.00
02/23/1988	469100	Real Estate Appraiser	Self-employed	Bay Harbour Isl	FL	AZ04	50.00
02/24/1988	410061	Priest		Bay Shore	NY	AZ04	1.00
02/24/1988	469255		Self-employed	Chantilly	VA	AZ04	100.00
02/24/1988	469261	Real Estate Broker	Self-employed	Bay Shore	NY	AZ04	1.00
02/24/1988	469295	Real Estate Appraisals	Self-employed	Gardena	CA	AZ04	40.00
02/24/1988	469296	Real Estate	Self-employed	Sarasota	FL	AZ04	100.00
02/24/1988	469297	Real Estate Appraiser and	Robinson Realty and Appraisals	Atlantic Beach	NC	AZ04	250.00
02/24/1988	469298	Realter and Auctioneer	Rogers Realty and Auction Co.	Mount Airy	NC	AZ04	50.00
02/24/1988	469354			Columbus	IN	AZ04	100.00
02/24/1988	469399	Engineer	Self-employed	Cincinnati	OH	AZ04	15.00
02/24/1988	469400	Vice President	Fred A. Saith Co.	Washington	DC	AZ04	100.00
02/24/1988	469401	R.E. Appraiser	Regedale Real Estate Inc.	Nabank	TX	AZ04	25.00

9504367078

Deposit Dte	MEMBNO	JOB	EMP	City	STATE	Srce	Amount
02/25/1988	469545	Real Estate Dev.	Sterling Dev. Corp.	Richmond	VA	AZ04	100.00
02/25/1988	469609	Real Estate Appraiser		White Bear Lake	MN	AZ04	100.00
02/25/1988	469610	Business Owner	U.S. Farms, Inc.	Grafton	MA	AZ04	500.00
02/25/1988	469611	Real Estate	Self-employed	Farmington	MO	AZ04	100.00
02/25/1988	469612	Attorney		St. Paul	MN	AZ04	25.00
02/26/1988	469831	Realtor	Coldwell Banker Doug Arnold Re	Davis	CA	AZ04	100.00
02/26/1988	469833		Retired	St. Paul	MN	AZ04	500.00
02/26/1988	469834	Real Estate	Sally Coratolo Assoc.	Wilton	CT	AZ04	25.00
02/26/1988	469835		Retired	Lehigh Acres	FL	AZ04	10.00
02/26/1988	469836		Retired	Lexington	MA	AZ04	100.00
02/26/1988	469838	Realtor	Sahara Realty	Chicago	IL	AZ04	100.00
02/29/1988	469850	Commercial Real Estate	Masi Boyle Assocs.	Mahwah	NJ	AZ04	25.00
02/29/1988	469854	Printing	Service Web Offset Corp.	Berkeley	IL	AZ04	100.00
02/29/1988	469892			Desert Hot Spri	CA	AZ04	100.00
02/29/1988	469893	Real Estate Appraiser	Self-employed	Bessemer City	NC	AZ04	100.00
02/29/1988	469894			Wake Forest	NC	AZ04	20.00
02/29/1988	469897	Appraiser		St. Paul	MN	AZ04	50.00
02/29/1988	469898	Owner	Cline Realtors	Cincinnati	OH	AZ04	200.00
02/29/1988	469899	Real Estate Appraiser		Alexandria	VA	AZ04	50.00
02/29/1988	469900	Appraiser	Appal. Realty	Cumberland	MD	AZ04	100.00
02/29/1988	469901			Marathon	FL	AZ04	10.00
02/29/1988	469902	Owner	Marciano Real Estate	Hull	MA	AZ04	10.00
02/29/1988	469903			Elk Grove	CA	AZ04	50.00
02/29/1988	469904	CPA		West Palm Beach	FL	AZ04	25.00
03/01/1988	470075	Broker	Leist Real Estate	Olney	IL	AZ04	50.00
03/01/1988	470077	Real Estate Appraiser	Rocky Mountain Appraisal	Boise	ID	AZ04	10.00
03/01/1988	470103			Beech Creek	KY	AZ04	40.00
03/02/1988	470122		Self-employed	Washington	DC	AZ04	50.00
03/07/1988	470217	Realtor	Self-employed	Longmont	CO	AZ04	50.00
03/07/1988	470218		Self-employed	Lakewood	CO	AZ04	100.00
03/07/1988	470219	H. S. D. Inspection Servi	Self-employed	Denver	CO	AZ04	30.00
03/07/1988	470265	Engineer	A. H. Buchman & Assoc.	Brooklandville	MD	AZ04	50.00
03/07/1988	470268	Appraiser		Ponce	PR	AZ04	100.00
03/07/1988	470499	Real Estate Appraiser	California Federal Savings	New Hall	CA	AZ04	100.00
03/07/1988	470500	Appraiser	400 Associates Realty Co.	Hudson	NH	AZ04	100.00
03/08/1988	470524	Appraiser	Self-employed	Redwood City	CA	AZ04	100.00
03/08/1988	470525	Realtor	Self-employed	LaHabra	CA	AZ04	10.00
03/08/1988	470540			Woburn	MA	AZ04	10.00
03/08/1988	470601	Appraiser	Slade Realty Corporation	Westport	MA	AZ04	20.00
03/08/1988	470602	Appraiser	Goodwill Realty	San Diego	CA	AZ04	25.00
03/08/1988	470604	Chairman	McCay Corporation	Bordentown	NJ	AZ04	100.00
03/08/1988	470605	Realtor	Forest Park Realty 7 Insurance	Morrow	GA	AZ04	100.00
03/08/1988	470606	Real Estate Appraiser	Self-employed	Mayfield Height	OH	AZ04	10.00
03/10/1988	470918			Norwood	MA	AZ04	100.00
03/10/1988	470919	Clerk	Peachtree Federal Credit Union	Atlanta	GA	AZ04	25.00
03/10/1988	470920			Mandeville	LA	AZ04	25.00
03/10/1988	470921	Realtor/Appraiser	Virginia Realty	Norfolk	VA	AZ04	25.00
03/10/1988	470922	Real Estate Appraiser	Self-employed	Santa Rosa	CA	AZ04	250.00
03/11/1988	471116	Huey Real Estate	Self-employed	Graham	NC	AZ04	75.00
03/11/1988	471137	Real Estate Broker	Royal Realty	Kingsport	TN	AZ04	100.00

9 5 0 4 3 6 7 0 7 8 9

04/12/1988 474786 Nat'l Prop. Mgr. Krupp Bros. [illegible]

Deposit Dte	MEMBNO	JOB	EMP	City	STATE	Srce	Amount
04/12/1988	474795	Real Estate Broker	Self-employed	Columbus	OH	AZ04	25.00
04/12/1988	474813		Retired	Anaheim	CA	AZ04	10.00
04/12/1988	474817	Prop. Mgr.	Frederick Realty	Baltimore	MD	AZ04	25.00
04/12/1988	474827		Retired	Hemet	CA	AZ04	25.00
04/12/1988	474828	Realtor	Schlott Realtors	New Canaan	CT	AZ04	20.00
04/14/1988	456660			Fort Lauderdale	FL	AZ04	100.00
04/14/1988	474899	Insurance Agent	Self-employed	San Bernardino	CA	AZ04	100.00
04/18/1988	474950	Realtor	Jennings Real Estate	Westport	MA	AZ04	50.00
04/18/1988	474951			Los Angeles	CA	AZ04	25.00
04/18/1988	474952			New Canaan	CT	AZ04	50.00
04/19/1988	475047	Meeting Coordinator	Direct Selling Assoc.	Upper Marlboro	MD	AZ04	50.00
04/19/1988	475055	Realtor	Self-employed	Columbus	OH	AZ04	50.00
04/20/1988	475098		Homemaker	Martinez	GA	AZ04	50.00
04/22/1988	469094	Real Estate Broker	Shields Realty	Encinitas	CA	AZ04	25.00
04/22/1988	475161	Real Estate Broker	Self-employed	Princeton	NJ	AZ04	50.00
04/22/1988	475195	Realtor	Self-employed	Poland	OH	AZ04	50.00
04/27/1988	475263			Alta Loma	CA	AZ04	25.00
05/03/1988	475351	Appraiser	Self-employed	Santa Barbara	CA	AZ04	50.00
05/06/1988	475408		Real Estate	New York	NY	AZ04	50.00
05/12/1988	475415	Real Estate Sales	Self-employed	Havelock	NC	AZ04	10.00
05/19/1988	475469	Real Estate	Self-employed	Weymouth	MA	AZ04	50.00
05/19/1988	475502	Real Estate	Self-employed	Atlanta	GA	AZ04	50.00
07/22/1988	457085	Real Estate Broker	Self-employed	Port Aransas	TX	AZ04	25.00
07/22/1988	476146		Retired	Trenton	NJ	AZ04	10.00
08/08/1988	476363			San Antonio	TX	AZ04	10.00

```
1032_CLE> p stot(amt)

  Amount
---------
 11799.00
1032_CLE> ex
Time to finish ...
$ lo
   JSTOLTZ      logged out at 31-JUL-1991 09:24:45.32
```

9 5 0 4 3 6 7 0 7 0

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

September 17, 1991

HAND-DELIVERED

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

RE: MUR 2984
Robert G. Johnson
National Association of Real Estate Appraisers, Inc.,
National Association of Review Appraisers and Mortgage Underwriters, Inc.
International Real Estate Institute, Inc.
Todd Publishing, Inc.
Professional Women's Appraisal Association, Inc.
International Association Managers, Inc.
Robert G. Johnson

Dear Mr. Gross:

This is in response to your request dated September 16, 1991 requesting the names of persons identified by membership numbers in a computer printout previously provided to you by the Office of the General Counsel.

This Office will provide the requested information subject to the conditions discussed in your September 17, 1991 telephone conversation with Patty Reilly, i.e. your agreement as counsel to the above-captioned respondents that:

1. Your clients will not object to or seek to block any further investigation conducted by the Commission undertaken in response to the new factual materials you may submit. For example, the Commission may re-open any deposition, may depose anyone who submits an affidavit, and may contact any witnesses.

2. In the event the Commission re-opens depositions as to your clients, your clients will appear for further deposition and not require a subpoena enforcement action.

9504367079 1

In light of the two extensions of time which we have already granted to your clients, we expect to receive a responsive brief on behalf of your clients on September 19, 1991. You may submit a supplement solely in relation to the requested information no later than October 7, 1991.

If you agree with these conditions, please sign this letter in the space provided and return it to this Office. We will then provide the requested information. If you have any questions please contact Patty Reilly at 376-5690.

Sincerely,

Lawrence M. Noble
General Counsel

_____ _____

Kenneth A. Gross, Date
Counsel for:

National Association of Real Estate Appraisers, Inc.;
National Association of Review Appraisers and Mortgage Underwriters, Inc.;
International Real Estate Institute, Inc. (a.k.a. International Institute of Valuers, Inc.);
Todd Publishing, Inc.;
Professional Women's Appraisal Association, Inc.;
International Association Managers, Inc.;
Robert G. Johnson

9504360707992

This note was received by me on 9/16/91, after I gave # a copy of the probable cause brief regarding E. Kenneth Twichell to counsel Randy King. Direct to Enforcement (Patty Reilly, Jonathan Bernstein)
Re: MUR 2984

Ellen Miller

95043670793

Dkt 2869

Colleen Mathis

1984

In connection with the gen. counsel's mtg of 9/13/91, we request a 20 day extension beyond ~~the~~ 15 day period provided by statute

9/16/91

RECEIVED
FEDERAL ELECTION COMMISSION
91 SEP 23 PM 1:01

9504367079 4

9504367995

91 SEP 20 PM 4:16

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
National Association of Real Estate Appraisers, Inc.	)	
National Association of Review Appraisers and Mortgage Underwriters, Inc.	)	
International Real Estate Institute, Inc. (a.k.a. International Institute of Valuers, Inc.)	)	MUR 2984
Todd Publishing, Inc.	)	
Professional Women's Appraisal Association, Inc.	)	
International Association Managers, Inc.	)	
Robert G. Johnson	)	

RESPONSE TO GENERAL COUNSEL'S BRIEF

I. INTRODUCTION

A. Nature of Response

This brief is submitted in response to the General Counsel's Brief in connection with Matter Under Review 2984 ("MUR 2984"). Respondents maintain that they are falsely accused of committing knowing and willful violations of the Federal Election Campaign Act ("FECA"). Accordingly, Respondents respectfully request that the Federal Election Commission ("FEC" or "Commission") find, for the reasons provided below, no probable cause to believe that a violation occurred.

B. Circumstances Faced By Respondents In Preparing Response

The Respondents received the General Counsel's Brief on July 18, 1991, without any supporting documentation. On July 23, 1991, the Respondents requested all documentation in support of the General Counsel's Brief. In response, on August 15, 1991, the Respondents received redacted copies of the documentation cited in support of the General Counsel's argument. When the Respondents reiterated their request for unredacted copies of the deposition transcripts, the General Counsel indicated that the time for response was running and that no additional materials would be forthcoming.

Respondents' efforts in responding to the General Counsel's Brief are hindered by the limited access to this documentation and their inability to confront witnesses at the time testimony was provided to the General Counsel. For example, the General Counsel relies upon a computer report listing contributions attributable to Mr. Johnson's fundraiser code, AZ 04. However, the General Counsel has effectively refused to provide the names of contributors, making it prohibitively difficult for Respondents to definitively explain all these contributions.

9504367079 6

The General Counsel's Brief relies heavily on the testimony of Ms. Patricia Davidson. Respondents believe that Ms. Davidson is a hostile witness based upon statements she made after Mr. Johnson terminated her employment.[1] Access to Ms. Davidson's complete testimony as well as that of Ms. Jean Johnson may be very helpful to the Respondents in preparing their case. In the case of Kelly Rossi, Molly Rugolo and Laura Ashbaugh, the individuals who stuffed envelopes (the "stuffers"), the General Counsel has based arguments on carefully crafted statements distilled in an affidavit prepared for those witnesses. As is their practice with respect to all witnesses, General Counsel staff members have instructed these witnesses not to talk to anyone about their statements.

C. Identification Of Respondents

Mr. Robert G. Johnson has been involved in the real estate industry since early in the 1970s. Mr. John-

[1] In an unrelated proceeding, Respondents' counsel deposed Ms. Davidson. At that deposition, she recalled telling Mr. Johnson that he would probably regret having terminated her employment. Deposition Transcript of Patricia Davidson. Dole v. International Association of Managers, C.A. No. 90-0219 PHX RCB (AZ. D.C. 1990).

9504367097

son is employed by the International Association Managers, Inc.

The National Association of Review Appraisers and Mortgage Underwriters, Inc. ("NARA/MU"), located in Scottsdale, Arizona, is a non-profit professional membership organization of review appraisers and mortgage underwriters. NARA/MU provides numerous services and benefits to its approximately 7,500 members. It offers designations to qualified members, publishes a newsletter and various other materials relating to review appraising and mortgage underwriting, and offers seminars and educational courses on relevant topics. Mr. Joseph M. Iacuzzo is responsible for the day to day operations of NARA/MU.

The National Association of Real Estate Appraisers, Inc. ("NAREA") is a corporation with its principal place of business in Scottsdale, Arizona. NAREA is a professional membership organization for real estate appraisers. Similar to NARA/MU, NAREA provides numerous services and benefits to its approximately 24,000 members, including offering designations to qualified members, publishing a newsletter and various other materials relating to real estate appraising, and offering seminars and educational courses on relevant topics. In addition, NAREA is in the business of direct mail and conducting

9504367079 8

mass mailings to its members for other organizations. Contrary to the General Counsel's allegations, Mr. E. Kenneth Twichell, not Mr. Johnson, is responsible for the day to day operations of NAREA.

The Professional Women's Appraisal Association ("PWAA") is a non-profit organization located in Scottsdale, Arizona, and provided benefits and services to its approximately 800 members similar to those provided by NAREA to its members. Contrary to the General Counsel's Brief, Mr. Johnson neither controls PWAA nor is responsible for its day to day operations. Indeed, the operations of PWAA recently ceased and certain assets were assigned to NAREA.

International Real Estate Institute, Inc. (formerly International Institute of Valuers, Inc.) ("IREI") is a membership organization offering services to its approximately 2,000 members similar to those offered by NAREA. Mr. Matthew Owen, not Mr. Johnson, is responsible for the day to day operations of IREI.

Todd Publishing, Inc. ("Todd Publishing") is a corporation located in Scottsdale, Arizona. Its principal business is printing and preparing publications. Mr. Todd Johnson, not Robert Johnson, is responsible for the day to day operations of this corporation.

9504367079 9

The International Association Managers, Inc. ("IAM") is a corporation located in Scottsdale, Arizona. Mr. Robert Johnson is primarily responsible for the day to day operations of IAM. The General Counsel has made no recommendation regarding probable cause with respect to IAM.

II. ALLEGED MAILING OF MORE THAN 70,000 SOLICITATIONS

A. No Evidence of Actual Mailing of 70,000 Solicitations

Based on "conservative" membership estimates, the General Counsel alleges that at least 18,000 solicitations were sent to the members of NAREA, NARA/MU, and PWAA. Additionally, the General Counsel alleges that an additional 54,029 solicitations were sent to registered Republican voters in five Arizona counties. Thus, the General Counsel concludes that the Respondents have been involved in a mass mailing of more than 70,000 direct mail solicitations for contributions to the Bush for President campaign. Yet, only 261 contributions totaling approximately $27,000 in contributions resulted from the Respondents' fundraising efforts. Contributions made to the Bush for President campaign as a result of the Respondents' fundraising efforts can be identified by a code that the Bush campaign assigned to Mr. Johnson.

9504367080 0

That code is AZ 04. (See Computer Search Report of the 261 contributions made using the AZ 04 code).

The General Counsel alleges that over 54,000 solicitations were mailed to registered Arizona Republican voters, and yet, only 98 Arizona residents made contributions using contribution cards bearing Mr. Johnson's code, AZ 04. Recognizing that Mr. Johnson has resided in Arizona for many years, has been active in the community during that time, and actively engaged in fundraising efforts on behalf of the Bush campaign in early 1988, it is reasonable to conclude that the vast majority of those 98 contributions were made by persons with whom Mr. Johnson had a personal or professional relationship. If the Respondents had access to the names of the 98 Arizonan contributors, they could demonstrate that those individuals are either members of NAREA or were known to Mr. Twichell and Mr. Johnson through professional or personal contacts.[2] Furthermore, even assuming that over 54,000

---

[2] As previously noted, the Respondents are hampered by the one-sided nature of the enforcement process. The General Counsel provided the Respondents a list of 261 contributors who used the AZ 04 code but the list does not contain the names of the contributors; it only contains the name of the contributors' employers and cities of residence or work. The Respondents requested the names of the 261 contributors but the General Counsel agreed to provide the names only if the Respondents agree to reopen the (Footnote continued)

9504367080 1

solicitations were mailed, and that all of the 98 contributions from Arizona residents were attributable to the mailing (which is clearly not the case), then the success rate of the alleged mass mailing would have been less than 0.2%. It is beyond statistical possibility that a mailing to so many Republican registered voters seeking contributions in an election year on behalf of George Bush would yield such a small return. See attached affidavit Exhibit A. Moreover, Mr. Johnson and Mr. Twichell have stated unequivocally that there was no mailing based on the Arizona Republican party list. The evidence is overwhelming that the 54,000 names obtained from the Arizona Republican Party were never mailed a solicitation letter.

The General Counsel also alleges that at least 18,000 solicitations were mailed to members of NAREA, NARA/MU, and PWAA. The only evidence the General Counsel has to substantiate that allegation is that a significant number of the 163 non-Arizona contributions attributed to

---

(Footnote 2 continued from previous page)
investigation and waive their right to object to reopening investigation in this matter. After years of investigation, to ask the Respondents to consent to such terms when seeking such critical and fundamental information to make their defense constitutes an effective denial of the information.

9504367080 2

Mr. Johnson's efforts were made by persons involved in the real estate industry and that the members of NAREA, NARA/MU, and PWAA are involved in the real estate industry. In fact, the non-Arizona contributions are attributable to solicitations Mr. Twichell and Mr. Johnson made to their associates in the real estate industry and the responses that the approximate 800 solicitations sent to members of NAREA by Mr. Twichell. With access to the names of the 163 non-Arizonan contributors, the Respondents could demonstrate that by identifying the contributors as NAREA members or through personal contacts. Again, the evidence is unequivocal that the 18,000 piece project was never mailed.

Mr. Twichell has testified that approximately 800 solicitations were actually mailed, and the General Counsel presents absolutely no testimony to controvert his sworn statement. Nowhere other than in the deposition transcripts of Mr. Johnson and Mr. Twichell, concerning the limited mailing of 800 solicitations, is there any mention of the actual mailing of solicitations. The General Counsel's reliance upon the affidavits of the stuffers that actual mailings occurred is misplaced. In fact, none of the stuffers has any knowledge that these letters were actually mailed, and tens of thousands of

9504367080803

direct mail letters are mailed from offices of the Respondents on a regular basis. Neither Mr. Johnson nor Mr. Twichell recall the stuffing of letters beyond those that Mr. Twichell prepared. It is possible that some stuffing of Bush solicitation letters occurred other than the Twichell mailing, but there is no evidence that any of these letters were mailed.

In addition to the misplaced testimony of the stuffers and certain other employees who worked with Mr. Twichell and Mr. Johnson, the only other evidence the General Counsel proffers concerning the alleged mailings is that PWAA incurred postage expenses in early 1988 that were allegedly disproportionate to the amount it should have incurred because of its small number of members.

PWAA's postage expenses are explained by the intensive membership drive that PWAA undertook at the beginning of 1988. The mass mailing went to a large list of potential members. That membership drive accounts for the $14,000 postage cost incurred in January 1988. See attached affidavit Exhibit B. Moreover, the PWAA postage expenses were incurred and paid in late January and February 1, 1988. The payment of those expenses predates the time frame the General Counsel alleges that a solicitation mailing was made. Postal expenses would not have

9504336708004

been incurred weeks or even several days prior to a mailing, as placing postage on a direct mail piece is the last step in a direct mail preparation process. Indeed, the post office requires that first class mail be metered the day the mail is sent.

As to the alleged mailing to NARA/MU members, again there is no evidence that a mailing was ever sent to these individuals. Furthermore, if Respondents had the names of the 261 contributors, they could conclusively demonstrate that any contributions made by NARA/MU members resulted from personal contacts made by Mr. Twichell and Mr. Johnson. Moreover, even Ms. Davidson, a witness hostile to the Respondents, doubted that Mr. Johnson would send solicitations to members of NARA/MU.

B. The General Counsel Has Not Demonstrated That A Mass Mailing Did Occur

The General Counsel has concocted a mass mailing scenario involving tens of thousands of letters based on unwarranted inferences from the testimony of certain employees of the Respondent corporations and three individuals who allegedly stuffed thousands of solicitation letters. It appears that the General Counsel's investigation stopped short of inquiring as to whether letters were ever mailed by the stuffers or any other evidence

9504367080 5

that would have demonstrated that only a limited mailing occurred. It would have been a relatively simple matter for the General Counsel to survey those persons who allegedly received a solicitation and obtain some support for the allegation that tens of thousands of letters were actually mailed. The General Counsel presents absolutely no evidence to prove or even suggest that any member of NARA/MU or PWAA received a solicitation letter that was mailed by the Respondents. The complainant, Mr. Lair, the only individual who has come forward to acknowledge the receipt of a solicitation letter from the Respondents, was a member of NAREA at the time of the limited mailing to the approximately 800 NAREA members.

C. The Respondents Did Not Violate The Law Regarding The Stuffing or Mailing Of the Solicitation Letters

The limited mailing of approximately 800 letters to NAREA explains why only $946 was spent in the direct mail effort to raise funds for the Bush campaign. Whatever expenses were allegedly incurred in the preparation of "thousands" of solicitations, such expenses do not constitute expenditures in connection with a federal election to the extent that such solicitations were never mailed. Beyond the approximately 800 letters and the personal efforts of Mr. Twichell and Mr. Johnson in rais-

9504367080 6

ing funds, no solicitation or communication was ever disseminated to anyone. Thus, no violation of law could have occurred with regard to the expenditures incurred in the alleged mass stuffing effort. As to the cost involved in mailing approximately 800 letters to NAREA members, the Respondents did not violate the law because Mr. Twichell paid for the $946 cost of that mailing from his personal funds. Mr. Twichell testified that he reimbursed NAREA $760 for part of the cost of the mailing and that he paid the printer directly in the amount of $186. Even if Mr. Twichell had not personally paid for the mailings, NAREA did not need to be reimbursed for the mailing since the approximately 800 piece mailing constituted an expense incurred in making an internal communication to the members of the NAREA. 11 C.F.R. § 114.3(a)(2).[3]

[3] The General Counsel argues that the internal communication exception does not apply, even if this were an internal mailing, because the mailing contained reproduced campaign materials obtained from the Bush campaign. Merely inserting a contributor card obtained from the Bush campaign does not involve a reproduction, and more importantly, a card which merely requests contributor information to comply with the requirements of the FECA can hardly be considered campaign materials. In other instances involving the reproduction of campaign materials, the campaign materials involved the reproduction of photographs or creative materials prepared by the campaign. See, e.g., AO 1981-60, 1 Fed. Elec. Camp. Fin. Guide ¶ 5645 (February 26, 1982).

9504367080 7

Furthermore, NAREA is in the direct mail business. It provides direct mail services to outside groups such as non-profit associations that may wish to conduct a mailing. As a direct mail vendor, NAREA can extend reasonable credit to anyone who chooses to use its services. Thus, Mr. Twichell's use of NAREA to conduct a mailing for the Bush campaign could be considered a commercially reasonable arrangement involving a normal extension of credit. In that circumstance, under 11 C.F.R. § 114.10, no violation of law could have occurred with regard to the mailing. In any event, no corporation or corporate officer violated section 441b because an illegal corporate expenditure did not occur. The entire cost of the mailings that were made was paid by Mr. Twichell within a commercially reasonable time after all costs associated with the mailing were incurred.

The General Counsel also alleges that the notices required under 2 U.S.C. § 441d should have been placed on the solicitation letters. Although the solicitation letters that were mailed stated who paid for the mailing, as an internal mailing, there is no requirement that the letter contain a disclaimer under 2 U.S.C. § 441d.

9504367080 8

III. ALLEGED CORPORATE REIMBURSEMENTS

A. Mr. Johnson's $10,000 Contribution To Presidential Trust

The General Counsel alleges that Mr. Robert Johnson's $10,000 contribution to the Presidential Trust was, in part, financed by Todd Publishing in the form of a $10,000 gross payment ($7,374.00 net) for "Salary for Special Consultants." In addition, the General Counsel implies that Mr. Johnson also used a $1,000 gross payment ($737.40 net) for salary payment from Todd Publishing as part of the funds used to make a $10,000 contribution to the Presidential Trust. As Mr. Johnson is the controlling stockholder of Todd Publishing, the funds of Todd Publishing are available to Mr. Johnson at his discretion, in the form of a dividend, bonus, or salary. Thus, there can be no illicit diversion or funneling of corporate funds so long as Mr. Johnson is properly claiming his rightful dividends or salary as income.

The fact that Mr. Johnson chose to make a contribution to the Presidential Trust with some of the funds that he rightfully and legally drew as salary does not constitute a contribution in the name of another or an indirect corporate contribution. The only issue is whether the payment from Todd Publishing to Robert Johnson was a bona fide salary payment. According to the

9504367080 9

testimony of Mr. Johnson, the salary payment was not made to reimburse or make a contribution to a campaign. Moreover, as the General Counsel states in the probable cause brief, Mr. Johnson received numerous payments from the various associations for which IAM provides managerial services, some of which followed a regular pattern and some of which were episodic and varied widely in amount.

In MUR 706 (In re Richard Bennett for Congress and Hagoth Corporation), the Commission addressed this precise issue. Richard Bennett, a candidate for Congress and the sole stockholder and president of Hagoth Corporation, used Hagoth Corporation expense money to pay campaign expenses. On one occasion, Bennett personally accepted a $1,000 Hagoth expense check, and in turn, wrote a $1,000 personal check to his campaign. There were other similar examples of Mr. Bennett using corporation money for campaign purposes.

The Commission ruled that this activity did not constitute a violation of the corporate prohibition. The General Counsel's analysis providing the rationale for the Commission's decision was as follows:

> Bennett was the sole stockholder and president of Hagoth. As such, he was entitled to, and

9504367038 10

was accustomed to taking earned income at irregular intervals and in irregular amounts. Given Hagoth's apparent policy of allowing Bennett to write corporate checks to himself at irregular intervals prior to his becoming a candidate, and Bennett's past practice of drawing corporate checks whenever he so desired, we think that the Hagoth "assets" transferred by Bennett to his campaign were in fact assets over which he had the "legal right of access . . . and right of beneficial enjoyment." Further, the taking by Bennett of these assets first as personal taxable income and then subsequently making personal contributions to his campaign when combined with his prompt reporting of this to the Commission, supports the theory that the assets involved in the transfer meet the "personal funds" test of § 110.10. Therefore, it appears that the "assets" transferred were not corporate contributions as alleged in the complaint, but rather transfers from Bennett's "personal funds" to his federal campaign.

In MUR 149 (In re Jane Fonda and Hayden for Senate Committee), the General Counsel found that Jane Fonda could draw advances against future earnings from Twentieth Century Fox and United Artists and use the funds in her husband's campaign. The General Counsel noted that the proximity in time between the advances from Twentieth Century Fox and United Artists and the transfers of large sums of money to the Hayden campaign raises the possibility of a corporate contribution. In recommending that the matter not be pursued, the General Counsel indicated that it was difficult to proceed on the theory that a corporate contribution was made because Ms.

9504367081 1

Fonda could have used the advance against earnings for any purpose.

The same rationale applies in this case. Mr. Johnson had the right to draw expense and corporation payments from his corporation at irregular intervals. He had a longstanding practice of engaging in this activity. Thus, Mr. Johnson did not violate the law by legally drawing a check from Todd Publishing and subsequently making a contribution to the Presidential Trust.

B. Mr. Cloud's And Mr. Twichell's $10,000 Contributions

With respect to the $10,000 contributions to the Presidential Trust made by Mr. Cloud and Mr. Twichell, the General Counsel alleges that these contributions were financed by NAREA. It is undisputed that both Mr. Cloud and Mr. Twichell received a $10,000 bonus on July 19, 1988, and on that same day, they each contributed $10,000 to the Presidential Trust. However, Mr. Johnson maintains that no employee of any of the Respondent corporations has been reimbursed for making a campaign contribution. Mr. Cloud and Mr. Twichell also maintain that their independent decisions to contribute to the Presidential Trust were in no way prearranged with Mr. Johnson. Both Mr. Twichell and Mr. Cloud testified

9504367081 2

that they intended, prior to receiving their $10,000 bonuses, to make contributions to the Bush campaign. Again, the issue is not whether Mr. Cloud or Mr. Twichell decided to use a salary or a bonus payment as part of the money they contributed to the Presidential Trust; the question is whether the payment was a bona fide salary or bonus payment.

Mr. Twichell testified that he was becoming more active in politics. In this regard, prior to receiving the $10,000 bonus related to providing services for assisting in the move of his employer from one location to another, he determined that he would like to make a sizeable political contribution, perhaps as much as $5,000. He had just received a $20,000 bonus and after receiving the additional $10,000 bonus, Mr. Twichell spoke with Mr. Johnson about various alternatives in the political arena. Mr. Twichell then decided to contribute the maximum amount to the Presidential Trust.

Mr. Cloud testified that he felt a family-type relationship between himself and Mr. Johnson, as he started receiving invitations to social functions. He further stated that he liked working for Mr. Johnson and believed in him, so that when he learned of Mr. Johnson's involvement in the Bush campaign, he decided to make a

9504336708813

contribution to the Bush campaign. It is true that part of Mr. Cloud's motivation for making a political contribution was his desire to please his boss, Mr. Johnson; however, that did not make Mr. Cloud's voluntary decision to contribute to the Presidential Trust an illegal contribution. The $10,000 was a salary payment -- he earned it, he paid taxes on it, and it was his to do with as he chose.

The General Counsel's version of the facts surrounding Mr. Cloud's and Mr. Twichell's $10,000 contributions is based on nothing more than office gossip. None of the witnesses relied upon by the General Counsel had personal knowledge of the facts. It is irresponsible and legally unjustified to draw a conclusion of law from such statements.

The evidence substantiating that the $10,000 bonus payments were proper is undisputed. Mr. Twichell and Mr. Cloud received the payments as compensation for the role they played in moving the Respondents' corporations in June and July of 1988. Mr. Twichell was fully responsible for monitoring the construction of the new building and for coordinating the office move. Pursuant to this responsibility, Mr. Twichell visited the building as often as twice each workday and on weekends throughout

9504367081 4

the course of the eight month construction project. As the construction of the new building neared completion, Mr. Twichell arranged the layout of the new office and coordinated the logistics of the move. Everything in the old office had to be disconnected, disassembled, and packed, and then loaded into a pick-up truck or car, transported to the new office, unloaded, unpacked, reconnected, reassembled, and positioned in newly designated locations. Items that were moved included computer equipment, files, records, inventory, file cabinets, furniture, and other office items. Although some new furniture and computer equipment was purchased in connection with the move, all of the furniture and computer equipment from the old office was moved to the new office, which is approximately three to four times as large as the old office.

Mr. Cloud was responsible for designing the computer network in the new office and relocating and integrating the existing computer equipment and database into the new system. Pursuant to this responsibility, Mr. Cloud regularly visited the new building as it was being constructed to insure that the needs of the new computer system were being properly met. Mr. Cloud also ran wires and arranged for wiring to accommodate the new

9504367081 5

computer system. Not only did Mr. Cloud work with Mr. Twichell to move the old office to the new building, but he also was responsible for properly disconnecting the computers at the old office and reconnecting and integrating them into the new system. Once the new system was wired, Mr. Cloud spent additional time debugging the system.

Prior to deciding that Mr. Cloud would handle the implementation of the new computer system, several cost factors were discussed by Mr. Johnson and Mr. Cloud. It would be difficult to determine the cost of the move in advance, but they did realize that it would be a lengthy and time consuming project spanning several months. Mr. Cloud anticipated that he would have to research and purchase some new computer equipment; he would have to integrate the old equipment into the new system; he would have to design the new system and arrange for adequate wiring in the new building; and he would have to actually implement the new system. In carrying out these tasks, Mr. Cloud put in a lot of overtime over a four-month period, working weekends and evenings.

The efforts of Mr. Twichell and Mr. Cloud are in no way diminished by the fact that professional movers

9504367081 6

were hired in connection with a small portion of the relocation effort. The professional movers moved items that were stored in storage bins when association headquarters was located at 8715 Via De Commercio, the old office. Accordingly, all of the available evidence indicates that Mr. Cloud and Mr. Twichell were primarily responsible for the move from the old office to the new office.

Professional movers were requested to submit bids to move the entire office, including the computer equipment, and the lowest bid was $30,000. Furthermore, in addition to their role in the moving process, Mr. Cloud and Mr. Twichell were primarily responsible for monitoring the construction of the new building and preparing for the move.

C. Mr. and Mrs. Twichell's $1,000 Contributions To Bush For President Committee

The General Counsel alleges that NAREA issued a $2,400 check to Mr. Twichell to fund $1,000 contributions made by Mr. and Mrs. Twichell to the Bush for President Committee. Mr. Twichell regularly received advances or compensation for expenses incurred in connection with NAREA business, including out of town travel approximately every other week in 1988. The testimony of Mr.

9504367081 7

Twichell and Mr. Johnson is unequivocal; there was no discussion or agreement that any expense reimbursement be used for a campaign contribution. As Mr. Twichell testified, this particular payment of $2,400 was a bonus payment for services rendered. It was not unusual for Respondents' employees to receive periodic bonuses.

The General Counsel reviewed Mr. and Mrs. Twichell's check register and noted that, absent the $2,400 bonus payment, the Twichells lacked sufficient funds to cover the contributions. However, Mr. Twichell could have financed a campaign contribution from his personal assets, and moreover, the General Counsel's argument misses the point. It does not matter whether the Twichells had other funds or whether they could or could not have made the Bush contributions without the bonus payment; the issue is whether the bonus payment was a bona fide payment. The testimony shows that it was a bona fide payment, and therefore, Mr. and Mrs. Twichell could use the funds however they pleased. In this case, they chose to make contributions to the Bush campaign. The General Counsel makes no suggestion that the contributions were not voluntary.

9504367081 8

D. The Purchase of Arizona Republican Party Mailing List

The General Counsel alleges that NAREA issued a $156 check to Mr. Twichell to reimburse Mr. Twichell for expenses allegedly incurred in obtaining a mailing list for the Arizona Republican Party. Mr. Twichell's recollection as to the payment and purpose of the $156 is unclear. However, as indicated in response to allegations that 70,000 solicitations were mailed, the names obtained from the Arizona Republican Party were never used. Accordingly, as a matter of law, there was no corporate expenditure in connection with a federal election and no violation could have occurred even if the corporation did reimburse Mr. Twichell's $156 for the Arizona Republican Party mailing.

E. Mr. and Mrs. Schneck's $1,000 Contribution to the Bush for President Committee

The General Counsel alleges that on January 26, 1988, IREI issued a $1,150 check to Mr. Schneck to fund a $1,000 contribution jointly made by Mr. and Mrs. Schneck to the Bush for President Committee. Again, Mr. Schneck and Mr. Johnson maintain that there was no agreement that the funds would be used for campaign contributions. As in the case of Mr. Twichell, Mr. Schneck regularly re-

2504367080819

ceived advances or compensation for expenses incurred in connection with IREI business. For example, Mr. Schneck received the following reimbursements in 1988:

NAREA Checks			
#8961	04/12/88	Seminar - San Francisco	$160
#9941	09/23/88	Seminar - Palm Springs	85
#10158	10/31/88	Seminar - Toronto	80
NARA/MU Checks			
#18841	02/03/88	Colorado Conference	55
#18842	02/03/88	Colorado Conference	91
#19042	02/26/88	Colorado Conference	52
IREI Checks			
#8073	08/29/88	Journal Production	500

With respect to the above seminar expenses, Mr. Schneck was not traveling alone, and thus, incurred little personal expense. On the other hand, the $1,150 reimbursement was paid to Mr. Schneck for his travel to London, England in connection with a seminar there.

F. Mr. Todd Johnson's $1,000 Contribution To Bush For President Committee

The General Counsel alleges that on January 26, 1988, Todd Publishing issued a $1,155 check to Mr. Todd Johnson to fund a $1,000 contribution made by Mr. Todd Johnson to the Bush for President Committee. However, Mr. Todd Johnson received numerous miscellaneous payments from Todd Publishing in 1988:

01/11/88	$1,000 Consultants fee
01/26/88	1,155 Printing expense

9504367003820

03/31/88	3,000	Consultants fee
05/24/88	1,000	Consultants fee
08/05/88	1,000	Consultants fee
12/02/88	1,000	Consultants fee
12/08/88	1,000	Consultants fee
12/28/88	1,000	Consultants fee

The $1,155 payment was a reimbursement for printing expenses, and in fact, it is the only such compensation that was not for an even amount. Clearly, the relative timing of the Todd Publishing check and Mr. Todd Johnson's contribution is merely coincidence.

G. Mr. Twichell's $500 Contributions To Durenberger For Senate Committee

The General Counsel alleges that on March 4, 1988, NAREA issued a $520 check to Mr. Twichell purportedly for "seminar expenses" to fund a March 6, 1988, $500 contribution made by Mr. Twichell to the Durenberger for Senate Committee. Again, Mr. Twichell regularly received advances or compensation for expenses incurred in connection with NAREA business, including out of town travel approximately every other week in 1988.

NAREA Checks		
01/25/88	Bonus	$ 2,400.00
07/95/88	Bonus	20,000.00
07/19/88	Moving Expense	10,000.00
Other Expense Checks		
01/05/88	Office	25.00
01/08/88	Orlando	200.00
01/26/88	Sacramento	135.00
03/04/88	Seminar Reimbursement	520.00

9504367083821

03/04/88	Office	200.00
03/14/88	San Francisco	280.00
04/14/88	London	680.00
04/29/88	Las Vegas	80.00
05/20/88	Seminar	150.00
06/20/88	Board of Director	380.00
06/27/88	Dallas	150.00
07/05/88	Hawaii	280.00
07/19/88	Missouri	140.00
09/23/88	Palm Springs	220.00
09/29/88	Palm Springs	280.00
11/17/88	Seminar	135.00
11/18/88	Seminar	140.00
12/08/88	Seminar	100.00

9504367080822

The timing of Mr. Twichell's $500 contribution and the receipt of the $520 reimbursement does not constitute a violation. The reimbursement may have made it easier to make a contribution at a particular time, but as long as the payments to the employees were legitimate payments (which they were, based on the testimony of Mr. Twichell and Mr. Johnson and the evidence that Mr. Twichell received payments for travel and other services continuously) it is not a violation of law for Mr. Twichell to have made a contribution with those funds.

According to the Durenberger campaign, Mr. Twichell made an additional $500 contribution in May 1988. Mr. Twichell only recalled making one $500 contribution in March 1988. It appears, however, that two $500 cashiers checks made out to the Durenberger campaign were purchased with a NAREA corporate check. It further ap-

pears that these two cashiers checks were used to make two $500 contributions to the Durenberger campaign. Mr. Johnson and Mr. Twichell attended a fundraiser for Senator Durenberger in St. Paul, Minnesota in May 1988. It further appears that Mr. Johnson and Mr. Twichell each contributed $500 in the form of a cashier's check. As the sole owner of NAREA, Mr. Johnson could draw payments from his corporation and use the funds as he chose. See discussion of MUR 706, above. In this instance, however, the method used to make contributions to the Durenberger campaign gives the appearance that a corporate contribution was made. The Respondents did not intend to use corporate funds, but the record suggests that NAREA funds were used to purchase cashiers checks that were in turn contributed to a federal campaign. Thus, Mr. Johnson has requested that the Durenberger campaign refund the contributions that were made in this instance. (In total, the Respondents have requested the Durenberger campaign refund $1,500 because of a similar contribution discussed below involving Mr. Schneck.)

9504367083 23

H. Mr. Schneck's $500 Contribution to Durenberger For Senate Committee

The General Counsel alleges that NAREA issued a $500 check to fund a $500 contribution made by Mr. Schneck to the Durenberger for Senate Committee. The check in issue indicates that it was to reimburse Mr. Schneck for office supplies. Although Respondents are not responsible for what Mr. Schneck does with a check once he receives it, Respondents have requested that the Durenberger campaign refund the $500 contribution from Mr. Schneck because the method used to effect Mr. Schneck's contribution creates the appearance that a corporate contribution was made.

I. Mr. Steensland's $1,000 Contribution To Durenberger For Senate Committee

The General Counsel alleges that on May 25, 1988, NAREA issued a $1,000 check to Mr. John Steensland for a $1,000 contribution made by Mr. Steensland to the Durenberger for Senate Committee. As a director of NAREA, Mr. Steensland was and continues to be very active in NAREA activities, including producing and attending seminars throughout the country. In connection with his involvement in NAREA activities, Mr. Steensland typically incurred expenses for which he was entitled to reimbursement, and often, such expenses could be anticipated in

9504367080824

advance. For example, Mr. Steensland charged the following fees and incurred the following expenses in 1988.

#8682	01/21/88	Speakers Fee - Maryland	$2,000.00
#8688	01/22/88	Exp. for Orlando	160.50
#8696	01/26/88	Baltimore Exp.	924.00
#8773	02/20/88	Speakers Fee	1,500.00
#8785	02/24/88	Speakers Fee	652.00
#8801	03/01/88	Speakers Fee - Milwaukee	453.00
#8829	09/09/88	Kentucky Sem. Exp.	1,758.00
#8837	03/11/88	Speakers Fee	1,115.00
#8885	03/28/88	Santa Clara Conference	2,858.00
#8890	03/29/88	Easter Baskets	139.48
#9136	05/20/88	Sem. Exp. Conf. - Scottsdale	3,206.00
#9160	05/25/88	Sem. Exp. - Raleigh Durham	1,000.00
#9272	06/16/88	New Mexico Sem. Exp.	1,561.50
#9514	07/22/88	Las Vegas & Hawaii Conf. Exp.	3,006.00
#9750	08/25/88	Speakers Fee	1,657.00
#9786	09/01/88	Speakers Fee	1,655.00
#9984	09/22/88	Speakers Fee	1,571.00
#10108	10/21/88	Travel Exp.	538.00
#10175	11/01/88	Travel Exp.	1,646.00
#10311	11/25/88	Travel Exp.	1,536.00
#10457	12/19/88	Travel Exp.	1,568.00
#10482	01/21/88	Travel Exp.	1,000.00

These fees and expenses can be attributed to Mr. Steensland's participation in the following seminars:

Date	Title	Please	Attendees
01/18-19/88	Residential Appraisal, A "Hands-On Approach"	Baltimore, MD	306
01/20-21/88	Residential Appraisal, A "Hands-On Approach"	Baltimore, MD	143
02/11-12/88	Residential Appraisal, A "Hands-On Approach"	Des Moines, IO	52
02/18-19/88	Residential Appraisal, A "Hands-On Approach"	Milwaukee, WI	215
03/03-04/88	Residential Appraisal, A "Hands-On Approach"	Lexington, KY	183

9504367082 5

03/15-16/88	Residential Appraisal, A "Hands-On Approach"	Santa Clara, CA	122
03/17-18/88	Residential Appraisal, A "Hands-On Approach"	Concord, CA	93
05/05-06/88	Residential Appraisal, A "Hands-On Approach"	Raleigh-Durham, NC	270
05/12-13/88	Residential Appraisal, A "Hands-On Approach"	Scottsdale, AZ	238
06/09-10/88	Residential Appraisal, A "Hands-On Approach"	Albuquerque, NM	157
06/20-21/88	Residential Appraisal, A "Hands-On Approach"	Las Vegas, NV	73
07/07-08/88	Residential Appraisal, A "Hands-On Approach"	Honolulu, HI	155
08/18-19/88	Residential Appraisal, A "Hands-On Approach"	Engelwood, CO	183
08/25-26/88	Residential Appraisal, A "Hands-On Approach"	Portland, OR	58
09/14-15/88	Residential Appraisal, A "Hands-On Approach"	San Diego, CA	167
10/02-05/88	National Appraisal		390
10/20-21/88	Residential Appraisal, A "Hands-On Approach"	Mississippi	102
11/10-11/88	Residential Appraisal, A "Hands-On Approach"	Salt Lake City Utah	108
11/17-18/88	Residential Appraisal, A "Hands-On Approach"	Pittsburgh, PA	212
12/01-02/88	Residential Appraisal, A "Hands-On Approach"	Baltimore, MD	281
12/08-09/88	Residential Appraisal, A "Hands-On Approach"	Minneapolis, MN	209

9504367008826

As stated in the attached affidavit, Mr. Steensland believes that the May 25, 1988 $1,000 payment he received was compensation for his presentation at the May 5 and 6, 1988 seminar in Raleigh-Durham, North Carolina. The fact that Mr. Steensland made a contribution to Senator Durenberger two days later proves nothing. The expense reimbursement was a bona fide payment to Mr. Steensland which he chose to contribute to the Durenberger campaign.

J. Conclusions Regarding Corporate Reimbursements

The case against the corporations and Mr. Johnson for his involvement in paying individuals, and those individuals making contributions is based solely on the fact that the payments to the individuals approximated the amount of contributions made in the same time period. In fact, some alleged reimbursements were equal to the amount of the contributions, before taxes, while others were greater. The General Counsel ignores the express testimony and documentary evidence, as well as the practices of the Respondent corporations. There is a pattern of numerous expense reimbursements and periodic bonuses paid to employees in the Respondent corporations. All these individuals were involved in the effort to support the Bush campaign, which was a project that Mr. Johnson

9504367083827

enthusiastically supported. It is logical for his close associates to want to assist in this political effort. They are all implicated in alleged violations of law merely because they chose to use bonuses or salary payments legitimately earned and/or expense reimbursements they were entitled to receive for making political contributions. In the several cases involving contributions in the name of another, there was a nexus between the salary or expense payment and the political contribution and there was corroborating testimony that the payments were made for the express purpose of making a political contribution. See e.g., MUR 3125 (In re CAE-Link Corporation); MUR 2104 (In re Alamco); MUR 1713 (In re First National Bank of Clements). However, no such evidence exists in this case.

IV. ALLEGED KNOWING AND WILLFUL VIOLATIONS

A. The Respondents Did Not Knowingly and Willfully Violate the Law

The most outlandish portion of the General Counsel's brief concerns the allegations of knowing and willful conduct and the statement that "Respondents' full knowledge of the illegality of their activities is inferable too from the repeated false and perjured statements made to the government in their concerted attempts to

9504367082 8

cover up the activities." This unwarranted charge is responded to in a point-by-point rebuttal.

The General Counsel has offered no evidence that any Respondent had an understanding of the law that would elevate the level of wrongdoing to a knowing and willful violation. The General Counsel does, however, mention certain statements made by specific Respondents that appear to be the basis of the belief that misrepresentations were made during the course of the investigation. The points are addressed below:

1. Allegation:

Robert Johnson testified that he personally stamped his identifying fundraiser code on the materials used in the mailings; the stuffers reported that the Association paid them to perform this activity.

Response:

Mr. Johnson testified that he stamped the code on solicitation materials that he used to solicit contributions. If stuffers also used the stamp, he stated that he was unaware of such activity.

2. Allegation:

Robert Johnson testified that the mailings were a personal project of Mr. Twichell and were sent to only a limited number of members of NAREA; others testified

9504367083829

that the mailings were a huge undertaking in his office and that Mr. Johnson was involved in the mailings.

Response:

The number of responses received rebuts the testimony that a huge mailing was actually sent. The evidence points to the fact that only a limited mailing was made and this was to the members of NAREA.

3. **Allegation:**

Mr. Johnson testified that no contributions were received as a result of the Bush solicitation letters despite the evidence that he routinely called the Bush campaign and monitored contributions using his fund-raiser code.

Response:

Mr. Johnson testified that he was monitoring the contributions made as a result of his efforts to raise money with the AZ 04 code. In fact, he was unaware that any contributions had been made in direct response to the Twichell mailing to NAREA members. Moreover, the affidavit of Lucy Cole states that Mr. Johnson called her on several occasions that past winter which was prior to any alleged mailings.

9504336708830

4. Allegation:

Mr. Johnson repeatedly denied that reimbursement activity took place even though he forwarded cashier checks purchased by NAREA to the Durenberger campaign and personally wrote $10,000 checks to Mr. Twichell and Mr. Cloud.

Response:

The reasons for the payments to Mr. Twichell and Mr. Cloud have been explained in great detail. The testimony of Mr. Twichell, Mr. Cloud, and Mr. Johnson make it clear that those payments were bona fide payments and were not written with the instruction or intention that the funds be contributed to any political campaign. The contributions were voluntary. As to the Durenberger contributions, the Respondents acknowledge that the method used to make those contributions may create an appearance problem. However, recognizing that Mr. Johnson only contributed $500 to the Durenberger campaign, he would have been within his rights to contribute an additional $500. Thus, there should be no finding of intent to circumvent the FECA where the aggregate of contributions attributable to Mr. Johnson does not exceed the $1,000 limit. Thus, even if the method utilized to make the Durenberger contributions on behalf of Mr. Twichell and

9504367083 1

Johnson is determined to constitute a technical violation of law, the violation did not constitute a deliberate intent to violate the law.

5. Allegation:

Robert Johnson manufactured evidence submitted to the Commission creating an invoice as paid by Mr. Twichell when he knew there was no contemporaneous attempt to recoup corporate expenses incurred on the mailings.

Response:

Mr. Twichell paid for the mailing shortly after the mailing occurred. The project was indisputably paid for by Mr. Twichell, eliminating the possibility of an illegal corporate expenditure. The preparation or the failure to prepare a timely invoice has no bearing on whether a violation of law occurred.

Mr. Johnson's knowledge of the campaign finance laws was minimal. He did not attend the training sessions for fundraisers held in Washington, D.C. Essentially, all he knew was that there was a $1,000 per individual contribution limit to a campaign committee and that there was a prohibition on making corporate contributions. Mr. Johnson did not consider a bona fide payment to an employee that the employee chose to use to

9504336708832

make a political contribution to be an indirect corporate contribution. Thus, even if the Commission were to find that a violation of law occurred, there is no basis to conclude that Mr. Johnson had the requisite knowledge of the law to constitute a knowing and willful violation.

Thus, the General Counsel's allegations of knowing and willful conduct are unfounded.

V. CONCLUSION

For the reasons stated in this response, the Respondents respectfully request that the Commission find no probable cause that a violation of the Federal Election Campaign Act occurred.

Date: September 19, 1991

D. Randall King
MERCHANT, GOULD, SMITH, EDELL,
WELTER & SCHMIDT, P.A.
1000 Norwest Center
55 East Fifth Street
St. Paul, Minnesota 55101
(612) 298-1055

Kenneth A. Gross
SKADDEN, ARPS, SLATE,
MEAGHER & FLOM
1440 New York Avenue, N.W.
Washington, D.C. 20005
(202) 371-7000

9504367083 3

SECOND ORIGINAL

AFFIDAVIT OF JAMES MINARIK

STATE OF VIRGINIA)

COUNTY OF FAIRFAX)

James Minarik, being duly sworn, deposes as follows:

1. Between 1973 and 1980, I was Vice President of the Political Fundraising Division of The Viguerie Company. Between 1980 and 1985, I was a freelance consultant in matters concerning direct mail for The Viguerie Company and other fundraising organizations. Since 1986, I have been the owner of Brooks Mann, Inc., a direct mail company.

2. A mailing to the Arizona Republican Party list made in early 1988 to raise funds for George Bush's Presidential campaign should have yielded roughly a 3% return if the list were a contributor list and should have yielded a 1.5% return if the list were merely a voter list. Based on my many years of experience in political direct mail fundraising, it is statistically impossible for a solicitation for campaign funds to the George Bush Presidental campaign from the Arizona Republican Party list during the first quarter of 1988 to yield a return of less than 0.2%. The only way such a

9504336708834

low return could have possibly occurred is if the mailing were destroyed or there was postal theft.

October 9, 1991 — James Minarik
Date

Sworn to and subsribed before me
this 9 day of October, 1991

Notary Public
10/2/92

2504336703835

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
National Association of Real Estate Appraisers, Inc.	)	
National Association of Review Appraisers and Mortgage Underwriters, Inc.	)	
International Real Estate Institute, Inc. (a.k.a International Institute of Valuers, Inc.)	)	MUR 2984
Todd Publishing, Inc.	)	
Professional Women's Appraisal Association, Inc.	)	
International Association Managers, Inc.	)	
Robert G. Johnson	)	

AFFIDAVIT OF ROBERT G. JOHNSON

STATE OF ARIZONA)
)
COUNTY OF MARICOPA)

Robert G. Johnson, being duly sworn, deposes and says as follows:

1. I am President of International Association Managers, Inc. and a Respondent in the above-identified MUR.

2. I have been involved in the real estate industry in various positions and capacities since early in the 1970's.

3. International Association Managers, Inc. is the company which manages the associations named above, excluding Todd Publishing, Inc. They are each involved in the real estate industry.

4. The National Association of Review Appraisers and Mortgage Underwriters, Inc. ("NARA/MU"), located in Scottsdale, Arizona, is a non-profit professional membership organization of review appraisers and mortgage underwriters. NARA/MU provides

9504367083 6

numerous services and benefits to its approximately 7,500 members. It offers designations to qualified members, publishes a newsletter and various other materials relating to review appraising and mortgage underwriting, and offers seminars and educational courses on relevant topics. Mr. Joseph M. Iacuzzo is responsible for the day to day operations of NARA/MU.

5. The National Association of Real Estate Appraisers, Inc. ("NAREA") is a corporation with its principal place of business in Scottsdale, Arizona. NAREA is a professional membership organization for real estate appraisers. Similar to NARA/MU, NAREA provides numerous services and benefits to its approximately 24,000 members, including offering designations to qualified members, publishing a newsletter and various other materials relating to real estate appraising, and offering seminars and educational courses on relevant topics. In addition, NAREA is in the business of direct mail and conducting mass mailings to the members of NAREA for other organizations. E. Kenneth Twichell is responsible for the day to day operations of NAREA.

6. The Professional Women's Appraiser Association ("PWAA"), is a non-profit organization located in Scottsdale, Arizona, and provided benefits and services to its approximately 800 members similar to those provided by NAREA to its members. The operations of PWAA recently ceased and certain assets were assigned to NAREA.

9504367083837

7. International Real Estate Institute, Inc. (formerly International Institute of Valuers, Inc.) ("IREI") is a corporation located in Scottsdale, Arizona. IREI is a membership organization offering services to its approximately 2,000 members similar to those offered by NAREA. Mr. Matthew Owen is responsible for the day to day operations of IREI.

8. Todd Publishing, Inc. ("Todd Publishing") is a corporation located in Scottsdale, Arizona. Its principal business is printing and preparing publications. Mr. Todd Johnson is responsible for the day to day operations of this corporation and I am the controlling stockholder of this corporation.

9. Each of the above-identified associations is involved in the business of sending out direct mail letters. Such direct mail letters are mailed from the offices of the associations on a regular basis in the tens of thousands.

10. I have now had an opportunity to review the list of contributors to President Bush which bore my contributor code, AZ 04. In view of the FEC's refusal to provide me with the names of each contributor, it was impossible to identify each of the contributors. However, it is my belief that the majority of the 98 contributors who reside in Arizona were persons with whom either myself or E. Kenneth Twichell had a personal or professional relationship. In addition, it is my belief that of the contributors listed who reside outside the state of Arizona, either Mr. Twichell or myself had a personal or professional

95043670838

relationship with the majority of those listed. After reviewing the contributor list provided by the FEC, I believe that I can identify at least 70 of those listed as being persons with whom either Mr. Twichell or I have a personal or professional relationship.

11. I have reviewed the General Counsel's brief concerning certain postage costs attributed to PWAA. In early 1988 a large membership drive was undertaken by PWAA, and thousands of letters were sent to a large list of potential members.

12. At my direction, the associations' records have been reviewed. Specifically, checks relating to seminar and other expense reimbursements have been reviewed for inclusion in the response. Based upon my review of association records, it is my belief that the IREI check for $1,150.00 to Mr. Stephen Schneck was reimbursement paid to Mr. Schneck for his travel to London, England in connection with a seminar being held there.

13. I have requested, through my attorney, that Senator Durenberger refund certain contributions that are discussed in the response accompanying this Affidavit which total $1,500.00.

2504367083 9

14. I have reviewed a draft copy of the document entitled Response to General Counsel's Brief and believe all statements of fact to be accurate.

FURTHER YOUR AFFIANT SAYETH NOT.

Robert G. Johnson

Subscribed and sworn to before me this 19th day of September, 1991.

Notary Public

Exps: 6/30/93

9504367008400

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
National Association of Real Estate Appraisers, Inc.	)	
National Association of Review Appraisers and Mortgage Underwriters, Inc.	)	MUR 2984
International Real Estate Institute, Inc. (a.k.a. International Institute of Valuers, Inc.)	)	
Todd Publishing, Inc.	)	
Professional Women's Appraisal Association, Inc.	)	
International Association Managers, Inc.	)	
Robert G. Johnson	)	

9504336708841

AFFIDAVIT OF JOHN STEENSLAND

STATE OF Minnesota)
) ss
COUNTY OF Ramsey)

Sir:

John Steensland, being duly sworn, deposes and says as follows:

1. I am the same John Steensland referenced in the General Counsel's Brief of July 12, 1991 for the above-identified investigation.

2. I have worked in the real estate appraisal industry for 18 years.

3. I am a Certified Federal General Real Estate Appraiser licensed by the State of Minnesota. I am a full-time real estate appraiser and I also give appraisal seminars throughout the

country.

4. I have been giving seminars for at least 5 years.

5. In the past 5 years, I have given numerous seminars throughout the country.

6. On May 5 and 6, 1988, I gave a two day seminar in Raleigh-Durham, North Carolina, entitled "Residential Appraisal, A Hands-On Approach." My speaking fee at that time was $500.00 a day. I gave the seminar over a two day period and thereafter charged a $1,000.00 instructor's fee to NAREA for my services performed in Raleigh-Durham, North Carolina.

7. If in the course of giving seminars for NAREA, I incurred travel expenses, the expenses were submitted to NAREA and I was reimbursed by a check from NAREA. Often, NAREA would pay me a single check for both my speaking fees and travel expenses.

8. I personally did not always incur travel expenses. At times, NAREA would send me airline tickets and provide me with a hotel room to which I would charge my meals.

9. To the best of my recollection, the check dated May 25, 1988 for $1,000 was compensation for my presentation of the two day seminar in Raleigh-Durham, North Carolina.

10. I donated $1,000.00 to the David Durenburger for Senate Committee on May 27, 1988.

11. There were no prior or previous arrangements pertaining to the check I gave to the David Durenburger for Senate Committee on May 27, 1991, nor was I ever compensated in any manner for my

9504367083842

donation.

12. I have never made a contribution in my name knowing that the contribution was contributed from a corporation or by a corporate officer or a director of a corporation.

Further affiant sayeth not.

Sept. 19, 1991
Date

John Steensland

Subscribed and sworn before me this 19th day of September, 1991.

Terese A. Dedrickson

TERESE A. DEDRICKSON
NOTARY PUBLIC - MINNESOTA
DAKOTA COUNTY
My Commission Expires Oct. 11, 1995

9504336708843

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 27, 1991

D. Randall King, Esquire
Merchant & Gould
100 Northwest Center
55 East Fifth Street
Saint Paul, MN 55101

Re: MUR 2984
E. Kenneth Twichell

Dear Mr. King:

This is in response to your letter dated September 16, 1991, requesting an extension of twenty days to respond to the General Counsel's Brief in the above-captioned matter.

Considering the Federal Election Commission's responsibilities to act expeditiously in the conduct of investigations, and in view of the fact that this brief is substantially the same as the one provided to you earlier regarding other respondents, I cannot grant your full request. As a courtesy, I will agree to a fifteen day extension. Accordingly, the response is due by close of business on October 16, 1991.

If you have any questions, please contact Patty Reilly, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

9504367084

06C 3099

MERCHANT & GOULD

Merchant, Gould, Smith, Edell, Welter & Schmidt
Professional Association
Patent, Trademark & Copyright Lawyers

1000 Norwest Center
55 East Fifth Street
Saint Paul, Minnesota
U.S.A. 55101-2701
FAX 612/298-1160
Telex 297470 MANDG Stp
612/298-1055

Direct dial 225-2012

John D. Gould
Phillip H. Smith
Robert T. Edell
Paul A. Welter
Cecil C. Schmidt
John S. Sumners
Alan G. Carlson
Micheal L. Schwegman
Earl D. Reiland
Raymond A. Bogucki
Charles E. Golla
Douglas J. Williams
Douglas A. Strawbridge
Albert L. Underhill
D. Randall King
Michael B. Lasky
Curtis B. Hamre
Michael D. Schumann
Michael L. Mau
John A. Clifford
Mark J. DiPietro
Steven W. Lundberg
Warren D. Woessner
Timothy R. Conrad
•••
David G. Johnson
Alan W. Kowalchyk
Michael S. Sherrill
Daniel W. McDonald
R. Carl Moy
Robert C. Freed
Daniel J. Kluth
Wendy M. McDonald
Linda M. Byrne
Mark D. Schuman
Randall A. Hillson
John P. Sumner
Brian H. Batzli
David K. Tellekson
John J. Gresens
Paul E. Lacy
John L. Knoble
Michelle M. Michel
Philip P. Caspers
Gregory A. Sebald
A. James Nelson
Robert C. Beck
George H. Gates
Gregory M. Taylor
Kristine M. Strodthoff
Thomas E. Jurgensen
Steven C. Bruess
Joel A. Rothfus
Mark A. Krull
Kevin W. Raasch
Karl G. Schwappach
Matthew J. Goggin
Antony C. Mundelius
Mark J. Gebhardt

CONFIRMATION

October 8, 1991

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
91 OCT 11 PM 3:38

91 OCT 11 PM 1:20

VIA FACSIMILE
CONFIRMATION TO FOLLOW

Ms. Patty Reilly, esq.
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

RE: MUR 2984
Our Ref: M&G 3230.23-US-AA

Dear Ms. Reilly:

This letter is responsive to a letter from Ms. Lois G. Lerner, dated September 27, 1991, but not received until October 3, 1991, a copy of which is enclosed.

As an initial matter, it is our understanding that twenty day extensions are routinely granted under the present circumstances, and that additional extensions may also be available for good cause. However, under the pretext of acting expeditiously, the Commission has apparently refused our request for a 20 day extension and instead, granted a "courtesy" 15 day extension.

This limited extension contradicts our prior understanding with Ms. Colleen V. Miller, reached on September 16, 1991, in Phoenix, Arizona. Ms. Miller indicated that we needed only to provide her with a handwritten request in order to obtain the customary twenty day extension of time. Based upon this understanding with Ms. Miller, counsel for Mr. Twichell set up a timetable for preparing a responsive brief and arranged their schedules accordingly. To now ignore our prior understanding and force us to alter our timetable is entirely unreasonable under the circumstances.

9504336708845

The General Counsel's Brief regarding Mr. Twichell includes very serious allegations against Mr. Twichell. Also, on several occasions before Judge Rosenblatt, the Commission has stressed that serious and complicated issues are involved in MUR 2984. Having spent three and a half years developing its case and preparing its Brief, the General Counsel now acts with a heavy hand to unreasonably deny Mr. Twichell adequate time to prepare his responsive brief.

In conclusion, we believe that we are entitled to our requested extension of 20 days, and we will continue to operate under this belief, which we are willing to test in court, if necessary.

Sincerely,

MAK ll

Mark A. Krull

MAK/lmd

9504336708846

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 11, 1991

Mark A. Krull, Esquire
Merchant & Gould
100 Northwest Center
55 East Fifth Street
Saint Paul, MN 55101

Re: MUR 2984
E. Kenneth Twichell

Dear Mr. Krull:

This is in response to your October 8, 1991 letter stating that you do not intend to respond to the General Counsel's brief within the time extension granted by Commission letter dated September 27, 1991. As an initial matter, Ms. Miller did not accede to an extension request. Additionally, it appears you are misinformed regarding the Commission's extension policy. There are no "customary twenty day extensions of time." Moreover, Ms. Miller did not indicate that one could automatically obtain a twenty day extension of time by merely submitting a written request.

The time extension requested by Mr. King was handed to Ms. Miller before Mr. King even read the brief addressed to Mr. Twichell. As we pointed out in our September 27th letter, which granted an extension but not the entire period sought, that brief is substantially similar to the brief you have already responded to on behalf of your other clients in this matter. Consequently, we are puzzled regarding your continued request for a twenty day extension of time.

In order to accommodate your stated scheduling concerns, however, this Office will not object to the additional time extension you appear to require. If you have any questions about this matter, please contact Patty Reilly at (202) 219-3690.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

9504367084 7

3185

MERCHANT & GOULD

Merchant, Gould, Smith, Edell, Welter & Schmidt
Professional Association
Patent, Trademark & Copyright Lawyers

1000 Norwest Center
55 East Fifth Street
Saint Paul, Minnesota
U.S.A. 55101-2701
FAX 612/298-1160
Telex 297470 MANDG Stp
612/298-1055

Direct dial:

John D. Gould
Phillip H. Smith
Robert T. Edell
Paul A. Welter
Cecil C. Schmidt
John S. Sumners
Alan G. Carlson
Micheal L. Schwegman
Earl D. Reiland
Raymond A. Bogucki
Charles E. Golia
Douglas J. Williams
Douglas A. Strawbridge
Albert L. Underhill
D. Randall King
Michael B. Lasky
Curtis B. Hamre
Michael D. Schumann
Michael L. Mau
John A. Clifford
Mark J. DiPietro
Steven W. Lundberg
Warren D. Woessner
Timothy R. Conrad
***
David G. Johnson
Alan W. Kowalchyk
Michael S. Sherrill
Daniel W. McDonald
R. Carl Moy
Robert C. Freed
Daniel J. Kluth
Wendy M. McDonald
Linda M. Byrne
Mark D. Schuman
Randall A. Hillson
John P. Sumner
Brian H. Batzli
David K. Tellekson
John J. Gresens
Paul E. Lacy
John L. Knoble
Michelle M. Michel
Philip P. Caspers
Gregory A. Sebald
A. James Nelson
Robert C. Beck
George H. Gates
Gregory M. Taylor
Kristine M. Strodthoff
Thomas E. Jurgensen
Steven C. Bruess
Joel A. Rothfus
Mark A. Krull
Kevin W. Raasch
Karl G. Schwappach
Matthew J. Goggin
Antony C. Mundelius
Mark J. Gebhardt

October 15, 1991

V. Colleen Miller
Office of the General Counsel
Federal Election Commission
999 E Street N.W.
Washington, D.C. 20463

RE: MUR 2984
Stephen Schneck, Mary Schneck,
John Steensland, Tamara Twichell
Our Ref: M&G 3230.23-US-AA

Dear Colleen:

Pursuant to our telephone conversation earlier today, please find enclosed Mr. Steensland's duly executed responses and documents pursuant to the outstanding subpoena served on Mr. Steensland.

Please note that the responses and documents previously produced on behalf of Mr. and Mrs. Schneck are believed to be complete. In other words, they were unable to locate their check registers for the relevant time period.

Also enclosed are unsigned responses on behalf of Mrs. Twichell. As I indicated in our telephone conversation, we expect to forward her duly executed responses tomorrow.

Thank you for your patience in this matter. If you have any comments or questions, please do not hesitate to contact me.

Sincerely,

MAK ll

Mark A. Krull

MAK/lmd

91 OCT 21 PM 12:40
91 OCT 22 PM 3:08
RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

9504367084 8

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 2984
Tamara J. Twichell	)	
	)	

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
91 OCT 17 AM 11:11

RESPONSES TO SUBPOENA TO PRODUCE DOCUMENTS

AND ORDER TO SUBMIT WRITTEN ANSWERS

Sir:

1. List each contribution you made during 1988 to federal political committees.

Response to 1.

One contribution to Bush for President Committee.

2. For each contribution noted above, list the candidate or committee to whom you contributed, the date of the contribution, and the amount of the contribution.

Response to 2.

Bush for President Committee, January 26, 1988, $1,000.

3. Identify the method by which you made each contribution. If you used a personal check, list the account number and check number. If you used another instrument, identify this instrument and identify the financial institution form which it was obtained. Specify the source of funds you used to obtain this instrument.

Response to 3.

Personal check bearing account number [redacted] and check number 702.

4. For each contribution, state whether you were

9504336708349

reimbursed directly or indirectly or otherwise compensated for such contribution. If yes, explain the circumstances of this reimbursement.

Response to 4.

No.

5. Produce the following documents and materials from the period covering January 1, 1988 to March 1, 1988: checks written by you, check registers, account statements, statements from brokerage houses and statements from any financial institution.

Response to 5.

These documents and materials were produced to the Federal Election Commission on behalf of my husband, E. Kenneth Twichell, in March of 1990.

6. Produce all documents from the period covering January 1, 1988 to March 1, 1988 that in any way reflect, constitute, relate or refer to financial activity, or the transfer of any asset either directly or indirectly through a third party, between you and any of the Specified Persons. Such documents include but are not limited to the following: checks written to you; check stubs; deposit slips; canceled checks; bills; invoices; expense records; expense reimbursement forms; records of electronic transfers; confirmation of the purchase or sale of stocks, bonds, mutual funds, commodities, and real estate; and records of all other financial transactions.

9504367085O

Response to 6.

None.

7. Produce all documents and materials from the period covering January 1, 1988 to March 1, 1988 relating to each of your political contributions including but not limited to solicitation letters; check copies (front and back); receipts; acknowledgement letters and all writings of every kind.

Response to 7.

These documents and materials were produced to the Federal Election Commission on behalf of my husband, E. Kenneth Twichell, in March of 1990.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

10-11-91
Date

Tamara J. Twichell
Tamara J. Twichell

9504367085 1

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 2984
Tamara J. Twichell	)	
	)	

AFFIDAVIT OF TAMARA J. TWICHELL

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
91 OCT 17 AM 11:11

9504367085 52

Sir:

Tamara J. Twichell, being duly sworn, deposes and says as follows:

1. I am the same Tamara J. Twichell named in the above-identified investigation.

2. I have read the factual and legal analysis of MUR 2984 dated April 5, 1991.

3. The check I wrote to the Bush for President Committee on January 26, 1988 was a result of my decision to contribute to President Bush's Campaign.

4. I am not aware of any agreement with National Association of Real Estate Appraisers or any other company to allow my name to be used to effectuate a $1,000.00 contribution to the Bush for President Committee.

5. I am not aware of any reimbursement from any source either before or after January 26, 1988, for the check I wrote to the Bush for President Committee.

6. I have never made a contribution in my name knowing that the contribution was from a corporation or a corporate officer or director.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

10-14-91
Date

Tamara J. Twichell
Tamara J. Twichell

9504367085 3

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 2984
John E. Steensland	)	
	)	

RESPONSES TO SUBPOENA TO PRODUCE DOCUMENTS

AND ORDER TO SUBMIT WRITTEN ANSWERS

STATE OF Arizona)
) ss.
COUNTY OF Maricopa)

Sir:

1. List each contribution you made during 1988 to federal political committees.

Response to 1.

One contribution to Durenberger 1988 Reelection Committee.

2. For each contribution noted above, list the candidate or committee to whom you contributed, the date of the contribution, and the amount of the contribution.

Response to 2.

Durenberger 1988 Reelection Committee, May 27, 1988, $1,000.

3. Identify the method by which you made each contribution. If you used a person check, list the account number and check number. If you used another instrument, identify this instrument and identify the financial institution form which it was obtained. Specify the source of funds you used to obtain this instrument.

Response to 3.

Personal check bearing account number [redacted] and check number 14957.

9504367085 4

4. For each contribution, state whether you were reimbursed directly or indirectly or otherwise compensated for such contribution. If yes, explain the circumstances of this reimbursement.

Response to 4.

No.

5. Produce the following documents and materials from the period covering May 1, 1988 to July 1, 1988: checks written by you, check registers, account statements, statements from brokerage houses and statements from any financial institution.

Response to 5.

Documents will be produced through counsel.

6. Produce all documents from the period covering May 1, 1988 to July 1, 1988 that in any way reflect, constitute, relate or refer to financial activity, or the transfer of any asset either directly or indirectly through a third party, between you and any of the Specified Persons. Such documents include but are not limited to the following: checks written to you; check stubs; deposit slips; canceled checks; bills; invoices; expense records; expense reimbursement forms; records of electronic transfers; confirmation of the purchase or sale of stocks, bonds, mutual funds, commodities, and real estate; and records of all other financial transactions.

Response to 6.

Documents will be produced through counsel.

9504367085 5

7. Produce all documents and materials from the period covering May 1, 1988 to July 1, 1988 relating to each of your political contributions including but not limited to solicitation letters; check copies (front and back); receipts; acknowledgement letters and all writings of every kind.

Response to 7.

Documents will be produced through counsel.

Further affiant sayeth not.

Oct. 4, 1991
Date

John E. Steensland

Subscribed and sworn before me this 4th day of October, 1991.

Terese A. Dedrickson

TERESE A. DEDRICKSON
NOTARY PUBLIC - MINNESOTA
DAKOTA COUNTY
My Commission Expires Oct. 11, 1996

9504367006556

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 2984
John E. Steensland	)	
	)	

AFFIDAVIT OF JOHN E. STEENSLAND

STATE OF Arizona)
) ss.
COUNTY OF Maricopa)

Sir:

John E. Steensland, being duly sworn, deposes and says as follows:

1. I am the same John E. Steensland named in the above-identified investigation.

2. I have read the factual and legal analysis of MUR 2984 dated April 5, 1991.

3. The check I wrote to the Durenberger 1988 Reelection Committee on May 27, 1988 was a result of my decision to contribute to Senator Durenberger's Reelection Campaign.

4. I am not aware of any agreement with National Association of Real Estate Appraisers or any other company to allow my name to be used to effectuate a $1,000.00 contribution to the Durenberger 1988 Reelection Committee.

5. I am not aware of any reimbursement from any source either before or after May 27, 1988, for the check I wrote to the Durenberger 1988 Reelection Committee.

9504367085 7

6. I have never made a contribution in my name knowing that the contribution was from a corporation or a corporate officer or director.

Further affiant sayeth not.

Oct. 4, 1991
Date

John E. Steensland

Subscribed and sworn before me this 4th day of October, 1991.

Terese A Dedrickson

TERESE A. DEDRICKSON
NOTARY PUBLIC - MINNESOTA
DAKOTA COUNTY
My Commission Expires Oct. 11, 1995

9504367085S8

JOHN E. OR NANCY L. STEENSLAND

[redacted]

14957

May 27 1988

17-2/910

PAY TO THE ORDER OF Duesyberger '88 Reduction Comm. $ 1000.00

One thousand and 00/100 DOLLARS

First Bank National Association

White Bear Lake Office
4700 Clark Avenue
White Bear Lake, MN 55110

MEMO

[redacted]

950433670859

95043670860

MY '88 27

PAY TO THE ORDER OF
NORWEST BANK [illegible]
FOR DEPOSIT ONLY TO THE
"THANK YOU FOR YOUR CONTRIBUTION"
DURENBERGER FOR U.S. SENATE
SENATE 88
ACCT. NO. 97-16-275

95043670861

OGC 3228

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
E. Kenneth Twichell	)	MUR 2984
	)	
	)	

RESPONSE TO GENERAL COUNSEL'S BRIEF

I. INTRODUCTION

A. Nature of Response

This brief is submitted in response to the General Counsel's Brief regarding allegations against Respondent Mr. E. Kenneth Twichell ("General Counsel's Brief II") in connection with Matter Under Review 2984 ("MUR 2984"). Mr. Twichell maintains that he is falsely accused of committing knowing and willful violations of the Federal Election Campaign Act ("FECA"). For the reasons provided below, Mr. Twichell respectfully requests that the Federal Election Commission ("FEC" or "Commission") find no probable cause to believe that he violated the FECA, either knowingly and willfully, or otherwise.

B. Mr. Twichell Is Managing Director of Respondent NAREA

Although Mr. Twichell is technically an employee of Respondent International Association Managers, Inc. ("IAM"), his job responsibilities are primarily directed toward the day to day operation of Respondent National Association of Real Estate Appraisers, Inc. ("NAREA"). As a professional membership organization for real estate appraisers, NAREA provides numerous services and benefits to its approximately 24,000 members, including offering designations to qualified members, publishing newsletters and various other materials relating to the real

RECEIVED
FEDERAL ELECTION COMMISSION
91 OCT 23 PM 4:19

estate appraisal industry, and offering seminars and educational courses on relevant topics in the real estate appraisal field. NAREA may also be said to be in the direct mail business, since NAREA has conducted mass mailings to its members on behalf of other organizations.

C. Mr. Twichell's Involvement In MUR 2984 Is Grossly Exaggerated

As Managing Director of NAREA, Mr. Twichell is primarily responsible for the day to day operation of NAREA, including membership relations, educational programs, and general office matters.[1] However, as recognized by the General Counsel, Mr. Johnson is the sole shareholder of NAREA, and he ultimately controls NAREA, as well as the other Respondent corporations. Mr. Twichell is neither an officer nor a director of NAREA, and his decision making authority is limited to relatively routine matters that arise in the ordinary course of business. Such authority certainly does not extend to decisions regarding the making of campaign contributions.

The General Counsel alleges that personal liability under the corporate prohibition is reasonably extended to those corporate officers who play a role in the decision making process

[1]The General Counsel apparently concurs that Mr. Twichell's "job includes responsibilities for NAREA's day to day operations...." (General Counsel's Brief II, page 1). However, the General Counsel previously alleged that Respondent Mr. Robert G. Johnson was primarily responsible for the day to day operation of NAREA, perhaps because it was helpful at that time to the General Counsel's case against Mr. Johnson. See page 3 of the General Counsel's Brief regarding Mr. Johnson and the Respondent corporations ("General Counsel's Brief I").

9504367080862

as to political matters. (General Counsel's Brief II, p. 38). 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). Thus, in order to charge an employee (who is neither an officer nor a director) with the acts of his corporate employer, there should be some nexus between the alleged executive authority and the complained of acts.

In the present case, the mere fact that Mr. Twichell was able to hire and fire employees (General Counsel's Brief II, pp. 4, 38) has no bearing whatsoever on his culpability for entirely unrelated, alleged FECA violations, which are of a financial nature, wholly outside the course of ordinary business. In this regard, the General Counsel concedes that Mr. Johnson's ultimate control of NAREA includes primary responsibility for the fiscal management of NAREA (General Counsel's Brief II, pp. 3, 39). In fact, Mr. Twichell does not see the financial statements of NAREA, nor does he even have authority to sign checks (General Counsel's Brief II, p. 39), let alone the power to prevent Mr.

9504367083

Johnson (the sole shareholder) from signing checks. Thus, how can Mr. Twichell be accused of violations that he was powerless to even perpetrate, let alone prevent?

Although Mr. Twichell may be characterized as "second in command" (General Counsel's Brief II, pp. 3, 38), he is clearly subordinate to Mr. Johnson, who would ultimately make any decisions going beyond routine, day to day matters. In that regard, Mr. Johnson has never indicated that Mr. Twichell ever acted beyond his limited authority in connection with any of the alleged FECA violations. Furthermore, there is no evidence that Mr. Twichell either consented to or actively participated in the majority of the alleged violations (the possible exceptions being his limited mailing and the campaign contributions made in his name). Moreover, the General Counsel has not convincingly demonstrated that the actions of Mr. Johnson and/or the Respondent corporations can be imputed to Mr. Twichell. Accordingly, with the exception of the limited mailing of approximately 800 solicitations to NAREA members, (which mailing resulted in the commencement of the FEC's investigation three and one-half years ago) the ultimate responsibility for any alleged FECA violations rests with Mr. Johnson, and not Mr. Twichell.

Mr. Twichell has never denied responsibility for a limited mailing of approximately 800 solicitations to members of NAREA. However, Mr. Twichell categorically denies involvement in any alleged mass mailing of tens of thousands of solicitations. Furthermore, Mr. Twichell respectfully submits that he should not

9504367086 4

be held accountable for the alleged mass mailing efforts of others, especially where the vast majority of any such mailings presumably would not even have been on NAREA letterhead because they were not directed to members of NAREA.

The extent to which Mr. Twichell is being charged in connection with the alleged mass mailing of solicitations is not clear from the General Counsel's Brief II. However, assuming that Mr. Twichell is being charged with the same alleged mass mailing violations as those raised in the General Counsel's Brief I, Mr. Twichell can only offer an explanation similar to that presented on pages 6-14 in the brief submitted to the Commission on behalf of Mr. Johnson and the corporate Respondents ("Response I").

Mr. Twichell also recognizes that his name is associated with certain contributions being challenged by the General Counsel. However, Mr. Twichell vehemently objects to references to alleged corporate reimbursements where he was not even privy to the transaction being challenged. For example, the alleged corporate reimbursements from IREI[2] to Mr. Stephen Schneck and from Todd Publishing to Mr. Todd Johnson have absolutely nothing to do with Mr. Twichell, either personally or through his activities as Managing Director of NAREA. Additionally, recognizing that Mr. Twichell lacked check signing authority, and that Mr. Johnson's signature was on the relevant check, Mr.

[2]"IREI" refers to Respondent International Real Estate Institute, Inc.

9504367086 5

Twichell respectfully submits that he should not be held accountable for the alleged corporate reimbursement from NAREA to Mr. Schneck.[3] Mr. Twichell similarly denies any involvement in the alleged corporate reimbursements from NAREA to Mr. Cloud and from NAREA to Mr. Johnson. In availing himself of this opportunity to respond to the General Counsel's allegations in which he was directly or arguably involved, Mr. Twichell simply cannot address the other alleged incidents, of which he has no personal knowledge. Indeed, the inclusion of such references and statements gives the appearance that the General Counsel is engaged in a smear campaign based on guilt by association, when in fact, Mr. Twichell had nothing to do with the other alleged illegal corporate reimbursements.

95043670866

II. ALLEGED MAILING OF MORE THAN 70,000 SOLICITATIONS

A. No Evidence of Actual Mailing of 70,000 Solicitations

The General Counsel alleges that at least 18,000 solicitations were sent to the members of NAREA, NARA/MU, and PWAA,[4] and that an additional 54,029 solicitations were sent to

---

[3]Note that an alleged corporate reimbursement from NAREA to Mr. Steensland is omitted from the General Counsel's Brief II, despite having been included in the General Counsel's Brief I. Apparently, the General Counsel has reconsidered its case against Mr. Steensland in view of the arguments presented by Mr. Johnson and the Respondent corporations in their Response I.

[4]"NARA/MU" refers to Respondent National Association of Review Appraisers and Mortgage Underwriters, Inc., and "PWAA" refers to Respondent Professional Women's Appraiser Association, Inc.

registered Republican voters in five Arizona counties. (General Counsel's Brief I, p. 36). Thus, the General Counsel concludes that the Respondents (perhaps including Mr. Twichell) have been involved in a mass mailing of more than 70,000 direct mail solicitations for contributions to the Bush for President campaign. However, only 261 contributions totaling approximately $27,000 can be attributed to Mr. Johnson's fundraiser code AZ 04, which was allegedly stamped on the materials allegedly sent in a mass mailing effort. (See the General Counsel's Computer Search Report of the 261 contributions made using the AZ 04 code). Thus, either (1) the alleged mass mailing effort was so unsuccessful that only 0.37% of the persons solicited made a contribution (this is assuming that neither Mr. Johnson nor any of his relatives, friends, or business acquaintances made a contribution, which clearly is not the case); or (2) the General Counsel is mistaken, and only approximately 800 solicitations were ever mailed.

The General Counsel alleges that over 54,000 solicitations were mailed to registered Arizona Republican voters, and yet, only 98 contributions made by Arizona residents are attributable to Mr. Johnson's code, AZ 04. Recognizing that Mr. Johnson and Mr. Twichell have both resided in Arizona for many years, have been active in the community during that time, and actively engaged in fundraising efforts on behalf of the Bush campaign in 1988, it is certainly reasonable to conclude that those 98 contributions were made by persons who were known and/or

9504367086 7

personally contacted by Mr. Johnson and/or Mr. Twichell. In fact, if Messrs. Johnson and Twichell had access to the names of the 98 Arizona contributors, they could demonstrate that those individuals are either members of NAREA targeted by Mr. Twichell's limited mailing, or persons known to Mr. Twichell and/or Mr. Johnson through professional or personal contacts. In this regard, Mr. Twichell respectfully submits that it is highly improper for the General Counsel to rely upon a list of 261 contributors attributable to Mr. Johnson's AZ 04 code and yet refuse to provide Respondents with the names of the contributors.[5] Although Respondents do not have access to the names of the relevant contributors, this information is available to the General Counsel, and yet, the General Counsel curiously neglects to determine the impetus for the contributions made using Mr. Johnson's code, AZ 04. Moreover, the General Counsel also apparently fails to confirm that any of the alleged 70,000 recipients of the solicitation ever actually received a solicitation.

Even assuming that over 54,000 solicitations were mailed, and further, that all of the 98 contributions from Arizona residents were attributable to the alleged mailing, as opposed to personal contacts of Messrs. Twichell and/or Johnson (which is

---

[5]Respondents requested the names of the 261 contributors, but the General Counsel agreed to provide the names only if Respondents agreed to waive their right to object to a reopening of the General Counsel's investigation in this matter, which investigation has already taken three and a half years.

9504367086 8

clearly not the case), then the success rate of the alleged mass mailing to Arizona voters still would have been less than 0.2%. Those persons familiar with the direct mail business will recognize that it is beyond statistical possibility that a mailing to so many registered Republican voters seeking contributions on behalf of George Bush in an election year would yield such a small return. (See the Affidavit of James Minarik attached to Response I). Thus, the undisputed evidence is overwhelming that no solicitations, and certainly not 54,000, were sent to registered Republican voters in Arizona.

The General Counsel also alleges that at least 18,000 solicitations were mailed to members of NAREA, NARA/MU, and PWAA. The General Counsel further emphasizes that a significant number of the 163 "out of state" contributions attributable to Mr. Johnson's fundraising code, AZ 04, were made by persons involved in the real estate industry, as if that fact somehow supported the allegation that the 18,000 solicitations were actually mailed. (General Counsel's Brief I, p. 18). To the contrary, and similar to the above argument regarding the Arizona Republican voters, the relatively small number of contributions casts substantial doubt on the General Counsel's allegation. Moreover, many of these contributions can again be attributed to relationships developed by Respondents with persons in the real estate industry, and particularly by Mr. Johnson during the course of his active involvement in the real estate industry since the early 1970's, including his affiliation with several

9504367083 69

national organizations involved in the real estate industry.[6] Additionally, Mr. Twichell has acknowledged conducting a limited mailing of approximately 800 solicitations to members of NAREA, and any contributions not attributable to friends and business acquaintances of Messrs. Johnson and Twichell can certainly be attributed to this limited mailing.

A careful review of the "evidence" allegedly in support of the General Counsel's Briefs I and II reveals a complete lack of testimony that more than 800 solicitations were ever actually mailed. Nowhere, other than in the deposition transcripts of Mr. Johnson and Mr. Twichell, is there any mention of actual mailing of solicitations. In that regard, both Mr. Johnson and Mr. Twichell have testified under oath that less than 1,000 solicitations were ever actually mailed, and the General Counsel presents absolutely no testimony to controvert these sworn statements. The General Counsel's reliance upon the affidavits of the three "stuffers"[7] is misplaced because their accounts constitute nothing more than speculation and hearsay. Regardless of any untested statements regarding how many envelopes were allegedly stuffed, and regardless of the truth or falsity of any such untested statements, the simple fact is that none of the

9504367087O

---

[6]As previously noted, Respondents are presently unable to definitively support this fact because Respondents have been denied access to the names of the contributors in the Computer Search Report relied upon by the General Counsel.

[7] The three persons identified as "stuffers" are Laura Ashbaugh, Kelly Rossi, and Molly Rugolo.

stuffers know whether any letters were ever actually mailed, because they are not involved in the actual mailing of their projects. Thus, Respondents do not find it necessary to face the virtually impossible task of challenging the stuffers' accounts without the benefit of cross-examination.

The only shred of "evidence" relied upon by the General Counsel in support of its allegation that thousands and thousands of solicitations were actually mailed is the allegedly disproportionate postage bill of PWAA early in 1988. (General Counsel's Brief I, p. 37). However, the PWAA postage expenses were incurred and paid in late January and up to and including February 1, 1988, and yet, the solicitations were not mailed until several days into February of 1988, at the very earliest. Postal expenses would not have been incurred in advance of any alleged mass mailing, because placing postage on a direct mail piece is the last step in the process, and the post office requires first class mail to be metered the day it is sent. Although the relative timing of these events constitutes a fatal flaw in the General Counsel's position, the General Counsel proceeds to conjure up the argument that with less than a thousand members and minimal postage costs for the remainder of the year, PWAA's payment of $14,000.00 for postage in early 1988 is necessarily improper. A more reasonable, and factually correct, explanation is that PWAA undertook an intensive membership drive at the beginning of 1988, which included a mass mailing to persons believed to be likely potential members.

9504367037 1

With respect to the alleged mailing of solicitations to members of NARA/MU, even Ms. Patricia Davidson, who is recognized as a hostile witness because her employment by Respondents was terminated, doubted that Mr. Johnson would send solicitations to members of NARA/MU. Again, there is absolutely no evidence that solicitations were mailed to NARA/MU members, or anyone else for that matter. Similarly, there is absolutely no evidence that solicitations were received by NARA/MU members, and this issue could have been resolved once and for all if Respondents had been provided the names of the 261 contributors attributable to Mr. Johnson's fundraising code AZ 04. Indeed, the fact that the FEC neither checked with these contributors nor provided Respondents access to their names, raises considerable doubt as to whether the 261 contributors, or anyone else, received a mass mailed solicitation.

B. Lack of Evidence of Actual Receipt of 70,000 Solicitations

Respondents maintain that only 800 or so solicitations were ever mailed, and thus, it follows that only 800 or so solicitations were ever received. If solicitations were actually mailed to all 18,000 members of NAREA, NARA/MU, and PWAA, as well as more than 54,000 registered Arizona Republican voters, as alleged by the General Counsel, then it should have been a relatively simple matter for the General Counsel to support its allegation by surveying a representative sample of those persons who allegedly should have received a solicitation. Moreover, it would seem likely that at least one person (of the alleged

9504367087 2

approximately 70,000) in addition to the Complainant, Mr. Lair, would have brought the solicitation to the attention of the Federal Election Commission and/or the Bush for President Committee. However, the only evidence of any solicitation actually having been received is comprised of the statements and documentation provided by Mr. Lair, who was a member of NAREA at the time of the limited mailing to the approximately 800 NAREA members. Again, the stuffers have no idea whether anyone ever received a single one of the solicitations allegedly stuffed, so their statements are likewise meaningless in this regard. Thus, the General Counsel presents absolutely no evidence to prove that any member of NARA/MU or PWAA or any of the relevant Arizona voters received a solicitation mailed by or at the behest of any of the Respondents.

The only available evidence relating to the number of persons who actually received a solicitation from any of the Respondents is the inference to be drawn from the data regarding contributions made under Mr. Johnson's fundraising code, AZ 04. As previously noted, the Computer Search Report indicates that only 261 contributors contributed approximately $27,000 in connection with Mr. Johnson's fundraising efforts. Again, recognizing that the majority of these contributions were most likely the result of relationships between the contributors and Messrs. Johnson and/or Twichell, rather than in response to any type of solicitation received in the mail, it is very unlikely that so many people received such a mailing and yet so few made

9504367087 3

contributions. The evidence in this regard clearly speaks for itself--less than 1,000 solicitations were ever actually mailed or received, and Mr. Twichell has accepted full responsibility for this limited mailing from the outset of the General Counsel's investigation.

C. The Respondents Did Not Violate The Law Regarding The Stuffing Or Mailing Of The Solicitation Letters

The limited mailing of approximately 800 letters to members of NAREA explains why only $946 was spent in the direct mail effort to raise funds for the Bush campaign. Whatever expenses may have been incurred in the alleged preparation of 70,000 solicitations, such expenses would not constitute expenditures in connection with a federal election to the extent that the alleged solicitations were never mailed or received. Beyond the approximately 800 letters to NAREA members and the personal efforts of Mr. Twichell and Mr. Johnson, no solicitation or communication was ever disseminated to anyone. Thus, no violation of law could have occurred with regard to any expenditures allegedly incurred in a mass stuffing effort. As to the cost involved in mailing approximately 800 letters to NAREA members, Respondents did not violate the law because Mr. Twichell paid for the $946 cost of his limited mailing from his personal funds. Mr. Twichell testified that he reimbursed NAREA $760 for one part of the cost of the mailing, and that he paid a printer directly in the amount of $186. Although the General Counsel was provided with the name of the printer, Dean DuChene Printing,

9504367087 4

absolutely no evidence has been offered to rebut Mr. Twichell's testimony in this regard. Additionally, even if Mr. Twichell had not personally paid for the mailings, NAREA did not need to be reimbursed for the mailing since the approximately 800 piece mailing constituted an expense incurred in making an internal communication to the members of NAREA. 11 C.F.R. §114.3(A)(2).[8]

NAREA may also be said to be in the direct mail business, and has provided direct mail services to outside groups such as non-profit associations. As a direct mail vendor, NAREA can extend reasonable credit to anyone choosing to use its services. Thus, Mr. Twichell's use of NAREA to conduct a mailing for the Bush campaign could be considered a commercially reasonable arrangement involving a normal extension of credit. According to 11 C.F.R. §114.10, under such circumstances no violation of law could have occurred with regard to the mailing. In any event, no corporation or corporate officer violated 2 U.S.C. Section 441b because an illegal corporate expenditure did not occur. The entire cost of the limited mailing was paid by Mr. Twichell

9504367037 5

---

[8]The General Counsel argues that the internal communication exception does not apply because the mailing contained reproduced campaign materials obtained from the Bush campaign. However, the mere insertion of a contributor card obtained from the Bush campaign does not involve a reproduction, and more importantly, a card which merely requests contributor information to comply with the requirements of the FECA can hardly be considered campaign materials. In cases disapproving the reproduction of campaign materials, the campaign materials being reproduced were photographs or creative materials prepared by the campaign. See, e.g., AO 1981-60, 1 Fed. Elec. Camp. Fin. Guide ¶5645 (February 26, 1982).

within a commercially reasonable time after all costs associated with the mailing were incurred.

The General Counsel also alleges that the notices required under 2 U.S.C. §441d should have been placed on the solicitation letters. However, the solicitation letters that were mailed stated who paid for the mailing, and there is no requirement that an internal mailing contain a disclaimer under 2 U.S.C. §441d.

III. ALLEGED CORPORATE REIMBURSEMENTS

A. Mr. Cloud's And Mr. Twichell's $10,000 Contributions

The record reflects that Mr. Cloud and Mr. Twichell each received a $10,000 bonus check from NAREA on July 19, 1988, and on that same day, they each contributed $10,000 to the Presidential Trust. The General Counsel alleges that these $10,000 contributions were financed by the NAREA checks, but both Mr. Cloud and Mr. Twichell maintain that their respective $10,000 checks were bona fide bonus payments for their efforts in moving the offices of the Respondent corporations to a new building. Also, Mr. Johnson maintains that no employee of any of the Respondent corporations has been reimbursed for making a campaign contribution. Furthermore, Mr. Twichell maintains that his independent decision to contribute to the Presidential Trust was in no way prearranged with Mr. Johnson, and he intended to contribute to the Bush campaign prior to receiving his $10,000 bonus from NAREA.

9504367083 76

Mr. Twichell testified that he was becoming more and more active in politics, and that the time had come for him to make his move and really get involved in politics. In this regard, prior to receiving the $10,000 bonus for moving the offices of the Respondent corporations, Mr. Twichell determined that he would like to make a sizeable political contribution, perhaps as much as $5,000, especially since he had just received a $20,000 bonus. Thus, after receiving the additional $10,000 bonus, and in reaction to the heightened interest in the upcoming presidential election and the politics in the air, Mr. Twichell spoke with Mr. Johnson about various alternatives in the political arena and decided to contribute $10,000 to the Presidential Trust. Indeed, as a result of Mr. Twichell's political activities and contributions to the Bush campaign, Mr. Twichell personally met and was photographed with President Bush. (Twichell Trans., pp. 220-222, 249-254).

Mr. Cloud testified that he felt a family-type relationship evolving between himself and Mr. Johnson, and he started receiving invitations from Mr. Johnson to social functions. He further stated that he liked working for Mr. Johnson, and he believed in him. Thus, when Mr. Cloud learned of Mr. Johnson's involvement in the Bush campaign, he concluded that making a contribution to the Bush campaign would constitute an investment in his future. However, the mere fact that Mr. Cloud's motivation for making a political contribution included a desire to please his boss, Mr. Johnson, does not make Mr. Cloud's

9504367087

voluntary decision to contribute to the Presidential Trust an illegal contribution. Rather, the $10,000 was a bona fide bonus payment that was his to use as he so desired. Although a person of relatively limited income, Mr. Cloud had virtually no outstanding debt, and money was not a big issue with him. Thus, when he received the $10,000 bonus he acted on an impulse and contributed the entire amount because he was a "spur of the moment kind of guy" and a "happy camper" to receive such a generous bonus, which only reaffirmed his confidence and trust in Mr. Johnson. (Cloud Trans., pp. 99-108).

The General Counsel's version of the facts surrounding Mr. Cloud's and Mr. Twichell's $10,000 contributions is based on nothing more than office gossip. Not only is such evidence generally inadmissible, but it is also entirely irrelevant to the extent that the so-called witnesses admit they are without personal knowledge of the facts and/or are drawing their own conclusions. In view of the facts that Messrs. Cloud and Twichell did receive sizable bonuses and did make sizeable contributions to the Presidential Trust, any reasonable trier of fact must recognize that gossip would abound in a small office regardless of the truth or falsity of such gossip. The ultimate issue is not whether Mr. Twichell or Mr. Cloud decided to use a salary or bonus payment to contribute to the Presidential Trust, but rather, whether the salary or bonus payment was bona fide.

Legitimate reasons existed for the payment of the $10,000 bonuses to Messrs. Cloud and Twichell. First, all of the

9504367088

relevant testimony indicates that Messrs. Cloud and Twichell are very hard working employees and make significant contributions to the success enjoyed by the Respondent corporations. According to Mr. Twichell's testimony, "every one of my staff knows if they really work hard they'll get reimbursed...for their time and energy." (Twichell Trans. p. 249). Second, following its annual membership drive, NAREA typically has a significant amount of cash on hand and is able to calculate with some confidence its financial position for the remainder of the year, allowing for the distribution of bonuses when appropriate. Third, despite the General Counsel's statements to the contrary, Messrs. Cloud and Twichell worked very hard in connection with the relocation of the office from the old building at 8715 Via De Commercio, to the new building at 8383 East Evans Road.

Mr. Twichell was fully responsible for monitoring the construction of the new building and for coordinating the move. Pursuant to this responsibility, Mr. Twichell visited the building as often as twice each workday and on weekends throughout the course of the eight month construction project. As the construction of the new building neared completion, Mr. Twichell arranged the lay-out of the new office and coordinated the logistics of the move. (Twichell Trans., pp. 237-245).

Everything in the old office had to be disconnected, disassembled, and/or packed, then loaded into a pick-up truck or

9504367087 9

Camaro,[9] then transported to the new office, then unloaded, reconnected, reassembled, and/or unpacked, and then positioned in newly designated locations. Items that were moved included computer equipment, files, records, inventory, filed cabinets, furniture, etc. Although some new furniture and computer equipment was purchased for the new office (General Counsel's Brief II, pp. 56-57), all of the furniture and computer equipment from the old office was moved to the new office, which is at least three times as large as the old office.

Mr. Cloud was responsible for designing the computer network in the new office, and relocating and integrating the existing computer equipment and database into the new system. Pursuant to this responsibility, Mr. Cloud regularly visited the new building as it was being constructed to insure that the needs of the new computer system were being properly accommodated. Mr. Cloud also ran some wires and supervised other wiring for the new computer system. Not only did Mr. Cloud work with Mr. Twichell to move the entire contents of the old office to the new building, but he also was responsible for actually disconnecting the computers at the old office and reconnecting and integrating them into the new system. Once the wiring and installation was completed, Mr. Cloud spent additional time debugging the new system. (Cloud Trans., pp. 91-98).

9504367083 80

---

[9] Messrs. Twichell and Cloud used their own vehicles, a pick-up truck and a Camaro, respectively, to make approximately sixty trips from the old office to the new office, several miles away.

Prior to deciding that Mr. Cloud would handle the implementation of the new computer system, several factors were discussed by Mr. Johnson and Mr. Cloud. They realized it would be difficult to determine the cost in advance because the project would be lengthy and time consuming. Mr. Cloud anticipated that he would have to research and purchase some new computer equipment; he would have to design the new system and arrange for adequate wiring in the new building; he would have to integrate the old equipment into the new system; and he would have to actually implement the new system. In carrying out the foregoing tasks, Mr. Cloud put in substantial overtime over a four month period, working weekends and evenings. (Cloud Trans., pp. 91-98).

The efforts of Messrs. Twichell and Cloud are in no way diminished by the fact that "professional movers" were hired in connection with a small portion of the relocation effort. As noted on page 245 of Mr. Twichell's deposition, professional movers moved miscellaneous items that were stored off-site when the office was located at 8715 Via De Commercio. Accordingly, all of the available evidence indicates that Messrs. Cloud and Twichell were primarily responsible for moving the contents of the old office to the new building.

While $10,000 per person may appear to some to be generous, it is a business decision that may be based on many factors including appreciation for employee loyalty and dedication, as well as the accomplishment itself. Moreover, professional movers

9504367083 1

were requested to submit bids to move the offices, and the lowest such bid was at least $30,000. (Twichell Trans., p. 237; Johnson Trans., p. 260). Furthermore, in addition to doing an estimated $30,000 of moving, Messrs. Cloud and Twichell were primarily responsible for monitoring the construction of the new building and preparing for the move. Accordingly, no real basis exists to challenge the validity of the $10,000 bonus checks from NAREA to Mr. Cloud and Mr. Twichell.

B. Mr. and Mrs. Twichell's $1,000 Contributions To Bush For President Committee

The General Counsel alleges that NAREA issued a $2,400 check to Mr. Twichell in order to fund $1,000 contributions made by Mr. and Mrs. Twichell to the Bush for President Committee. However, the testimony of Messrs. Johnson and Twichell is unequivocal that there was no discussion or agreement regarding corporate reimbursement for these campaign contributions. Although the $2,400 bonus check from NAREA may arguably be said to have enabled the Twichells to make the contributions from their joint checking account, the NAREA check was not paid to Mr. Twichell for that express purpose. Also, the General Counsel does not explain the discrepancy between the $2,400 check and the $2,000 in contributions.

Bonus payments to Mr. Twichell, as well as to other employees of the Respondent corporations, were not uncommon. Also, Mr. Twichell regularly received advances and/or reimbursements for expenses incurred in connection with NAREA

9504367080882

business, including out of town travel approximately every other week in 1988, as follows:

01/05/88	Office	25.00
01/08/88	Orlando	200.00
01/25/88	Bonus	2,400.00
01/26/88	Sacramento	135.00
03/04/88	Seminar Reimbursement	520.00
03/04/88	Office	200.00
03/14/88	San Francisco	280.00
04/14/88	London	680.00
04/29/88	Las Vegas	80.00
05/20/88	Seminar	150.00
06/20/88	Board of Director	380.00
06/27/88	Dallas	150.00
07/05/88	Hawaii	280.00
07/05/88	Bonus	20,000.00
07/19/88	Missouri	140.00
07/19/88	Moving Expenses	10,000.00
09/23/88	Palm Springs	220.00
09/29/88	Palm Springs	280.00
11/17/88	Seminar	135.00
11/18/88	Seminar	140.00
12/08/88	Seminar	100.00

The General Counsel reviewed Mr. and Mrs. Twichell's check register and noted that, absent the $2,400 bonus payment, the Twichells lacked sufficient funds in that particular account to cover the contributions. However, people typically do not maintain surplus funds in their checking accounts, and non-budgeted expenditures such as campaign contributions would likely require that funds be transferred to their checking account, and Mr. Twichell could have financed a campaign contribution from his personal assets. In any event, the General Counsel's argument misses the point. It does not matter whether the Twichells had other funds or whether they could have made the Bush contributions without the bonus payment, because people make

9504367083 3

contributions when they have the money to do so. The issue is whether the bonus payment was bona fide, and the testimony shows that it was. Therefore, Mr. and Mrs. Twichell could use the funds however they pleased, and in this case, they voluntarily chose to make contributions to the Bush campaign.

C. The Arizona Republican Party Mailing List

The General Counsel alleges that NAREA issued a $156 check to Mr. Twichell in order to reimburse Mr. Twichell for expenses allegedly incurred in obtaining a mailing list from the Arizona Republican Party. However, there is nothing inherently improper about purchasing such a mailing list, and furthermore, the undisputed evidence is overwhelming that no such list was ever used in an actual mailing of solicitations. Thus, as a matter of law, there was no inappropriate corporate expenditure or reimbursement in connection with a federal election. Moreover, Mr. Twichell does not recall any details regarding the alleged $156 reimbursement, and it is entirely plausible that he was never apprised of the nature or purpose of the transaction, but simply used a personal check to pay a bill that needed to be paid in Mr. Johnson's absence.[10]

D. Mr. Twichell's $500 Contributions To Durenberger For Senate Committee

The General Counsel alleges that NAREA issued a $520 check to Mr. Twichell in order to fund a $500 contribution made by Mr.

---

[10]As previously noted, Mr. Twichell lacks authority to sign checks for NAREA.

9504367088 4

Twichell to the Durenberger for Senate Committee in March of 1988. Again, however, the record clearly indicates that Mr. Twichell regularly received advances and/or reimbursements from NAREA, and the $520 check was only one of several payments for seminar related expenses incurred in 1988. Moreover, the General Counsel does not explain the discrepancy between the $520 check and the $500 contribution. So long as the payment to Mr. Twichell was compensation for a legitimate business expense, Mr. Twichell's subsequent contribution does not constitute a violation of the FECA.

Although Mr. Twichell recalled making only one contribution to the Durenberger campaign, an additional $500 contribution was reportedly made in May of 1988. In fact, it appears that two $500 cashier's checks, made out to the Durenberger campaign in the names of Mr. Twichell and Mr. Johnson, were obtained by way of an NAREA corporate check. Also, Mr. Johnson and Mr. Twichell did attend a fundraiser for Senator Durenberger in St. Paul, Minnesota in May of 1988, and it appears that the two $500 cashier's checks were contributions made by Messrs. Johnson and Twichell in connection with this event. However, Mr. Twichell simply does not recall any of the facts surrounding this contribution.

As the sole owner of NAREA, Mr. Johnson could draw payments from his corporation and use the funds as he chose. Moreover, the record indicates that Mr. Johnson could have contributed an additional $500 to Senator Durenberger without exceeding the

9504367088 5

limit on personal contributions, so there was clearly no intent to circumvent the law in this regard by making an alleged contribution in the name of another. However, since the method used to make contributions to the Durenberger campaign arguably gives the appearance that a corporate contribution was made, Mr. Johnson has requested that the Durenberger campaign refund these contributions.

IV. ALLEGED KNOWING AND WILLFUL VIOLATIONS

Mr. Twichell did not knowingly and willfully violate any provision of the FECA. In particular, he neither consented to nor participated in (1) any alleged mass mailing of solicitations; nor (2) any alleged corporate reimbursements for campaign contributions. Moreover, Mr. Twichell did not commit perjury at any time during the course of the General Counsel's investigation. In making such sweeping and very serious accusations against Mr. Twichell, the General Counsel appears to lose sight of Mr. Twichell's limited role and perspective in this matter, as well as the inherent difficulties in reconstructing a record of events that occurred several years ago.

Mr. Twichell's role was limited to "second in command" to Mr. Johnson, who was and is the sole shareholder of NAREA, and Mr. Twichell's perspective was limited to a mailing of solicitations to approximately 800 members of NAREA. Indeed, Mr. Twichell has consistently acknowledged and accepted personal responsibility for his limited mailing of solicitations to NAREA

9504367008886

members, and his account of this limited mailing is corroborated by Mr. Johnson and essentially undisputed by the General Counsel.[11] Prior to conducting his limited mailing to members of NAREA, Mr. Twichell approached Mr. Johnson and the NAREA Board of Directors and obtained their consent to the proposed mailing. Additionally, at the suggestion of Mr. Johnson, Mr. Twichell contacted the FEC regarding the proposed mailing, and a Ms. Janet Hess advised Mr. Twichell that the proposed mailing would not violate the FECA. This advice was confirmed independently by Mr. Johnson, who also spoke with Ms. Hess regarding the proposed mailing and received the same advice. Accordingly, Mr. Twichell proceeded with his limited mailing of solicitations to approximately 800 members of NAREA. When the limited mailing was met with mixed reviews from the recipient NAREA members, that was the extent of Mr. Twichell's involvement in mailing solicitations.

Taken in the above context, Mr. Twichell's testimony regarding the mailing of solicitations cannot be said to include repeated false and perjured statements. Assuming that Mr. Twichell was aware of only his limited mailing, and not the alleged mass stuffing effort, the record supports Mr. Twichell's statements that (1) he personally prepared the entire Bush solicitation effort; (2) he obtained the contributor cards

[11]To the extent that the General Counsel does dispute Mr. Twichell's testimony, such exceptions will be addressed in subsequent paragraphs.

9504367038 7

bearing AZ 04 from a stack in the back room at the old office;[12] and (3) the solicitations were mailed to only approximately 800 members of NAREA. With respect to the above assumption, the General Counsel never even mentions Mr. Twichell in connection with the alleged mass stuffing effort, and thus, there is no basis to find that Mr. Twichell even knew of it, let alone participated in and/or consented to it. Moreover, the General Counsel also fails to prove that any alleged mass mailing ever actually occurred.

Another relatively inconsequential discrepancy that nonetheless requires discussion involves Mr. Twichell's stated bases for selecting the Complainant, Mr. Lair, as one of the approximately 800 NAREA members to be mailed a solicitation. Mr. Twichell initially stated that he chose Mr. Lair in part because he was on the Board of the Association of Pork Producers. However, following specific questioning on the subject, Mr. Twichell realized that he had not learned this fact regarding Mr. Lair until after his limited mailing. Although the General Counsel places great emphasis on this discrepancy, it was an understandable and relatively harmless mistake on the part of Mr. Twichell. After all, Mr. Twichell had learned of Mr. Lair's

9504367038888

---

[12]Mr. Twichell respectfully submits that arguably inconsistent statements regarding relatively inconsequential issues, such as the exact location of contributor cards, are inadequate to support a charge of perjury under the circumstances. However, for the record and in view of the serious nature of the allegations against Mr. Twichell, no evidence has been presented to even suggest that Mr. Twichell obtained these contributor cards elsewhere.

affiliation with the Association of Pork Producers in the meantime, and he simply became confused as to the relative timing of events. Moreover, he readily admitted to his mistake during his deposition, rather than attempt to conceal it, as if he had something to hide. Again, such a discrepancy simply does not warrant a charge of perjury under the circumstances.

In connection with the alleged corporate reimbursements for campaign contributions, the General Counsel again wrongly accuses Mr. Twichell of making false and perjured statements. As "second in command" to Mr. Johnson, Mr. Twichell lacked the authority to use corporate funds to reimburse anyone for making a campaign contribution. Furthermore, the General Counsel again never even mentions Mr. Twichell in connection with alleged illicit corporate reimbursements to persons other than him. Thus, there is no basis to find that Mr. Twichell even knew of these alleged third party transactions, let alone participated in and/or consented to them. Taken in this context, there is no valid reason to doubt the veracity of Mr. Twichell's denial of any alleged scheme of illicit corporate reimbursements.

With regard to alleged illicit corporate reimbursements to Mr. Twichell, personally, the propriety of these challenged transactions is demonstrated in the preceding section. However, despite lacking any explicit evidence to the contrary, the General Counsel accuses Mr. Twichell of perjury in connection with his explanation of the $10,000 bonus he received in July of 1988. In particular, the General Counsel alleges that the hiring

9504367008889

of professional movers, as well as the purchase of some new furniture and computer equipment, controverts Mr. Twichell's testimony that he and Mr. Cloud were responsible for moving the entire office from the old building to the new building. However, professional movers were hired only to move items from an off-site storage facility to the new office building, and the new furniture and computer equipment were not purchased to replace items from the old office, but to augment the furnishings and computer equipment in the new, larger office. Again, the record does not support the charge of perjury against Mr. Twichell.

9504367089 0

V. CONCLUSION

In the final analysis, the General Counsel's case against Mr. Twichell is little more than coincidence and guilt by association. It would not survive scrutiny in a court of law, and it should not support a finding of probable cause. Accordingly, for the reasons stated in this Response, Respondent Mr. E. Kenneth Twichell respectfully reiterates his request that the Commission find no probable cause that a violation of the Federal Election Campaign Act occurred.

10/21/91
Date

MAK ll for
D. Randall King
MERCHANT, GOULD, SMITH, EDELL,
WELTER & SCHMIDT, P.A.
1000 Norwest Center
55 East Fifth Street
St. Paul, Minnesota 55101
(612) 298-1055

2504367089 1

MERCHANT & GOULD

Merchant, Gould, Smith, Edell, Welter & Schmidt
Professional Association
Patent, Trademark & Copyright Lawyers

1000 Norwest Center
55 East Fifth Street
Saint Paul, Minnesota
U.S.A. 55101-2701
FAX 612/298-1160
Telex 297470 MANDG Stp
612/298-1055

Direct dial
225-2021

John D. Gould
Phillip H. Smith
Robert T. Edell
Paul A. Welter
Cecil C. Schmidt
John S. Sumners
Alan G. Carlson
Micheal L. Schwegman
Earl D. Reiland
Raymond A. Bogucki
Charles E. Golia
Douglas J. Williams
Douglas A. Strawbridge
Albert L. Underhill
D. Randall King
Michael B. Lasky
Curtis B. Hamre
Michael D. Schumann
Michael L. Mau
John A. Clifford
Mark J. DiPietro
Steven W. Lundberg
Warren D. Woessner
Timothy R. Conrad
Alan W. Kowalchyk
Daniel W. McDonald
•••
David G. Johnson
Michael S. Sherrill
R. Carl Moy
Robert C. Freed
Daniel J. Kluth
Wendy M. McDonald
Linda M. Byrne
Mark D. Schuman
Randall A. Hillson
John P. Sumner
Brian H. Batzli
David K. Tellekson
John J. Gresens
Paul E. Lacy
Michelle M. Michel
Philip P. Caspers
Gregory A. Sebald
Albin J. Nelson
Robert C. Beck
George H. Gates
Kristine M. Strodthoff
Gregory M. Taylor
Steven C. Bruess
Joel A. Rothfus
Mark A. Krull
Kevin W. Raasch
Karl G. Schwappach
Matthew J. Goggin
Antony C. Mundelius
Mark J. Gebhardt
Andrew D. Sorensen

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM
91 DEC 20 AM 11:33

December 16, 1991

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
91 DEC 20 PM 3:17

9504367089 2

Federal Election Commission
Attn: Jonathan Bernstein
Office of the General Counsel
999 E Street N.W.
Washington, D.C. 20463

Re: MUR 2984
Robert Johnson; National Association of Real Estate Appraisers; National Association of Review Appraisers and Mortgage Underwriters; Professional Women's Appraisal Association; Todd Publishing, Inc.; International Real Estate Institute
Our Ref: M&G 3230.23-US-AA

Dear Jonathan:

Confirming our recent phone conversation, it is my understanding that we can expect the findings of the Commissioners with regard to probable cause perhaps as early as January 1992.

As I indicated, Bob Johnson is interested in pursuing this matter as expeditiously as possible due to the upcoming election activities. To avoid any further prejudice because of the length of time that these proceedings have taken and to avoid further court proceedings in connection with these delays, we look forward to having the Commissioners' findings in January.

Sincerely,

D. Randall King

DRK/dmm

RECEIVED
F.E.C.
SECRETARIAT
92 JAN -8 PM 3:57

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
National Association of Real Estate Appraisers, Inc.	)	MUR 2984
National Association of Review Appraisers and Mortgage Underwriters, Inc.	)	**SENSITIVE**
International Real Estate Institute, Inc. (a.k.a. International Institute of Valuers, Inc.)	)	
Todd Publishing, Inc.	)	
Professional Women's Appraisal Association, Inc.	)	
International Association Managers, Inc.	)	
Robert G. Johnson	)	
E. Kenneth Twichell	)	
George Bush For President and Stan Huckaby, as treasurer	)	

9504367089 3

GENERAL COUNSEL'S REPORT

I. BACKGROUND

This matter involves allegations that incorporated trade associations owned by Robert Johnson paid for massive mail solicitations of contributions on behalf of the George Bush for President Committee. Mr. Johnson allegedly conducted this mailing with the assistance of his employee-manager, E. Kenneth Twichell. Robert Johnson and the corporations he controls are also alleged to have reimbursed employees from corporate funds for contributions made for the purpose of influencing federal elections.

The respondent corporations are managed by International Association Managers, Inc. (IAM"), an organization owned and run by Robert Johnson. The incorporated trade associations in question are the National Association of Real Estate Appraisers ("NAREA"), the National Association of Review Appraisers and

Mortgage Underwriters, Inc. ("NARA/MU"), the International Real Estate Institute, Inc., also known as International Institute of Valuers ("IREI"), and the Professional Women's Appraisal Association ("PWAA").[1] Another corporation owned by Robert Johnson is Todd Publishing, Inc., an organization that publishes materials on behalf of the associations noted above.

Based upon the investigation, on July 15, 1991, the Office of the General Counsel provided a brief to Robert Johnson, NAREA, NARA/MU, PWAA, and IREI ("GC Brief I") recommending that there is probable cause to believe that Robert G. Johnson knowingly and willfully violated 2 U.S.C. §§ 441f and 441b(a); NAREA knowingly and willfully violated 2 U.S.C. §§ 441f, 441d(a) and 441b(a); NARA/MU knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441d(a); PWAA knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441d(a); Todd Publishing, Inc., knowingly and willfully violated 2 U.S.C. §§ 441f and 441b(a); and IREI knowingly and willfully violated 2 U.S.C. §§ 441f and 441b(a). Additionally, on September 13, 1991, this Office forwarded a brief to E. Kenneth Twichell ("GC Brief II") recommending that there is no probable cause to believe E. Kenneth Twichell violated 2 U.S.C. § 441a(a)(1)(A), and probable cause to believe that E. Kenneth Twichell knowingly and willfully violated 2 U.S.C. §§ 441f and 441b(a).

Following two extensions, on September 20, 1991, this Office received a response brief discussing the General

---

1. These trade associations are referred to collectively as "the Associations."

9504336708394

Counsel's recommendations as to the first group of Respondents ("Reply Brief I"). On October 23, 1991, following an extension of time, this Office received a response brief as to E. Kenneth Twichell ("Reply Brief II"). As discussed below, this Office is not persuaded by the defenses raised by all the Respondents. Consequently, this Office recommends that the Commission make the knowing and willful findings noted above.[2]

II. ANALYSIS

The General Counsel's analysis of this matter is contained in briefs dated July 12, 1991, and September 13, 1991, which will be referred to as GC Brief I and GC Brief II, respectively.[3] As detailed in the General Counsel's Briefs, the Associations funded a direct mail program encompassing thousands of pieces of mail supporting the candidacy of George Bush, and also made corporate contributions in the names of others. Both briefs contain overwhelming documentary and testimonial evidence supporting

9504367089 5

---

2. On March 26, 1991, the Commission found reason to believe these individuals violated 2 U.S.C. § 441f: Tamara Twichell, Stephen L. Schneck, Mary Schneck, Timothy Cloud, Todd Johnson, and John Steensland. On this date, the Commission also authorized subpoenas requesting information, but the Respondents failed to comply with the subpoena requests. Consequently, on August 20, 1991, the Commission authorized civil suit for relief in United States District Court against these Respondents. Currently, this Office is waiting for compliance with the subpoena requests.

3. These two briefs were substantially the same. Neither contained recommendations regarding IAM. As discussed below at section II.C., this Office recommends that the Commission take no further action and close the file as to this entity.

the recommended knowing and willful violations.[4] The briefs submitted by Respondents do not address major segments of this investigation. Instead, they continue to assert that the mailings in question numbered only about 800 pieces, that the corporate payments made to individuals shortly before such individuals made contributions were for legitimate corporate expenses (save for each of three contributions that Respondents acknowledge gave "the appearance that a corporate contribution was made"), and that to the extent violations might have occurred, such violations were not knowing and willful.

A. MAILINGS IN SUPPORT OF THE BUSH FOR PRESIDENT COMMITTEE

As discussed in the General Counsel's Briefs, the Associations, Robert Johnson, and E. Kenneth Twichell, participated in a mass mailing benefiting the Bush Committee. As many as 18,000 letters were sent to members of the Associations.[5] Additionally, as many as 54,000 letters may have been sent to selected Arizona Republicans. The size of this direct mail project was attested to in sworn statements made by three persons paid by the Associations to prepare the mailings. Additionally, two former key employees of the Associations also

9504367089 96

---

4. The depositions cited in the General Counsel's Briefs and this report are available for review in the Office of the General Counsel. Because the depositions are lengthy, they are not attached to this report.

5. Consistent with the briefs in this matter, "member" means only a person paying dues to any the Associations. It is not used as a term of art within the meaning of the FECA. See 11 C.F.R. §§ 100.8(b)(4)(iv) and 114.1(e). See also Federal Election Commission v. National Right To Work Committee, 459 U.S. 197 (1982).

testified as to the scope of this project. The Arizona Republican Party also provided documents indicating that the Associations purchased 54,029 mailing labels from them and that the labels were ordered for candidate "Bush." Furthermore, GC Brief I demonstrated that the invoice purporting to reflect Mr. Twichell's reimbursement to NAREA for the limited mailing was manufactured by Respondents to falsely suggest timely billing and immediate reimbursement.

In the face of this evidence, Respondents claim there is no proof that thousands of Bush letters were in fact mailed. Reply Brief I at 6-12. Respondents advance two arguments to support this contention. First, they make a statistical argument that a large scale mailing would have prompted more responses than the small number of contributions actually received by the Bush Committee. Respondents claim that 54,000 Arizona Republican voters could not have been solicited because the response rate of those who contributed was too low and that the 98 Arizona contributions and the 163 out-of-state contributions received by the Bush Committee attributed to Robert Johnson's contributor code were not from a mailing to Arizona Republicans and the Associations' members, but from Mr. Johnson's personal contacts in the community. Reply Brief I at 7. In support of this proposition, Respondents have submitted a sworn affidavit from a person said to be active in the direct mail field. Id. at Attachment A. He asserts that the return on the mailing to Arizona Republicans for George Bush was too small to have been generated from a list of 54,000 Republican voters.

9504367089 7

This Office believes other factors might explain the purported low return. Our own research indicates that return yields for mailings vary from list to list. A mailing list yielding a return rate between .8 and 1% from a list of individuals who had never previously contributed would be considered a successful list. See Craver, The Direct Mailbox: Launching an Effective Fundraising Effort, Campaigns & Elections, Spring 1985, at 57. While there are no available figures for an unsuccessful list, the above mentioned figures only represent a best-case scenario and thus, it is possible for mailing lists to generate less than a .8% return rate. A low percentage of responses could be the result of obtaining an unsuccessful list.

Also, there is the possibility that less than 54,000 letters to Arizona Republican voters were sent. The Associations ordered labels for all Republican households in Coconino County on two occasions, raising the possibility that the first set may not have been received by the Associations. This would, in turn, reduce the number of letters sent to Arizona Republicans to approximately 41,000. See General Counsel's Report dated March 20, 1991, Attachment 15, at 90.[6]

Respondents' second argument is that the General Counsel's reliance upon the stuffers' affidavits is misplaced because "none of the stuffers has any knowledge that these letters were actually

---

6. During an interview with staff, one of the witnesses indicated that one of the stuffers discarded some of the Bush mailings which had been assigned to her when it became apparent that the job could not be completed within the Associations' time deadlines. This would further reduce the number of letters that may have been sent.

9504367089 8

mailed . . . ." Reply Brief I at 9. In earlier statements, Respondents denied the existence of any Bush mailings other than the limited one conducted by Mr. Twichell.[7] Now, however, in arguing that the letters were never mailed, Respondents retreat from this position, conceding that Bush letters other than the limited Twichell mailing may have been prepared:

> Neither Mr. Johnson nor Mr. Twichell recall the stuffing of letters beyond those Mr. Twichell prepared. It is **possible** that some stuffing of the Bush solicitation letters occurred other than the Twichell mailing, but there is no evidence that any of these mailings were mailed.

Id. at 10. (Emphasis added).

Although Respondents' two arguments may question whether the

7.

> Q: And it's your testimony that, other than the letter put out by Mr. Twichell, which we have seen as an exhibit here this afternoon, that your corporation did not put out any other letters regarding George Bush for President?
>
> A: As best I can recall.

Robert G. Johnson Deposition at 222. See also id. at 220, 221, 226, 231-33, 235.

> Q: Were you involved in or aware of any association mailings to other than members soliciting contributions to Bush's campaign?
>
> A: Can you repeat that?
>
> (The requested portion of the record was read by the court reporter)
>
> A: No.

E. Kenneth Twichell Deposition at 285. See also id. at 326-28.

9504367089

letters were actually mailed, they do not refute the direct testimonial evidence of the existence of a massive mailing project. Indeed, the testimony of virtually everyone else involved suggests that the letters were sent to thousands of the Associations' members.[8] Respondents also do not offer an explanation for the stuffers' testimony and their written work records indicating that they stuffed thousands of the Bush letters over a period of time for the Associations. Moreover, Respondents fail to refute the numerous accounts of witnesses testifying that the Bush letters were a massive project undertaken by the Associations.[9]

Respondents ask the Commission to accept the argument that mass mailings may have been prepared but never mailed without offering a plausible explanation for why they may have been stuffed but never sent or for what ultimately happened to those

9504367090

---

8. See, e.g., Jean Johnson Deposition at 62 (". . . letters were sent to every member in every association except IREI . . . that it would be nice if they sent a contribution to the Bush campaign . . . ."); id. at 65-66 (Q: Do you know if this solicitation was sent to all the members of each association? A: I would think so. I don't know why a national campaign would have separated the mailing, so I would say yes. And also the amount of time that the computers were tied up doing this, I would assume yes, it was sent to every single member."); id. at 85 (Q: Do you think its possible that no more than 2,500 members of NAREA got these solicitations? A: I don't think that's possible. I think the entire membership got it"). See also Patricia Davidson Deposition at 79 (Q: "And its your understanding that all the members of the Association got one of these letters of the NAREA? A: That was my understanding, yes.)

9. See, e.g., GC Brief I at 21-28, 38. See also GC Brief II at 20-25, 27, 28, 30.

thousands of letters.[10] The credibility of what testimony the Respondents have offered during the course of this matter, however, is highly questionable. Earlier, as discussed in General Counsel's Brief I, Respondents submitted a deliberately manufactured invoice purporting to represent Mr. Twichell's contemporaneous payment for the limited mailings, GC Brief I at 31-35, and offered no explanation for this invoice in their reply briefs. Furthermore, as discussed in Section B of this report, while Respondents initially denied that any corporate payments were made for contributions, only when faced with irrefutable evidence to the contrary do they now concede that at least three contributions "appear" to be financed by corporate funds. In sum, the consistent testimony supplied by witnesses, Respondents' failure to rebut this evidence in a meaningful way, and Respondents' questionable credibility, all provide substantial

9504367090 1

---

10. After receiving GC Brief I, Respondents obtained additional counsel. New counsel contacted staff and stated that: it was his understanding that an initial mailing of 800 letters was sent out; following that mailing, the stuffers expended significant amounts of time preparing the Bush letters noted in the affidavits; and this second segment of the mailing was not mailed because the complaint was received. This theory could account for the stuffers' testimony that they stuffed thousands of Bush letters for the Associations and the Respondent's claim that the letters may have been prepared but never mailed. The reply briefs, however, conspicuously fail to present this version of events, perhaps because the timing of the actual activities belies it. See GC Brief I at 11-12 and 21-23, 70 (The Bush Committee requested that Robert Johnson cease work on the mailings in early March 1988. The stuffers' work on the mailings, however, continued into late March and early April of 1988.).

evidence that a massive corporate sponsored mailing took place.[11]

GC Brief II also addressed the question of whether E. Kenneth Twichell was a corporate officer and director for purposes of liability under 2 U.S.C. § 441b(a). See GC Brief II at 36-39. Initially, Respondents' Counsel and Mr. Johnson stated that Mr. Twichell was both an officer and director of the corporations. See GC Brief II at 36. Despite these earlier statements, Mr. Twichell now claims that he had no corporate authority, was only responsible for day to day operations, and that Mr. Johnson controls the corporations. See Reply Brief II at 2.

While ultimate authority may be in Mr. Johnson, the nature of the authorities vested in Mr. Twichell suggests that Mr. Twichell had the necessary authority to conduct the activities in question. See GC Brief II at 36-39. Although Mr. Twichell denies being an officer and director of the corporations, he stated that he was on the Executive Committee of NAREA. E. Kenneth Twichell Deposition at 312. He also stated that this was the committee which determined the costs of the asserted 800 piece mailing that went out to NAREA members and that "[he and two

9504367090902

---

11. The General Counsel's Briefs also noted the possibility that PWAA may have paid for the postage associated with the mailing. Respondents assert that the $14,000 in postage costs expended by PWAA in the time period immediately preceding the mailing projects "went to a large list of potential members." Reply Brief I at 10. Respondents also contend that the timing of the mailings suggests that the PWAA postage costs were not associated with the mailings in question. See Reply Brief I at 10-11. While this PWAA postage payment may not have paid for the Bush mailings, this does not preclude the possibility that the other Associations paid for the postage in the course of business.

others] came up with those numbers. All three of us." Id. at 313. Thus, according to his own statements, Mr. Twichell fully participated in corporate decisions concerning the activities in question.

B. REIMBURSED CONTRIBUTIONS

The second aspect of this matter involves a pattern of reimbursed contributions by the Associations. As to three of the contributions at issue, Respondents do not contest the General Counsel's conclusion that corporate funds were contributed to federal committees using the names of corporate officials. (See Chart at 5, 7a and 7b). Three of these contributions came directly from a corporate account with their purposes noted as "office supplies" and "St. Paul Program," and were then converted to cashier's checks payable to the Durenberger Committee. In fact, Respondents admit that "the method used to make contributions to the Durenberger Campaign gives the appearance that a corporate contribution was made." Reply Brief I at 29; see also id. at 30. They further state that while they did not intend to use corporate funds, "the record suggests that NAREA funds were used to purchase cashier's checks that were in turn contributed to a federal campaign." Id. at 29. Respondents have not, however, attempted to reconcile these concessions in the briefs with their previous emphatic sworn denial that corporate payments for contributions had occurred. See GC Brief I at 44 n.35.

Regarding other contributions by persons connected to the Associations, Respondents largely concede that the funds contributed to federal candidates or committees were money the

9504367090 03

individuals received from the Associations; they argue only that the corporate payments were for legitimate, and unrelated, business purposes. Reply Brief I at 19, 24, 28, 33.[12] First, in view of the demonstrated falsity of check register descriptions of the purpose of disbursements, the denomination of a payment as for e.g., "seminar expense" (Chart at 2, 4, 6, 8) or "moving expense" (Chart at 10, 11) cannot be seriously credited. Second, Respondents make no attempt to explain the remarkable coincidence raised by the Bush Committee contributions and corresponding corporate payments to the contributors in January 1988, see GC Brief I at 46, 49, nor to rebut the statements made by Tim Cloud to witnesses regarding the $10,000 corporate payments which funded Messrs. Cloud and Twichell's $10,000 contributions in July 1988. Third, the unrefuted proof that Respondents on three occasions used corporate funds to make contributions in the names of others, and hid these contributions as purported legitimate corporate payments, raises the clear inference that the Associations made other prohibited contributions in the names of others. Finally, we have repeatedly solicited contemporaneous backup documentation

9504367090 4

---

12. Counsel assumes that the omission of John Steensland's $1,000 contribution to the Durenberger Committee from GC Brief II, after the inclusion of this contribution in GC Brief I, indicates the General Counsel "has reconsidered its case against Mr. Steensland." Reply Brief II at 6 n.3. As discussed below, Mr. Steensland's contribution remains a part of the pattern of reimbursed contributions. Mr. Steensland's contribution was included in GC Brief I because that brief discussed the Associations' liability. A discussion of Mr. Steensland's contribution was omitted from GC Brief II because Mr. Twichell had no apparent involvement with that contribution and thus, there was no cause to include it in the brief which was addressed exclusively to Mr. Twichell.

of the avowed purpose of the questionable corporate payments to no avail; instead, as shown below, the Respondents' own evidence impeaches their latest statements about the purposes of these payments.

One example involves the Bush Committee contributions of Stephen and Mary Schneck in January 1988. The day after the Schnecks' $1,000 contribution check, Mr. Schneck received an IREI check as "reimbursement for Seminar Expenses" according to the check register. For the first time, Respondents now argue that "the $1,150 reimbursement was paid to Mr. Schneck for his travel to London, England in connection with a seminar there." Reply Brief I at 26; see also id. at Attachment B, ¶ 12 (Affidavit of Robert Johnson). Not three months earlier, however, counsel submitted an affidavit from Mr. Schneck himself in which he firmly describes this payment not as any expense reimbursement but rather as a bonus for good work.[13]

Another example involves Mr. Twichell's $500 contribution to the Durenberger Committee in March of 1988. Respondents argue (Reply Brief I at 27-28) that the $520 check for "seminar

9504367009 05

---

13. Mr. Schneck states:

> 7. The check I received for $1,050 [sic] from the International Institute of Valuers [a/k/a IREI] was a bonus for doing a good job.
>
> 8. I had decided to give to the Bush Campaign prior to knowing I was to receive a bonus.
>
> 9. I received other bonuses for my work, including a $2,500 bonus in 1989.

Affidavit of Stephen L. Schneck, at Attachment 2, page 5, of General Counsel's Report dated August 14, 1991.

expenses" NAREA wrote to Mr. Twichell on the same day was a bona fide expense reimbursement. They make no attempt to detail what specific event or activity the purported expense reimbursement involved, but most significantly, they fail to address Tamara Twichell's careful check register notation describing the deposit of the NAREA payment as "$500 to cover check." See GC Brief I at 50-51.

Respondents do put forward a specific contention regarding the $1,000 that John Steensland contributed to the Durenberger Committee in May of 1988, and the corresponding NAREA check for $1,000 deposited in his account on the same date. They argue that Mr. Steensland gave appraisal seminars throughout the country in 1988, that he was paid $500 per day plus expenses, and that the $1,000 NAREA check dated May 25, 1988, represented compensation for a May 5-6, 1988 seminar he gave in Raleigh-Durham, North Carolina. Reply Brief I at 30-33; id. at Attachment C, ¶¶ 6-9 (Affidavit of John Steensland). Thus, argue Respondents, "the expense reimbursement was a bona fide payment to Mr. Steensland which he chose to contribute to the Durenberger campaign." Reply Brief I at 33. An examination of NAREA payments to Mr. Steensland, however, reveals that "NC" was entered in NAREA's check register for a check Mr. Steensland received from NAREA less than a week earlier, suggesting that check, rather than the May 25th check for $1,000, was in payment for Mr. Steensland's

9504367090 6

North Carolina seminar in early May.[14]

A final example involves the $10,000 contributions of Messrs. Twichell and Cloud on July 19, 1988. Respondents continue to maintain that the two $10,000 NAREA checks that Robert Johnson wrote to Twichell and Cloud that day which enabled them to write their personal checks were payment for services in connection with the office move to new facilities in June of 1988. Indeed, Respondents attempt to extend the duration of efforts by the two men, presumably to justify the extravagant payments to them. Reply Brief I at 20-21, 22.[15] According to NAREA's records, however, Messrs. Cloud and Twichell both received substantial bonuses after the office move as part of the regular yearly bonuses given to employees (Mr. Cloud on July 1st of $1,000 and Mr. Twichell on July 5th of $20,000), and Respondents do not explain why Mr. Johnson would have paid these two individuals

9504367090 7

---

14. According to Respondents, Mr. Steensland gave a two day seminar in Raleigh-Durham, NC on May 5-6, 1988, and a two day seminar in Scottsdale, AZ on May 12-13, 1988. Reply Brief I at 32. On May 20, 1988, NAREA wrote check number 9136 to Mr. Steensland in the amount of $3,206, and the check register describes the purpose as for "Seminar Expenses NC/Scottsdale." According to Mr. Steensland, NAREA's practice was to compensate him for his speaking fees as well as related travel expenses in a single check. Id. at Attachment C, ¶ 7. Thus, it appears that this check paid Mr. Steensland for the North Carolina seminar at the beginning of the month, as well as the Scottsdale seminar a week later. Of course, Mr. Steensland's expense records could demonstrate the purpose of each NAREA payment, but Steensland has thus far produced no such records in response to the outstanding Commission subpoena.

15. According to Respondents, "Mr. Twichell visited the building as often as twice each workday and on weekends throughout the course of the eight month construction project," Reply Brief I at 20-21, and "Mr. Cloud put in a lot of overtime over a four-month period, working weekends and evenings," id. at 22. (Emphasis added).

$10,000 "bonuses" on July 19, 1988, when he had given each a substantial bonus little more than two weeks earlier.

In sum, regarding the contributions by Mr. & Mrs. Twichell, Mr. & Mrs. Schneck, Todd Johnson, and John Steensland, neither Respondents' general contentions nor their more detailed representations (some under oath) appear credible.

Respondents raise a different argument regarding Robert Johnson's $10,000 contribution to the Presidential Trust four days after he received a payment of $10,000 (before taxes) from Todd Publishing, Inc. (Chart at 9). Respondents cite Commission determinations regarding persons who legitimately received funds from corporations and then contributed to political committees. In at least two such instances the Commission determined that although funds may have emanated from a corporation, they could be seen as personal funds in instances where there was a past practice of withdrawals and a right of use of the corporate funds. See MURs 149 (In re Jane Fonda) and 706 (In re Richard Bennett).

Respondents assert that Mr. Johnson's gross $10,000 payment is another such instance. In light of Mr. Johnson's scheme of reimbursing contributions from corporate funds as well as the irrefutable proof that Mr. Johnson was reimbursed for his May 1988, contribution to the Durenberger Committee, however, this matter is distinguishable from the above matters. Furthermore, as this Office pointed out, GC Brief I at 58, this payment appears to be different from the regular salary payments Todd Publishing made to Mr. Johnson. Therefore, the chart appended to this report continues to include this transaction.

9504367090 8

C. RECOMMENDATIONS REGARDING IAM AND GEORGE BUSH FOR PRESIDENT

1. IAM

The Commission also found reason to believe that IAM violated 2 U.S.C. §§ 441b(a) and 441f. IAM was founded in April, 1988, but did not appear to be actively conducting business until August, 1988. Thus, although this organization was in existence at the time the Bush letters were being produced and mailed, the evidence is inconclusive regarding what role it played. Moreover, none of the corporate payments used in connection with federal elections appear to have come from IAM's corporate account. Because, however, IAM was the parent organization of all of the Corporations, it does not appear that a finding of no probable cause is appropriate under these circumstances. Consequently, this Office recommends that the Commission take no further action as to IAM and close the file as to this Respondent.

2. GEORGE BUSH FOR PRESIDENT

On August 30, 1988, the Commission approved this Office's recommendation to take no action at this time against the George Bush for President Committee (the "Committee") and Stan Huckaby, as treasurer, pending the outcome of the investigation.

The evidence uncovered by the investigation indicates that Robert Johnson was co-chairman of the State of Arizona's fundraising efforts for George Bush for President. The evidence also indicates that the Committee was aware that contributions received with the "AZ 04" stamp resulted from the solicitations in question. Furthermore, the evidence shows that the Committee

9504367090 9

continued to accept the "AZ 04" contributions after the Committee was on notice that the solicitations were sent. In accepting the "AZ 04" contributions, the Committee received the benefit of corporate funds used for the solicitations and thus, may have knowingly accepted an in-kind corporate contribution.

While it appears that the Committee may have received corporate contributions, this Office does not recommend pursuing the Committee. Although as a fundraising agent, Robert Johnson's knowledge would be imputed to the Committee, there is evidence that the Committee instructed its fundraising agents not to send unauthorized mail solicitations. Furthermore, there is insufficient evidence indicating that other Committee personnel actually knew the solicitation letters were paid for by the incorporated Associations rather than by Mr. Twichell personally, as the letter stated. Also, as soon as they were on notice of the solicitations in March 1988, other Committee personnel directed Mr. Johnson and Mr. Twichell to cease and desist from any more solicitations. Moreover, the Committee has fully cooperated with the Commission during its investigation, which has focused on the Associations and Robert Johnson, the principal actors directly involved in the knowing and willful scheme. Thus, in light of the foregoing factors, this Office recommends that the Commission close the file as to George Bush for President and Stan Huckaby, as treasurer.

III. REFERRAL TO THE DEPARTMENT OF JUSTICE

Respondents' knowing and willful section of the reply briefs lays this matter out in stark fashion and presents two competing,

9504367091 0

mutually exclusive versions of events. Either Respondents conducted limited activity and reimbursed only three of the Durenberger contributions, or they conducted a massive direct mail effort and reimbursed thousands of dollars of contributions with corporate funds all in willful violation of the Act. There is no middle ground.

If Respondents' versions of events are to be believed, explanations must be offered for: the testimony of the stuffers who swore that they prepared the mailings and who were paid for the Associations for their work; Jean Johnson's testimony as to the extensive corporate involvement surrounding the mailings; the manufactured invoice submitted with Mr. Twichell's back dated check; Tamara Twichell's explicit check register notations; and Patricia Davidson's two or more conversations with Timothy Cloud regarding the $10,000 that he and Mr. Twichell were paid to contribute to the Bush Committee. Respondents also ask the Commission to accept the integrity of their description of the corporate transactions and to also disregard the contemporaneous descriptions of other transactions recorded in the Twichells' check register. In place of plausible explanations, however, Respondents have repeatedly denied all allegations of wrongdoing, conceding points only when faced with irrefutable evidence. For example, as discussed earlier, Respondents initially denied that any corporate payments were made for contributions and then later, when confronted with conclusive proof, conceded that three Durenberger contributions "had the appearance" of being made with corporate funds. Consequently, for the reasons noted in the

9504367091 1

General Counsel's Briefs, this Office recommends that the Commission find probable cause to believe that the violations in question are knowing and willful.

This Office further recommends that the Commission refer NAREA, NARA/MU, PWAA, Todd Publishing, Inc., Robert Johnson, and E. Kenneth Twichell to the Department of Justice for criminal prosecution. The Act provides that the Commission may find probable cause to believe knowing and willful violations of the Act have occurred. See 2 U.S.C. § 437g(5)(C). For a knowing and willful violation to exist, the Respondents must have committed specific acts prohibited by the FECA with an evil motive or purpose, or with an active awareness that they were violating the law when the illegal act was done. See, e.g., Morissette v. United States, 342 U.S. 246 (1952); AFL-CIO v. Federal Election Commission, 628 F.2d 97 (D.C. Cir. 1980); National Right To Work Committee v. Federal Election Commission, 716 F.2d 1401 (D.C. Cir. 1983).

As developed in the General Counsel's Briefs and in this report, the violations in this matter are serious ones. The implicit deception involved in Section 441f violations (including hiding various transactions behind purported legitimate corporate transactions) underscores that Respondents have engaged in systematic, concerted actions with full knowledge of the Act's prohibitions and limitations. Furthermore, they have lied to the Commission throughout this investigation, including the submission of knowingly false statements and manufactured documents, and have made only grudging admissions of limited violations when

9504367091 2

confronted with irrefutable evidence. Consequently, in light of the schematic nature and attempted cover-up, this Office believes a referral is appropriate.[16]

This Office will forward certain material gathered during the investigation to the Department of Justice along with the referral letter. The Department will receive all the material cited in the General Counsel's Briefs along with the full text of the depositions and copies of the briefs and this report. This Office will also make other material available for review by the Department upon request.

To ensure that Respondents will not escape liability for their violations if the Department of Justice declines to prosecute, this Office further recommends that the Commission specify a time certain by which the Department should notify the Commission of its decision whether to go forward. In the event that the Department of Justice does not notify this Office of its intention to prosecute within ninety days of the date the referral is received or decides not to prosecute, this Office will so

9504367091 3

---

16. Because the Respondents successfully covered up the reimbursement scheme until the Department of Labor investigation in 1989, and because they obstructed the Commission's investigation necessitating contested subpoena enforcement proceedings, this referral takes place more than three years after the transactions in question, see 2 U.S.C. § 455(a). The Department of Justice's criminal prosecutions of like transactions, however, employ the felony provisions of, inter alia, 18 U.S.C. § 1001, to which a five year statute of limitations applies. See, e.g., United States v. Hopkins, 916 F.2d 207, 210-11, 214-15 (5th Cir. 1990); 18 U.S.C. § 3282. This Office also intends to bring to the Department's attention the felony perjury statute, 18 U.S.C. § 1621, implicated by Respondents' conduct in this investigation, and transactions possibly in criminal violation of the Tax Code as well.

inform the Commission and recommend further appropriate action. The letter referring this matter to the Department is appended at Attachment 11.

IV. RECOMMENDATIONS

1. Take no further action as to International Association Managers and close the file as to this Respondent.

2. Close the file as to the George Bush for President Committee and Stan Huckaby, as treasurer.

3. Find no probable cause to believe E. Kenneth Twichell violated 2 U.S.C. § 441a(a)(1)(A).

4. Find probable cause to believe E. Kenneth Twichell knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f.

5. Find probable cause to believe Robert G. Johnson knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f.

6. Find probable cause to believe National Association of Review Appraisers and Mortgage Underwriters knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441d(a).

7. Find probable cause to believe Todd Publishing, Inc., knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f.

8. Find probable cause to believe Professional Women's Appraisal Association knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441d(a).

9. Find probable cause to believe National Association of Real Estate Appraisers knowingly and willfully violated 2 U.S.C. §§ 441b(a), 441d(a), and 441f.

10. Find probable cause to believe International Real Estate Institute, Inc., also known as International Institute of Valuers knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f.

11. Refer National Association of Real Estate Appraisers, Inc.; National Association of Review Appraisers and Mortgage Underwriters, Inc.; International Real Estate Institute, Inc. (a.k.a. International Institute of Valuers, Inc.); Todd Publishing, Inc.; Professional Women's Appraisal Association, Inc.; Robert G. Johnson; and E. Kenneth Twichell to the Department of Justice for criminal prosecution.

9504367091 4

12. Approve a letter to the Department of Justice stating that in the event the Department does not notify the Commission of its intention to prosecute, the Commission will proceed with civil enforcement.

13. Approve the appropriate letters.

Date January 8, 1992

Lawrence M. Noble
General Counsel

Attachments
See Attachment Table of Contents

9504367009 15

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

MEMORANDUM

TO: **LAWRENCE M. NOBLE**
GENERAL COUNSEL

FROM: **MARJORIE W. EMMONS**/BONNIE J. ROSS
COMMISSION SECRETARY

DATE: JANUARY 9, 1992

SUBJECT: MUR 2984 - GENERAL COUNSEL'S REPORT
DATED JANUARY 8, 1992

The above-captioned document was circulated to the Commission on Thursday, January 8, 1992 at 11:00 a.m. .

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

Commissioner Aikens	
Commissioner Elliott	
Commissioner McDonald	
Commissioner McGarry	
Commissioner Potter	
Commissioner Thomas	XXX

This matter will be placed on the meeting agenda for Tuesday, January 14, 1992 .

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

9504367091916

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 2984
National Association of Real Estate Appraisers, Inc.;	)	
National Association of Review Appraisers and Mortgage Underwriters, Inc.;	)	
International Real Estate Institute, Inc. (a.k.a. International Institute of Valuers, Inc.);	)	
Todd Publishing, Inc.;	)	
Professional Women's Appraisal Association, Inc.;	)	
International Association Managers, Inc.;	)	
Robert G. Johnson;	)	
E. Kenneth Twichell;	)	
George Bush for President and Stan Huckaby, as treasurer.	)	

9504367091 7

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on January 14, 1992, do hereby certify that the Commission decided by a vote of 5-0 to take the following actions in MUR 2984:

1. Take no further action as to International Association Managers and close the file as to this Respondent.

2. Close the file as to the George Bush for President Committee and Stan Huckaby, as treasurer.

(continued)

3. Find no probable cause to believe E. Kenneth Twichell violated 2 U.S.C. § 441a(a)(1)(A).

4. Find probable cause to believe E. Kenneth Twichell knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f.

5. Find probable cause to believe Robert G. Johnson knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f.

6. Find probable cause to believe National Association of Review Appraisers and Mortgage Underwriters knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441d(a).

7. Find probable cause to believe Todd Publishing, Inc., knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f.

8. Find probable cause to believe Professional Women's Appraisal Association knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441d(a).

(continued)

9504367091 8

9. Find probable cause to believe National Association of Real Estate Appraisers knowingly and willfully violated 2 U.S.C. §§ 441b(a), 441d(a), and 441f.

10. Find probable cause to believe International Real Estate Institute, Inc., also known as International Institute of Valuers knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f.

11. Refer National Association of Real Estate Appraisers, Inc.; National Association of Review Appraisers and Mortgage Underwriters, Inc.; International Real Estate Institute, Inc. (a.k.a. International Institute of Valuers, Inc.); Todd Publishing, Inc.; Professional Women's Appraisal Association, Inc.; Robert G. Johnson; and E. Kenneth Twichell to the Department of Justice for criminal prosecution.

12. Approve the letter to the Department of Justice stating that in the event the Department does not notify the Commission of its intention to prosecute, the Commission will proceed with civil enforcement.

(continued)

9504367091 9

13. Approve the appropriate letters as recommended in the General Counsel's report dated January 8, 1992, subject to revision of the letter to the Department of Justice to add a reference to 2 U.S.C. § 437g(c), and to ask that the Department of Justice respond within sixty days.

Commissioners Aikens, Elliott, McDonald, McGarry, and Thomas voted affirmatively for the decision; Commissioner Potter recused himself with respect to MUR 2984 and was not present during its consideration.

Attest:

1-15-92
Date

Marjorie W. Emmons
Secretary of the Commission

9504367009220

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

January 16, 1992

D. Randall King, Esquire
Merchant & Gould
100 Northwest Center
55 East Fifth Street
Saint Paul, Minnesota 55101

RE: MUR 2984
Robert Johnson; National Association of Real Estate Appraisers; National Association of Review Appraisers and Mortgage Underwriters; Professional Women's Appraisal Association; Todd Publishing, Inc.; International Real Estate Institute; E. Kenneth Twichell

Dear Mr. King:

On January 14, 1992, the Federal Election Commission found probable cause to believe that your clients, Robert G. Johnson, E. Kenneth Twichell, National Association for Real Estate Appraisers, Inc., Todd Publishing, Inc., and International Real Estate Institute, Inc., knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f, provisions of Federal Election Campaign Act of 1971, as amended. Additionally, the Commission found probable cause to believe that the National Association of Review Appraisers and Mortgage Underwriters, Inc., and Professional Women's Appraisal Association, Inc., knowingly and willfully violated 2 U.S.C. § 441b(a). Finally, the Commission found probable cause to believe that the National Association for Real Estate Appraisers, Inc., National Association of Review Appraisers and Mortgage Underwriters, Inc., and Professional Women's Appraisal Association, Inc., knowingly and willfully violated 2 U.S.C. § 441d(a). The foregoing violations are in connection with the mass mailing of solicitation letters and corporate reimbursements of contributions to federal campaigns.

9504367092 1

The Commission has determined to refer this matter to the Department of Justice for its consideration pursuant to 2 U.S.C. § 437g(a)(5)(C). In the event the Department of Justice does not prosecute this matter, the Commission retains the right to pursue conciliation pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).

Sincerely,

Lawrence M. Noble
General Counsel

95043670922

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

January 16, 1992

DELIVERED BY HAND TO
CRAIG C. DONSANTO

Robert S. Mueller
Assistant Attorney General
Criminal Division
U.S. Criminal Division
U.S. Department of Justice
Washington, D.C. 20530

RE: MUR 2984

Dear Mr. Mueller:

This is to refer the above captioned matter to the Department of Justice pursuant to 2 U.S.C. § 437g(a)(5)(C) and the Memorandum of Understanding between the Department and the Federal Election Commission.

On January 14, 1992, the Federal Election Commission found probable cause to believe that Robert G. Johnson, E. Kenneth Twichell, National Association for Real Estate Appraisers, Inc., Todd Publishing, Inc., and International Real Estate Institute, Inc., knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f. Additionally, the Commission found probable cause to believe that the National Association of Review Appraisers and Mortgage Underwriters, Inc., and Professional Women's Appraisal Association, Inc., knowingly and willfully violated 2 U.S.C. § 441b(a). Finally, the Commission found probable cause to believe that the National Association for Real Estate Appraisers, Inc., National Association of Review Appraisers and Mortgage Underwriters, Inc., and Professional Women's Appraisal Association, Inc., knowingly and willfully violated 2 U.S.C. § 441d(a). Also on that date, the Commission determined to refer such apparent violations to the Attorney General. See 2 U.S.C. § 437g(a)(5)(C).

The above violations involve the corporate sponsorship of a massive mail campaign soliciting contributions for the George Bush for President Committee and the reimbursement of corporate employees for contributions made to influence federal elections from corporate funds. The Commission has elected not to pursue Post-Probable Cause Conciliation at this time and instead, because of the gravity of the circumstances, has referred this matter directly to the Department of Justice. To ensure that

9504367009223

the Respondents do not escape liability for their violations in the event the Department declines to prosecute, the Commission retains the right to pursue civil remedies pursuant to 2 U.S.C. § 437g(a)(4)(A)(i). Thus, the Commission requests that the Department notify it within sixty days of the date this referral is received of the Department's decision whether to prosecute this matter. See 2 U.S.C. § 437g(c). In the event no such notice is received, the Commission may proceed with civil enforcement.

I offer our assistance to you in this matter and in any manner you deem appropriate. As you are aware, we have conducted a substantial investigation in this matter (including the taking of testimony under oath), and have attached the documents and depositions cited in the enclosed General Counsel's Briefs. We are ready to provide you with any of the other material we have gathered during our investigation.

Along with the knowing and willful FECA violations, our investigation of the matter discovered other possible violations of the law. Specifically, Messr. Johnson and Twichell may have made false statements and committed perjury in violation of 18 U.S.C. §§ 1001 and 1621. Also, some of the conduct of the above individuals and Associations, uncovered during the Commission's investigation, may be in violation of the Tax Code.

Please advise us of the disposition of this matter in accordance with 2 U.S.C. § 437g(c). You may contact Lois G. Lerner, the Associate General Counsel for Enforcement at (202) 219-3690.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosures
General Counsel's Report
Probable Cause Briefs
Deposition Transcripts
Documentary Attachment

9504367092 4

MERCHANT & GOULD

Merchant, Gould, Smith,
Edell, Welter & Schmidt
Professional Association
Patent, Trademark &
Copyright Lawyers

1000 Norwest Center
55 East Fifth Street
Saint Paul, Minnesota
U.S.A. 55101-2701
FAX 612/298-1160
Telex 297470 MANDG Stp
612/298-1055

Direct dial: 225-2012

John D. Gould
Phillip H. Smith
Robert T. Edell
Paul A. Welter
Cecil C. Schmidt
John S. Sumners
Alan G. Carlson
Micheal L. Schwegman
Earl D. Reiland
Raymond A. Bogucki
Charles E. Golla
Douglas J. Williams
Douglas A. Strawbridge
Albert L. Underhill
D. Randall King
Michael B. Lasky
Curtis B. Hamre
Michael D. Schumann
Michael L. Mau
John A. Clifford
Mark J. DiPietro
Steven W. Lundberg
Warren D. Woessner
Timothy R. Conrad
***
David G. Johnson
Alan W. Kowalchyk
Michael S. Sherrill
Daniel W. McDonald
R. Carl Moy
Robert C. Freed
Daniel J. Kluth
Wendy M. McDonald
Linda M. Byrne
Mark D. Schuman
Randall A. Hillson
John P. Sumner
Brian H. Batzli
David K. Tellekson
John J. Gresens
Paul E. Lacy
John L. Knoble
Michelle M. Michel
Philip P. Caspers
Gregory A. Sebald
A. James Nelson
Robert C. Beck
George H. Gates
Gregory M. Taylor
Kristine M. Strodthoff
Thomas E. Jurgensen
Steven C. Bruess
Joel A. Rothfus
Mark A. Krull
Kevin W. Raasch
Karl G. Schwappach
Matthew J. Goggin
Antony C. Mundelius
Mark J. Gebhardt

January 17, 1992

V. Colleen Miller
Office of the General Counsel
Federal Election Commission
999 E Street N.W.
Washington, D.C. 20463

RE: Tamara J. Twichell
Mur 2984
Our Ref: M&G 3230.23-US-AA

Dear Colleen:

Enclosed please find the revised Response and Affidavit duly executed by Tamara Twichell.

If you have any questions regarding the enclosed, please feel free to contact me.

Sincerely,

MAK

Mark A. Krull

MAK/lmd

Enc: Response
Affidavit

FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
92 JAN 21 PM 3:10
RECEIVED

FEDERAL ELECTION COMMISSION
92 JAN 21 AM 10:52
RECEIVED

9504367092 5

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 2984
Tamara J. Twichell	)	
	)	

RESPONSES TO SUBPOENA TO PRODUCE DOCUMENTS

AND ORDER TO SUBMIT WRITTEN ANSWERS

Sir:

1. List each contribution you made during 1988 to federal political committees.

Response to 1.

One contribution to Bush for President Committee.

2. For each contribution noted above, list the candidate or committee to whom you contributed, the date of the contribution, and the amount of the contribution.

Response to 2.

Bush for President Committee, January 26, 1988, $1,000.

3. Identify the method by which you made each contribution. If you used a personal check, list the account number and check number. If you used another instrument, identify this instrument and identify the financial institution form which it was obtained. Specify the source of funds you used to obtain this instrument.

Response to 3.

Personal check bearing account number [redacted] and check number 702.

4. For each contribution, state whether you were

9504367092926

reimbursed directly or indirectly or otherwise compensated for such contribution. If yes, explain the circumstances of this reimbursement.

Response to 4.

No.

5. Produce the following documents and materials from the period covering January 1, 1988 to March 1, 1988: checks written by you, check registers, account statements, statements from brokerage houses and statements from any financial institution.

Response to 5.

These documents and materials were produced to the Federal Election Commission on behalf of my husband, E. Kenneth Twichell, in March of 1990.

6. Produce all documents from the period covering January 1, 1988 to March 1, 1988 that in any way reflect, constitute, relate or refer to financial activity, or the transfer of any asset either directly or indirectly through a third party, between you and any of the Specified Persons. Such documents include but are not limited to the following: checks written to you; check stubs; deposit slips; canceled checks; bills; invoices; expense records; expense reimbursement forms; records of electronic transfers; confirmation of the purchase or sale of stocks, bonds, mutual funds, commodities, and real estate; and records of all other financial transactions.

9504367009227

Response to 6.

None.

7. Produce all documents and materials from the period covering January 1, 1988 to March 1, 1988 relating to each of your political contributions including but not limited to solicitation letters; check copies (front and back); receipts; acknowledgement letters and all writings of every kind.

Response to 7.

These documents and materials were produced to the Federal Election Commission on behalf of my husband, E. Kenneth Twichell, in March of 1990.

I declare under penalty of perjury that the foregoing is true and correct.

January 15 1992
Executed on this day.

Tamara J. Twichell
Tamara J. Twichell

9504367092 8

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 2984
Tamara J. Twichell	)	
	)	

AFFIDAVIT OF TAMARA J. TWICHELL

Sir:

Tamara J. Twichell, being duly sworn, deposes and says as follows:

1. I am the same Tamara J. Twichell named in the above-identified investigation.

2. I have read the factual and legal analysis of MUR 2984 dated April 5, 1991.

3. The check I wrote to the Bush for President Committee on January 26, 1988 was a result of my decision to contribute to President Bush's Campaign.

4. I am not aware of any agreement with National Association of Real Estate Appraisers or any other company to allow my name to be used to effectuate a $1,000.00 contribution to the Bush for President Committee.

5. I am not aware of any reimbursement from any source either before or after January 26, 1988, for the check I wrote to the Bush for President Committee.

6. I have never made a contribution in my name knowing that the contribution was from a corporation or a corporate officer or director.

9504367009229

I declare under penalty of perjury that the foregoing is true and correct.

January 15 1992
Executed on this day.

Tamara J. Twichell
Tamara J. Twichell

9504367009330

RECEIVED
F.E.C.
SECRETARIAT
92 JAN 22 AM 10:00

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 22, 1992 **SENSITIVE**

MEMORANDUM

TO: The Commission

FROM: Lawrence M. Noble
General Counsel

SUBJECT: MUR 2984 -- Additional Recommendation

On January 14, 1992, the Commission found probable cause to believe against the principal respondents in the above captioned matter and voted to refer them to the Department of Justice for criminal prosecution. On this Office's recommendation, the Commission also closed the file as to George Bush for President, Inc., ("Committee") and Stan Huckaby, as treasurer. The General Counsel's Report omitted this recommendation as to President Bush, who was also originally notified as a respondent in this matter. Therefore, this Office recommends that the Commission close the file with respect to President George Bush. This Office will notify President Bush and the Committee jointly.

Recommendations

1. Close the file as to President George Bush.

2. Approve the appropriate letter.

Staff Assigned: Helen J. Kim

9504367093 1

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
George Bush for President, Inc., and Stan Huckaby, as treasurer.	)	MUR 2984
	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on January 24, 1992, the Commission decided by a vote of 4-0 to take the following actions in MUR 2984:

1. Close the file as to President George Bush.

2. Approve the appropriate letter, as recommended in the General Counsel's Memorandum dated January 22, 1992.

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

Attest:

1-27-92
Date

Marjorie W. Emmons
Secretary of the Commission

Received in the Secretariat: Wed., Jan., 22, 1992 10:00 a.m.
Circulated to the Commission: Wed., Jan., 22, 1992 4:00 p.m.
Deadline for vote: Fri., Jan., 24, 1992 4:00 p.m.

bjr

9504367093 2

FEDERAL ELECTION COMMISSION
WASHINGTON D C 20463

January 31, 1992

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

RE: MUR 2984
George Bush,
George Bush for President
and Stan Huckaby, as
treasurer

Dear Mr. Baran:

On March 23, 1988, George Bush for President and Stan Huckaby, as treasurer, and George Bush were notified of the complaint in MUR 2593 (later merged with MUR 2984). Upon further consideration, on January 14, 1992 and January 24, 1992, the Federal Election Commission closed the file with respect to George Bush for President and Stan Huckaby, as treasurer, and George Bush, without taking any action against your clients.

Should you have any questions, please contact Helen J. Kim, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,

Lawrence M. Noble
General Counsel

9504367093 3

RECEIVED
F.E.C.
SECRETARIAT
92 MAR -2 PM 4:47

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
National Association of Real Estate Appraisers, Inc.	)	MUR 2984
National Association of Review Appraisers and Mortgage Underwriters, Inc.	)	
International Real Estate Institute, Inc. (a.k.a. International Institute of Valuers, Inc.)	)	**SENSITIVE**
Todd Publishing, Inc.	)	
Professional Women's Appraisal Association, Inc.	)	
International Association Managers, Inc.	)	
Robert G. Johnson	)	
E. Kenneth Twichell	)	

GENERAL COUNSEL'S REPORT

On January 14, 1992, the Commission referred the above-named respondents to the Department of Justice for criminal prosecution. The Commission also requested that the Department respond within sixty days of the receipt of the referral. The referral letter was hand delivered to Craig C. Donsanto, Chief of the Election Crimes Branch, on January 16, 1992.

To date, this Office has not received any formal communication from the Department regarding the status of the matter. Informal communications, however, reveal that the Department is seriously considering going forward with the matter. We have been told that as a general matter, the Department intends to give considerable deference to the Commission's assessment that a matter is appropriate for criminal prosecution. Also, it appears that the amounts in violation in this case exceed the Department's current informal guideline for felony prosecution of

9504367093 4

FECA transactions. Furthermore, this matter has been assigned to a Public Integrity Section trial attorney and is now under review. Interestingly, it also appears that Minnesota counsel for the respondents has been in contact with the Department, attempting to persuade that the matter is "all just a big misunderstanding."[1]

This Office will keep the Commission apprised of any new developments and will notify the Commission when the sixty day period has expired.

Date 3/2/92

Lawrence M. Noble
General Counsel

9504367093 5

1. Robert Johnson's counsel is also active on another front, the ongoing Department of Labor litigation in Phoenix, in which the Commission intervened last year. Department of Labor v. International Association Managers, et al., CA No. 90-0219-PHX-RCB (D. Az.). In that case, the court issued a protective order dated February 14, 1991, which, among other things, prohibited defendants from making inquiries into the Commission's and the Department of Labor's investigations. On February 14, 1992, this Office filed (and circulated informationally to the Commission) an opposition to defendants' motion to modify the outstanding protective order. Defendants have since responded that they do not contest continuation of the protective order as to the Commission's investigation.

U.S. Department of Justice

OGC 4427

Washington, D.C. 20530

MAR 13 1992

92 MAR 17 PM 3:13

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

The Honorable Joan Aikens
Chairman
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

MUR 2984

Dear Madam Chairman:

Pursuant to 2 U.S.C. § 437g(c), on behalf of the Attorney General we are hereby reporting to the Commission regarding actions taken concerning the Commission's formal referral to the Justice Department of allegations relating to Robert G. Johnson, E. Kenneth Twichell and related entities. The materials forwarded to the Public Integrity Section are currently being reviewed for possible violations of 18 U.S.C. §§371, 1001, 1505 as well as the Federal Election Campaign Act. We anticipate that an FBI field investigation will be opened shortly.

In our next report, which is due on April 15, 1992, we will advise the Commission of any additional actions taken regarding this matter. Due to the sensitive nature of information relating to an ongoing criminal investigation, we request that this letter and our subsequent reports be considered by the Commission to be confidential and not subject to public disclosure under the Freedom of Information Act or otherwise.

Sincerely,

William A Keefer

William A. Keefer
Acting Chief
Public Integrity Section
Criminal Division

9504367009 36

RECEIVED
F.E.C.
SECRETARIAT
92 MAR 30 PM 12:27

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
National Association of Real Estate Appraisers, Inc.)
National Association of Review Appraisers and Mortgage Underwriters, Inc.)
International Real Estate Institute, Inc. (a.k.a. International Institute of Valuers, Inc.))
Todd Publishing, Inc.)
Professional Women's Appraisal Association, Inc.)
Robert G. Johnson)
E. Kenneth Twichell)
Tamara Twichell)
Stephen L. Schneck)
Mary Schneck)
Todd Johnson)
Timothy Cloud)
John Steensland)

MUR 2984

SENSITIVE

GENERAL COUNSEL'S REPORT

On January 14, 1992, the Commission referred Robert G. Johnson, E. Kenneth Twichell, and the corporate entities listed above, to the Department of Justice for criminal prosecution. The Commission also requested that the Department respond within sixty days of the receipt of the referral. The referral letter was hand delivered to Craig C. Donsanto, Chief of the Election Crimes Branch, on January 16, 1992.

In the General Counsel's Report dated March 3, 1992, this Office reported to the Commission that, although the Department of Justice had not formally communicated with this Office regarding the Commission's referral, informal communications revealed that the Department was seriously considering the matter. On March 17, 1992, this Office received a letter from William A. Keefer, Acting

9504367093 7

Chief of the Public Integrity Section of the Criminal Division of the Department of Justice. (Attachment). The letter states that the referral materials were being reviewed for possible violations of 18 U.S.C. §§ 371 (Conspiracy to commit offense or to defraud United States), 1001 (False Statements), and 1505 (Obstructing proceedings before Departments, agencies, and committees), as well as the Federal Election Campaign Act of 1971, as amended. The Department also anticipates that a Federal Bureau of Investigation field investigation will be opened soon, and will advise the Commission of any additional actions taken regarding the referral in their next report to the Commission which is due on April 15, 1992. See 437g(c).

This Office recommends that the Commission postpone entering into conciliation with the individuals and entities referred to the Department of Justice since it does appear that the Department is moving forward in this matter. In addition to the referred respondents, six other individual respondents remain in the matter.[1] Although the Department has not formally requested postponing proceedings against these remaining respondents, continuing proceedings against these individuals may hamper the

9504367093 8

---

1. On March 26, 1991, the Commission found reason to believe these individuals violated 2 U.S.C. § 441f: Tamara Twichell, Stephen L. Schneck, Mary Schneck, Timothy Cloud, Todd Johnson, and John Steensland. On this date, the Commission also authorized subpoenas requesting information, but the Respondents failed to comply with the subpoena requests. Consequently, on August 20, 1991, the Commission authorized civil suit for relief in United States District Court against these Respondents. On January 21, 1992, this Office received the most recent supplemental response. Although this most recent submission is not complete, no efforts are being made to enforce the completion of document production in view of the pending criminal proceedings.

Department's consideration of the Commission's referral. Therefore, this Office recommends that the Commission postpone all proceedings against the remaining respondents in this matter. This Office will report to the Commission as we are notified of further action by the Department.

RECOMMENDATIONS

1. Postpone entering into conciliation with Robert G. Johnson; E. Kenneth Twichell; National Association of Real Estate Appraisers, Inc.; National Association of Review Appraisers and Mortgage Underwriters, Inc.; International Real Estate Institute, Inc. (a.k.a. International Institute of Valuers, Inc.); Todd Publishing, Inc.; Professional Women's Appraisal Association, Inc.

2. Postpone all proceedings against Tamara Twichell, Stephen L. Schneck, Mary Schneck, Timothy Cloud, Todd Johnson, and John Steensland.

Date 3/20/92

Lawrence M. Noble
General Counsel

Attachment
Letter from the Department of Justice

9504367009 39

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
National Association of Real Estate Appraisers, Inc., et al.	)	MUR 2984
	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on April 1, 1992, the Commission decided by a vote of 5-0 to take the following actions in MUR 2984:

1. Postpone entering into conciliation with Robert G. Johnson; E. Kenneth Twichell; National Association of Real Estate Appraisers, Inc.; National Association of Review Appraisers and Mortgage Underwriters, Inc.; International Real Estate Institute, Inc. (a.k.a. International Institute of Valuers, Inc.); Todd Publishing, Inc.; Professional Women's Appraisal Association, Inc.

(continued)

9504367092 40

2. Postpone all proceedings against Tamara Twichell, Stephen L. Schneck, Mary Schneck, Timothy Cloud, Todd Johnson, and John Steensland.

Commissioners Aikens, Elliott, McDonald, McGarry, and Thomas voted affirmatively for the decision; Commissioner Potter recused himself with respect to this matter and did not cast a vote.

Attest:

4/2/92
Date

Marjorie W. Emmons
Secretary of the Commission

Received in the Secretariat: Mon., Mar., 30, 1992 12:27 p.m.
Circulated to the Commission: Mon., Mar., 30, 1992 4:00 p.m.
Deadline for vote: Thurs., Apr., 02, 1992 4:00 p.m.

bjr

9504367094 1

U.S. Department of Justice

RECEIVED
FEDERAL ELECTION COMMISSION
92 APR 17 PM 2:32

OGC 4727

Washington, D.C. 20530

APR 1 4 1992

MUR 2984

The Honorable Joan Aiken
Chairman
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Dear Madam Chairman:

Pursuant to 2 U.S.C. § 437g(c), on behalf of the Attorney General we are hereby reporting to the Commission regarding actions taken concerning the Commission's formal referral to the Justice Department of allegations relating to Robert Johnson, Kenneth Twitchell and related entities. The Public Integrity Section is continuing to review the materials forwarded by the Commission in order to determine if they will support a criminal prosecution under 18 U.S.C. §§371, 1001, 1505 and/or the Federal Election Campaign Act.

In our next report, which is due on May 15, 1992, we will advise the Commission of any additional actions taken regarding this matter. Due to the sensitive nature of information relating to an ongoing criminal investigation, we request that this letter and our subsequent reports be considered by the Commission to be confidential and not subject to public disclosure under the Freedom of Information Act or otherwise.

Sincerely,

William A. Keefer
Acting Chief
Public Integrity Section
Criminal Division

9504367094 2

U.S. Department of Justice

OGC4672

2984

Washington, D.C. 20530

MAY 15 1992

92 MAY 20 AM 8:53

The Honorable Joan Aiken
Chairman
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Dear Madam Chairman:

Pursuant to 2 U.S.C. § 437g(c), on behalf of the Attorney General we are hereby reporting to the Commission regarding actions taken concerning the Commission's formal referral to the Justice Department of allegations relating to Robert Johnson, Kenneth Twitchell and related entities. The Public Integrity Section is continuing to review the materials forwarded by the Commission in order to determine if they will support a criminal prosecution under 18 U.S.C. §§ 371, 1001, 1505 and/or the Federal Election Campaign Act. The Criminal Division has requested that the FBI open up a preliminary investigation in this matter.

In our next report, which is due on June 15, 1992, we will advise the Commission of any additional actions taken regarding this matter. Due to the sensitive nature of information relating to an ongoing criminal investigation, we request that this letter and our subsequent reports be considered by the Commission to be confidential and not subject to public disclosure under the Freedom of Information Act or otherwise.

Sincerely,

William A Keefer

William A. Keefer
Acting Chief
Public Integrity Section
Criminal Division

9504367 0943

U.S. Department of Justice

OGC 4983

MUR 2984

Washington, D.C. 20530

JUN 18 1992

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
92 JUN 29 PM 3:10

The Honorable Joan Aiken
Chairman
Federal Election Commission
Washington, D.C. 20463

Dear Madam Chairman:

Pursuant to 2 U.S.C. § 437g(c), on behalf of the Attorney General we are hereby reporting to the Commission regarding actions taken concerning the Commission's formal referral to the Justice Department of allegations relating to Robert Johnson, Kenneth Twitchell and related entities. The Public Integrity Section is continuing to review the materials forwarded by the Commission in order to determine if they will support a criminal prosecution under 18 U.S.C. §§ 371, 1001, 1505 and/or the Federal Election Campaign Act. At the Section's recommendation, the Federal Bureau of Investigation (FBI) has opened up a preliminary investigation in this matter.

In our next report, which is due on July 15, 1992, we will advise the Commission of any additional actions taken regarding this matter. Due to the sensitive nature of information relating to an ongoing criminal investigation, we request that this letter and our subsequent reports be considered by the Commission to be confidential and not subject to public disclosure under the Freedom of Information Act or otherwise.

Sincerely,

William A Keefer

William A. Keefer
Acting Chief
Public Integrity Section
Criminal Division

9504367094 4

U.S. Department of Justice

OGC 5231

Washington, D.C. 20530

JUL 15 1992

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
92 JUL 17 PM 3:55

The Honorable Joan Aiken
Chairman
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

MUR 2984

Dear Madam Chairman:

Pursuant to 2 U.S.C. § 437g(c), on behalf of the Attorney General we are hereby reporting to the Commission regarding actions taken concerning the Commission's formal referral to the Justice Department of allegations relating to Robert Johnson, Kenneth Twitchell and related entities. The Public Integrity Section is continuing to review the materials forwarded by the Commission in order to determine if they will support a criminal prosecution under 18 U.S.C. §§ 371, 1001, 1505 and/or the Federal Election Campaign Act. The FBI's investigation remains in the preliminary stage.

In our next report, which is due on August 15, 1992, we will advise the Commission of any additional actions taken regarding this matter. Due to the sensitive nature of information relating to an ongoing criminal investigation, we request that this letter and our subsequent reports be considered by the Commission to be confidential and not subject to public disclosure under the Freedom of Information Act or otherwise.

Sincerely,

Michael J. Shepard
Chief
Public Integrity Section
Criminal Division

9504367094 5

OGC 6150

U.S. Department of Justice

MUR 3984

Washington, D.C. 20530

AUG 17 1992

RECEIVED
FEDERAL ELECTION COMMISSION
92 AUG 19 PM 3:30

The Honorable Joan Aiken
Chairman
Federal Election Commission
Washington, D.C. 20463

Dear Madam Chairman:

Pursuant to 2 U.S.C. § 437g(c), on behalf of the Attorney General we are hereby reporting to the Commission regarding actions taken concerning the Commission's formal referral to the Justice Department of allegations relating to Robert Johnson, Kenneth Twitchell and related entities. The Public Integrity Section is continuing to review the materials forwarded by the Commission in order to determine if they will support a criminal prosecution under 18 U.S.C. §§ 371, 1001, 1505 and/or the Federal Election Campaign Act. The Federal Bureau of Investigation's investigation remains in the preliminary stage.

In our next report, which is due on September 15, 1992, we will advise the Commission of any additional actions taken regarding this matter. Due to the sensitive nature of information relating to an ongoing criminal investigation, we request that this letter and our subsequent reports be considered by the Commission to be confidential and not subject to public disclosure under the Freedom of Information Act or otherwise.

Sincerely,

Michael J. Shepard
Chief
Public Integrity Section
Criminal Division

9504367009946

RECEIVED
F.E.C.
SECRETARIAT
92 SEP 2 PM 2:31

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	**SENSITIVE**
	)	
National Association of Real Estate Appraisers, Inc.	)	MUR 2984
National Association of Review Appraisers and Mortgage Underwriters, Inc.	)	
International Real Estate Institute, Inc. (a.k.a. International Institute of Valuers, Inc.)	)	
Todd Publishing, Inc.	)	
Professional Women's Appraisal Association, Inc.	)	
Robert G. Johnson	)	
E. Kenneth Twichell	)	
Tamara Twichell	)	
Stephen L. Schneck	)	
Mary Schneck	)	
Todd Johnson	)	
Timothy Cloud	)	
John Steensland	)	

95043670947

GENERAL COUNSEL'S REPORT

On January 14, 1992, the Commission referred Robert G. Johnson, E. Kenneth Twichell, and the corporate entities listed above, to the Department of Justice for criminal prosecution. The Commission also requested that the Department respond within sixty days of the receipt of the referral. The referral letter was hand delivered to Craig C. Donsanto, Chief of the Election Crimes Branch, on January 16, 1992.

In the General Counsel's Report dated March 20, 1992, this Office reported to the Commission that the Department of Justice had formally communicated with this Office regarding the Department's action on the Commission's referral. In the interim, the Department has communicated by letter every 30 days on the

status of its consideration of the matter. (Attachment 1). This Office has learned that two trial attorneys have been assigned to the case and that the Federal Bureau of Investigation has opened a preliminary investigation into the matter.

On August 11, 1992, staff met with the Department's trial attorneys assigned to this matter to discuss various issues and details of the referral. At this meeting, the attorneys asked to review additional documents including the respondents' bank records and financial statements along with the respondents' subpoena responses. This Office hand delivered some documents to the attorneys, and on August 17, 1992, the attorneys reviewed the balance of the materials in our office. On August 18, 1992, we forwarded financial documents to the Department for reproduction. The documents will be returned to this Office after they have been copied.

The trial attorneys could not give a concrete timetable for the process, but they did give assurances that they were moving forward with the case. This Office will report to the Commission as we are notified of further action by the Department.

9504367094 8

9/8/92
Date

Lawrence M. Noble
General Counsel

Attachments
1. Letters from the Department of Justice
2. Cover Letter

Staff Assigned: Helen J. Kim

Canby, Minn 56220
Sept 11, 1992

To: Federal Election Commission
From: John R. Hair
Re: MUR 2593 - merged with MUR 2984

SEP 9 11 03

It has now been over four years since MUR 2593 was accepted by the F.E.C. Both June of '90 & '91 phone conversations with your office indicated the case was nearing completion; yet, nothing to date has been reported.

This is ridiculous!!

I consider myself a rather patient person — but patience is expiring! It's time for TV's CBS "60 Minutes" or ABC's "Prime Time Alive" to turn one of their investigative arms on the F.E.C. One can't help but assume, having followed MUR 2593 for over four years, that either the F.E.C hides behind their own rules or special interest politics intervenes. It's time the public knows the inter working of the F.E.C. and the results obtained!

This puts you on notice of my feelings & concern.

Respectfully submitted,

John R. Hair
314 L.Q.P. Ave
Canby, MN 56220

92 SEP -9 PM 3:44

9504367094 9

OGC# 6586

U.S. Department of Justice

Washington, D.C. 20530

SEP 2 2 1992

92 SEP 23 AM 11:08

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

The Honorable Joan Aiken
Chairman
Federal Election Commission
Washington, D.C. 20463

MUR 2984

Dear Madam Chairman:

Pursuant to 2 U.S.C. § 437g(c), on behalf of the Attorney General we are hereby reporting to the Commission regarding actions taken concerning the Commission's formal referral to the Justice Department of allegations relating to Robert Johnson, Kenneth Twitchell and related entities. The Public Integrity Section is continuing to review the materials forwarded by the Commission in order to determine if they will support a criminal prosecution under 18 U.S.C. §§371, 1001, 1505 and/or the Federal Election Campaign Act. The Federal Bureau of Investigation's investigation remains in the preliminary stage.

In our next report, which is due on October 15, 1992, we will advise the Commission of any additional actions taken regarding this matter. Due to the sensitive nature of information relating to an ongoing criminal investigation, we request that this letter and our subsequent reports be considered by the Commission to be confidential and not be subject to public disclosure under the Freedom of Information Act or otherwise.

Sincerely,

Joseph E. Langkoff

Michael J. Shepard
Chief
Public Integrity Section
Criminal Division

9504367090550

U. S. Department of Justice

OGC 7112

Washington, D.C. 20530

OCT 2 0 1992

92 OCT 26 AM 11:31

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

The Honorable Joan Aiken
Chairman
Federal Election Commission
Washington, D.C. 20463

MUR 2984

Dear Madam Chairman:

Pursuant to 2 U.S.C. § 437g(c), on behalf of the Attorney General we are hereby reporting to the Commission regarding actions taken concerning the Commission's formal referral to the Justice Department of allegations relating to Robert Johnson, Kenneth Twitchell and related entities. The Public Integrity Section is continuing to review the materials forwarded by the Commission in order to determine if they will support a criminal prosecution under 18 U.S.C. §§371, 1001, 1505 and/or the Federal Election Campaign Act. The Federal Bureau of Investigation's investigation currently is in the field investigation stage.

In our next report, which is due on November 15, 1992, we will advise the Commission of any additional actions taken regarding this matter. Due to the sensitive nature of information relating to an ongoing criminal investigation, we request that this letter and our subsequent reports be considered by the Commission to be confidential and not subject to public disclosure under the Freedom of Information Act or otherwise.

Sincerely,

Michael J. Shepard

Michael J. Shepard
Chief
Public Integrity Section
Criminal Division

9504367095 1

U.S. Department of Justice

Washington, D.C. 20530

NOV 17 1992

92 NOV 24 AM 9:26

The Honorable Joan Aiken
Chairman
Federal Election Commission
Washington, D.C. 20463

MUR 2984

Dear Madam Chairman:

Pursuant to 2 U.S.C. § 437g(c), on behalf of the Attorney General we are hereby reporting to the Commission regarding actions taken concerning the Commission's formal referral to the Justice Department of allegations relating to Robert Johnson, Kenneth Twitchell and related entities. The Public Integrity Section is continuing to review the materials forwarded by the Commission in order to determine if they will support a criminal prosecution under 18 U.S.C. §§ 371, 1001, 1505 and/or the Federal Election Campaign Act. The Federal Bureau Investigation's investigation currently is in the field investigation stage.

In our next report, which is due on December 15, 1992, we will advise the Commission of any additional actions taken regarding this matter. Due to the sensitive nature of information relating to an ongoing criminal investigation, we request that this letter and our subsequent reports be considered by the Commission to be confidential and not subject to public disclosure under the Freedom of Information Act or otherwise.

Sincerely,

Michael J. Shepard
Chief
Public Integrity Section
Criminal Division

9504367095 2

OGC 8013

U.S. Department of Justice

Washington, D.C. 20530

92 DEC 21 PM 4:54

RECEIVED
FEDERAL ELECTION COMMISSION
SEC'Y

DEC 16 1992

The Honorable Joan Aiken
Chairman
Federal Election Commission
Washington, D.C. 20463

MUR 2984

Dear Madam Chairman:

Pursuant to 2 U.S.C. § 437g(c), on behalf of the Attorney General we are hereby reporting to the Commission regarding actions taken concerning the Commission's formal referral to the Justice Department of allegations relating to Robert Johnson, Kenneth Twitchell and related entities. The Public Integrity Section is continuing to review the materials forwarded by the Commission in order to determine if they will support a criminal prosecution under 18 U.S.C. §§ 371, 1001, 1505 and/or the Federal Election Campaign Act. The FBI's investigation currently is in the field investigation stage.

In our next report, which is due on January 15, 1993, we will advise the Commission of any additional actions taken regarding this matter. Due to the sensitive nature of information relating to an ongoing criminal investigation, we request that this letter and our subsequent reports be considered by the Commission to be confidential and not subject to public disclosure under the Freedom of Information Act or otherwise.

Sincerely,

Michael J. Shepard

Michael J. Shepard
Chief
Public Integrity Section
Criminal Division

95043670953

U.S. Department of Justice

OGC 8314

Washington, D.C. 20530

JAN 21 1993

93 JAN 25 PM 4:04

FEDERAL ELECTION COMMISSION

The Honorable Joan Aiken
Chairman
Federal Election Commission
Washington, D.C. 20463

(MUR 2984)

Dear Madam Chairman:

Pursuant to 2 U.S.C. § 437g(c), on behalf of the Attorney General we are hereby reporting to the Commission regarding actions taken concerning the Commission's formal referral to the Justice Department of allegations relating to Robert Johnson, Kenneth Twitchell and related entities. The Public Integrity Section is continuing to review the materials forwarded by the Commission in order to determine if they will support a criminal prosecution under 18 U.S.C. §§ 371, 1001, 1505 and/or the Federal Election Campaign Act. The FBI's investigation currently is in the field investigation stage.

In our next report, which is due on February 15, 1993, we will advise the Commission of any additional actions taken regarding this matter. Due to the sensitive nature of information relating to an ongoing criminal investigation, we request that this letter and our subsequent reports be considered by the Commission to be confidential and not subject to public disclosure under the Freedom of Information Act or otherwise.

Sincerely,

Mary E. Bartlett /by

Michael J. Shepard
Chief
Public Integrity Section
Criminal Division

9504367095 4

OAC 3462

U. S. Department of Justice

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
93 FEB 23 AM 10:14

Washington, D.C. 20530

FEB 17 1993

The Honorable Joan Aiken
Chairman
Federal Election Commission
Washington, D.C. 20463

MUR 2984

Dear Madam Chairman:

Pursuant to 2 U.S.C. § 437g(c), on behalf of the Attorney General we are hereby reporting to the Commission regarding actions taken concerning the Commission's formal referral to the Justice Department of allegations relating to Robert Johnson, Kenneth Twitchell and related entities. The Public Integrity Section is continuing to review the materials forwarded by the Commission in order to determine if they will support a criminal prosecution under 18 U.S.C. §§ 371, 1001, 1505 and/or the Federal Election Campaign Act. The FBI's investigation currently is in the field investigation stage.

In our next report, which is due on March 15, 1993, we will advise the Commission of any additional actions taken regarding this matter. Due to the sensitive nature of information relating to an ongoing criminal investigation, we request that this letter and our subsequent reports be considered by the Commission to be confidential and not subject to public disclosure under the Freedom of Information Act or otherwise.

Sincerely,

Michael J. Shepard
Chief
Public Integrity Section
Criminal Division

95043367095 5

RECEIVED
F.E.C.
SECRETARIAT
93 MAR 19 PM 3:41

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

National Association of Real Estate Appraisers, Inc.
National Association of Review Appraisers and Mortgage Underwriters, Inc.
International Real Estate Institute, Inc. (a.k.a. International Institute of Valuers, Inc.)
Todd Publishing, Inc.
Professional Women's Appraisal Association, Inc.
Robert G. Johnson
E. Kenneth Twichell

SENSITIVE

MUR 2984

9504367095 56

GENERAL COUNSEL'S REPORT

On January 14, 1992, the Commission referred Robert G. Johnson, E. Kenneth Twichell, and the corporate entities listed above, to the Department of Justice for criminal prosecution. The Commission also requested that the Department respond within sixty days of the receipt of the referral. The referral letter was hand delivered to Craig C. Donsanto, Chief of the Election Crimes Branch, on January 16, 1992.

In the General Counsel's Report dated September 8, 1992, this Office reported to the Commission that on August 11, 1992, staff had met with two trial attorneys from the Department of Justice's Public Integrity Section to discuss various issues and details of the referral. At this meeting, the attorneys asked to review certain documents which were subsequently forwarded to the Department. The September General Counsel's Report also noted that the Department had communicated every 30 days on the status

of its consideration of the matter. In the interim, the Department has continued to communicate to the Commission in this manner. (Attachment 1).

On March 5, 1993, staff met with one of the Department's trial attorneys to discuss other issues and details of the referral. At this meeting, staff learned that the Department was developing the theory that the respondents obstructed the Commission in its investigation of the matter. With this theory in mind, we explained the Commission's procedures for processing complaints and reviewed various documents relating to the matter. To aid the Department's attorney in understanding the Commission's procedures in this matter, staff produced a chronology of the events that took place. (Attachment 2). We also briefly discussed the different track designations for enforcement cases and the details of the subpoena enforcement litigation.

During the meeting, the Department's attorney requested copies of certain documents that we reviewed. Specifically, he asked for copies of the subpoenas requesting documents that were sent to the respondents and the General Counsel's Report dated September 7, 1989 in Pre-MUR 220/MUR 2593 in addition to the chronology and the policy on the Enforcement track system. He also requested copies of certain litigation documents. On March 10, 1993, this Office delivered the requested documents to the Department including a copy of the litigation files in FEC v. Robert Johnson, et. al., FEC v. Real Estate Appraisers, et. al., and IAM, et. al. v. FEC. The documents that were delivered are itemized in the attached cover letter. (Attachment 3).

9504367009957

In addition to the documents requested at the March 5 1993, meeting, on March 8, 1993, the Department forwarded a request via facsimile for all the documents the Audit staff may have regarding certain 1988 contributions to George Bush. (Attachment 4). This Office contacted the Audit division regarding the Department's request. Audit Staff retrieved records for the 1988 contributions to George Bush which had been archived and made them available for the Department attorneys to review. This Office will report to the Commission any further developments as they arise.

3/19/93
Date

Lawrence M. Noble
General Counsel

Attachments
1. Letters from the Department of Justice
2. Chronology
3. Cover Letter
4. Department Request

Staff Assigned: Helen J. Kim

9504370958

U.S. Department of Justice

OGC 8694

Washington, D.C. 20530

MAR 16 1993

93MAR 19 PM 3:09

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF

MUR 2984

The Honorable Joan Aiken
Chairman
Federal Election Commission
Washington, D.C. 20463

Dear Madam Chairman:

Pursuant to 2 U.S.C. § 437g(c), on behalf of the Attorney General we are hereby reporting to the Commission regarding actions taken concerning the Commission's formal referral to the Justice Department of allegations relating to Robert Johnson, Kenneth Twitchell and related entities. The Public Integrity Section is continuing to review the materials forwarded by the Commission in order to determine if they will support a criminal prosecution under 18 U.S.C. §§ 371, 1001, 1505, 1621, 1622 and/or the Federal Election Campaign Act. The FBI's investigation currently is in the field investigation stage.

In our next report, which is due on April 15, 1993, we will advise the Commission of any additional actions taken regarding this matter. Due to the sensitive nature of information relating to an ongoing criminal investigation, we request that this letter and our subsequent reports be considered by the Commission to be confidential and not subject to public disclosure under the Freedom of Information Act or otherwise.

Sincerely,

Michael J. Shepard

Michael J. Shepard
Chief
Public Integrity Section
Criminal Division

9504367095 9

OGC 7488

U.S. Department of Justice

Washington, D.C. 20530

APR 16 1993

RECEIVED
FEDERAL ELECTION COMMISSION
93 APR 21 PM 12:33

The Honorable Joan Aiken
Chairman
Federal Election Commission
Washington, D.C. 20463

MUR 2984

Dear Madam Chairman:

Pursuant to 2 U.S.C. § 437g(c), on behalf of the Attorney General we are hereby reporting to the Commission regarding actions taken concerning the Commission's formal referral to the Justice Department of allegations relating to Robert Johnson, Kenneth Twitchell and related entities. The FBI's investigation essentially is completed and we are in the process of seeking a pre-indictment resolution of this matter.

In our next report, which is due on May 15, 1993, we will advise the Commission of any additional actions taken regarding this matter. Due to the sensitive nature of information relating to an ongoing criminal investigation, we request that this letter and our subsequent reports be considered by the Commission to be confidential and not subject to public disclosure under the Freedom of Information Act or otherwise.

Sincerely,

Joseph E. Gangloff
Acting Chief
Public Integrity Section
Criminal Division

9504367090960

OGC 8875

U.S. Department of Justice

Washington, D.C. 20530

MAY 19 1993

93 MAY 25 PM 4:53

RECEIVED
FEDERAL ELECTION COMMISSION

The Honorable Scott E. Thomas
Chairman
Federal Election Commission
Washington, D.C. 20463

MUR 2984

Dear Mr. Chairman:

Pursuant to 2 U.S.C. § 437g(c), on behalf of the Attorney General we are hereby reporting to the Commission regarding actions taken concerning the Commission's formal referral to the Justice Department of allegations relating to Robert Johnson, Kenneth Twitchell and related entities.

The FBI's investigation has been completed and three individuals have entered into plea agreements with the Department of Justice. Robert Johnson has agreed to plead guilty to committing perjury in connection with a deposition that he provided to the Commission in violation of 18 U.S.C. § 1621, and to causing political contributions to be made by the National Association of Real Estate Appraisers in violation of 2 U.S.C. §§ 441b and 437g(d). E. Kenneth Twichell has agreed to plead guilty to obstructing Commission proceedings, in violation of 18 U.S.C. § 1505, and Timothy Cloud has agreed to plead guilty to making a contribution in the name of another, in violation of 2 U.S.C. §§ 441f and 437g(d). We expect these pleas to be entered on June 14, 1993, in the United States District Court in Phoenix, Arizona.

The plea agreements reached with Messrs. Johnson, Twichell and Cloud expressly do not reach any civil or administrative matters within the Commission's jurisdiction. We will provide whatever information or assistance we can to the Commission regarding these matters, to the extent permitted by law. In order to avoid raising any questions of double jeopardy, we request, however, that the Commission not institute any formal charges against these three defendants until after their pleas are entered and they are sentenced.

In our next report, which is due on June 15, 1993, we will advise the Commission of any additional actions taken regarding this matter. Due to the sensitive nature of information relating

95043670961

to an ongoing criminal investigation, we request that this letter and our subsequent reports be considered by the Commission to be confidential and not subject to public disclosure under the Freedom of Information Act or otherwise.

Sincerely,

Joseph E. Ganglo[illegible]
Acting Chief
Public Integrity Section
Criminal Division

9504367009662

RECEIVED
F.E.C.
SECRETARIAT
93 MAY 27 AM 9:54

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
National Association of Real Estate Appraisers, Inc.	)	MUR 2984
National Association of Review Appraisers and Mortgage Underwriters, Inc.	)	
International Real Estate Institute, Inc. (a.k.a. International Institute of Valuers, Inc.)	)	**SENSITIVE**
Todd Publishing, Inc.	)	
Professional Women's Appraisal Association, Inc.	)	
Robert G. Johnson	)	
E. Kenneth Twichell	)	
Timothy Cloud	)	
	)	

GENERAL COUNSEL'S REPORT

On January 14, 1992, the Commission referred Robert G. Johnson, E. Kenneth Twichell, and the corporate entities listed above, to the Department of Justice for criminal prosecution. The Commission also requested that the Department respond within sixty days of the receipt of the referral. The referral letter was hand delivered to Craig C. Donsanto, Chief of the Election Crimes Branch, on January 16, 1992.

In the General Counsel's Report dated March 19, 1993, this Office reported to the Commission that staff met on March 5, 1993 with one of the Department's trial attorneys, forwarded certain documents requested by the Department's attorneys, and contacted the Audit Division regarding the Department's request to review the material regarding 1988 contributions to George Bush. In the interim, the Department has continued to communicate to the

9504367029 63

Commission by letter (Attachment 1) and informal conversations with Commission staff. During these informal conversations, this Office learned that the Department was close to reaching a settlement to resolve this matter.

On May 20, 1993, the Commission received a formal communication from the Department informing us that the two individuals referred by the Commission have agreed to enter into felony plea agreements. (Attachment 2). According to the Department's letter, Robert Johnson has agreed to plead guilty to committing perjury in connection with the deposition he provided to the Commission in violation of 18 U.S.C. § 1621, and to causing the National Association of Real Estate Appraisers to make a contribution in violation of 2 U.S.C. §§ 441b(a) and 437g(d). Also, E. Kenneth Twichell has agreed to plead guilty to obstructing Commission proceedings in violation of 18 U.S.C. § 1505. Furthermore, Timothy Cloud has agreed to plead guilty to violating 2 U.S.C. §§ 441f and 437g(d) by accepting a reimbursement for a contribution.

It is notable that, despite the running of the three year statute of limitations for FECA violations, the bases of the pleas to the other statutory sections were the same circumstances that made up the FECA violations. We also note that the Department reached a settlement with Timothy Cloud even though the Commission did not include him in the original referral.

The pleas are scheduled to be entered on June 14, 1993, in the United States District Court in Phoenix, Arizona. The letter also indicates that the plea agreements explicitly preserve the

9504367009964

Commission's civil jurisdiction in this matter. Furthermore, to avoid any questions of double jeopardy, the Department requests that the Commission refrain from instituting any formal action against these three individuals until their pleas are entered and they are sentenced.

Counsel for the respondents have contacted this Office to address the respondents' remaining civil liability with the Commission. Staff will meet with counsel as soon as a mutually beneficial meeting time can be arranged. This Office will report to the Commission any further developments as they arise.

5/26/93
Date

LM Noble (7/2)
Lawrence M. Noble
General Counsel

Attachments
1. Monthly reports from the Department of Justice
2. Letter from the Department of Justice

Staff Assigned: Helen J. Kim

9504367009665

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JUNE 21, 1993

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

RE: MUR 2984
Robert Johnson, National Association of Real Estate Appraisers, Inc., National Association of Review Appraisers and Mortgage Underwriters, Inc., International Real Estate Institute, Inc. (a.k.a. International Institute of Valuers, Inc.), Todd Publishing, Inc., Professional Women's Appraisal Association, Inc.

Dear Mr. Gross:

This is to confirm the substance of our meeting on Wednesday, June 16, 1993. At this meeting, we received a Statement of Facts, signed by Robert Johnson and Edward Ross, recounting the facts involved in the Department of Justice prosecution. We also discussed the possible resolution of your clients' remaining civil liabilities. We will review the Statement of Facts and will contact you if we need any additional or clarifying information from your clients.

Should you have any questions, please contact me or Helen Kim at (202) 219-3690.

Sincerely,

Jonathan A. Bernstein
Assistant General Counsel

cc: Edward D. Ross, Jr.

95043670966

U.S. Department of Justice OGC 928

RECEIVED
FEDERAL ELECTION COMMISSION
93 JUN 22 PM 3:48

Washington, D.C. 20530

JUN 18 1993

MUR 2984

The Honorable Scott E. Thomas
Chairman
Federal Election Commission
Washington, D.C. 20463

Dear Mr. Chairman:

Pursuant to 2 U.S.C. § 437g(c), on behalf of the Attorney General we are hereby reporting to the Commission regarding actions taken concerning the Commission's formal referral to the Justice Department of allegations relating to Robert Johnson, Kenneth Twichell and related entities.

On June 8, 1993, E. Kenneth Twichell pled guilty to obstructing Commission proceedings, in violation of 18 U.S.C. § 1505, and Timothy Cloud pled guilty to making a contribution in the name of another, in violation of 2 U.S.C. §§ 441f and 437g(d). Robert Johnson pled guilty on June 14, 1993 to committing perjury in connection with his Commission deposition, in violation of 18 U.S.C. § 1621, and to causing political contributions to be made by the National Association of Real Estate Appraisers in violation of 2 U.S.C. §§ 441b and 437g(d). Each of these pleas was entered before the Honorable Earl Carroll, United States District Judge, District of Arizona. The sentencings have all been set for September 13, 1993.

In our next report, which is due on July 15, 1993, we will advise the Commission of any additional actions taken regarding this matter. Due to the sensitive nature of information relating to an ongoing criminal investigation, we request that this letter and our subsequent reports be considered by the Commission to be confidential and not subject to public disclosure under the Freedom of Information Act or otherwise.

Sincerely,

Joseph E. Gangloff
Acting Chief
Public Integrity Section
Criminal Division

95043670967

U.S. Department of Justice

OGC 9498

JUL 19 RECD

Washington, D.C. 20530

JUL 15 1993

93 JUL 21 PM 1:35

RECEIVED
FEDERAL ELECTION COMMISSION

The Honorable Scott E. Thomas
Chairman
Federal Election Commission
Washington, D.C. 20463

MUR 2984

Dear Mr. Chairman:

Pursuant to 2 U.S.C. § 437g(c), on behalf of the Attorney General we are hereby reporting to the Commission regarding actions taken concerning the Commission's formal referral to the Justice Department of allegations relating to Robert Johnson, Kenneth Twitchell and related entities.

The sentencings for Robert Johnson, E. Kenneth Twitchell and Timothy Cloud still are scheduled for September 13, 1993. No additional actions have been taken on these cases during the past 30 days.

In our next report, which is due on August 15, 1993, we will advise the Commission of any additional actions taken regarding this matter. Due to the sensitive nature of information relating to an ongoing criminal investigation, we request that this letter and our subsequent reports be considered by the Commission to be confidential and not subject to public disclosure under the Freedom of Information Act or otherwise.

Sincerely,

Joseph E. Gangloff
Acting Chief
Public Integrity Section
Criminal Division

9504367009688

SEP 22 FEC
OC OGC

U. S. Department of Justice

Washington, D.C. 20530

SEP 21 1993

The Honorable Scott E. Thomas
Chairman
Federal Election Commission
Washington, D.C. 20463

MUR 2984

Dear Mr. Chairman:

Pursuant to 2 U.S.C. § 437g(c), on behalf of the Attorney General we are hereby reporting to the Commission regarding actions taken concerning the Commission's formal referral to the Justice Department of allegations relating to Robert Johnson, Kenneth Twichell and related entities.

On September 13, 1993, United States District Judge Earl Carroll sentenced Robert Johnson to six months of imprisonment, five months of home confinement, and three years of supervised release. Johnson was also ordered to pay a fine of $30,000, a special assessment of $75, and to perform 50 hours of community service during each year he is under supervised release. In June 1993, Johnson pled guilty to perjury committed during a Commission investigation, in violation of 18 U.S.C. § 1621, and to causing a corporation to make $20,000 in contributions to the Presidential Trust (a fundraising arm of the Republican National Committee), in violation of 2 U.S.C. §§ 441b and 437g(d).

Judge Carroll sentenced Twichell, one of Johnson's employees, to 15 days of imprisonment, 45 days in a community treatment center, 120 days of home confinement, and two years of supervised release. He was also ordered to pay a fine of $2,500 and a special assessment of $50. Twichell pled guilty in June to obstructing the Commission's investigation, in violation of 18 U.S.C. § 1505.

Timothy Cloud, another of Johnson's employees, was sentenced to 12 months of probation, and was ordered to pay a $1,000 fine and a $25 special assessment. Cloud pled guilty in June to allowing another to use his name to make a $10,000 contribution to the Presidential Trust, in violation of 2 U.S.C. §§ 441f and 437g(d). Each of the defendants has 10 days in which to appeal his sentence.

95043670709,679

As these sentencings constitute the final disposition of the allegations referred to the Justice Department, this will be our last report. See 2 U.S.C. § 437g(c).

The Justice Department wishes to thank the Commission for the cooperation it provided in connection with this referral. Associate General Counsel Jonathan Bernstein, in particular, contributed significantly to our success by ensuring that we received full access to the Commission's investigative and audit files on an expedited basis.

Sincerely,

/s/ E. Dyll

Joseph E. Gangloff
Acting Chief
Public Integrity Section
Criminal Division

95043670970

RECEIVED
F.E.C.
SECRETARIAT
93 SEP 24 PM 3:03

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	**SENSITIVE**
Robert G. Johnson National Association of Real Estate Appraisers, Inc. National Association of Review Appraisers and Mortgage Underwriters, Inc. International Real Estate Institute, Inc. (a.k.a. International Institute of Valuers, Inc.) Todd Publishing, Inc. Professional Women's Appraisal Association, Inc. E. Kenneth Twichell Timothy Cloud Tamara Twichell Stephen Schneck Mary Schneck Todd Johnson John Steensland	)	MUR 2984

GENERAL COUNSEL'S REPORT

I. INTRODUCTION

On January 14, 1992, the Commission referred Robert G. Johnson, E. Kenneth Twichell, and the incorporated entities listed above, to the Department of Justice ("Department") for criminal prosecution. The referral letter was hand delivered to Craig C. Donsanto, Chief of the Election Crimes Branch, on January 16, 1992. Upon notice that the Department was investigating this matter, on April 1, 1992, the Commission voted to postpone entering into post-probable cause conciliation with Robert G. Johnson, E. Kenneth Twichell, and the incorporated entities. On that date the Commission also voted to postpone all proceedings

95043670971

against Timothy Cloud, Tamara Twichell, Stephen Schneck, Mary Schneck, Todd Johnson, and John Steensland. See General Counsel's Report dated March 20, 1992.

In the General Counsel's Report dated May 26, 1993, this Office reported to the Commission that Robert G. Johnson, E. Kenneth Twichell, and Timothy Cloud, agreed to enter into felony plea agreements. This report conveys the most recent developments in the Department's criminal prosecution and makes recommendations regarding the resolution of this matter.

II. DISCUSSION

A. Update on Recent Developments

On June 18, 1993, the Commission received a formal communication from the Department regarding the recent developments in the criminal prosecution. (Attachment 1, page 1). According to the Department's letter, on June 14, 1993, Robert G. Johnson pleaded guilty to violating 18 U.S.C. § 1621 for committing perjury in connection with the deposition he provided to the Commission, and to violating 2 U.S.C. §§ 441b(a) and 437g(a) for causing the National Association of Real Estate Appraisers to make a contribution. Also, on June 8, 1993, E. Kenneth Twichell pleaded guilty to obstructing Commission proceedings in violation of 18 U.S.C. § 1505, and Timothy Cloud pleaded guilty to violating 2 U.S.C. §§ 441f and 437g(d) by accepting a reimbursement for a contribution.

9504367097 2

According to the Department's most recent update, sentencing was scheduled for September 13, 1993, in Arizona.[1] (Attachment 1, page 2). Attached to this report are copies of the plea agreements received from the Department on August 9, 1993. (Attachment 2). To note, the pleas specifically preserve the Commission's civil jurisdiction in this matter.

Shortly before this Office received the Department's June communication, staff met with counsel for Robert Johnson and the corporations at counsel's request. At this meeting counsel stated that Robert Johnson wished to resolve his civil liability with the Commission and, because he made false statements to the Commission, to "set the record straight" regarding the facts of this matter. Along these lines, counsel presented staff with a "Statement of Facts" created by Robert Johnson and the Department's attorneys. (Attachment 3). This statement, to be attached to Mr. Johnson's plea agreement, details the transactions involved in this matter.

B. Discussion of Conciliation and Civil Penalty Amounts

9504367097 3

---

1. Although we have not yet received the official court documents memorializing the sentencing, the Department has notified this Office of the sentences received by Robert G. Johnson, E. Kenneth Twichell, and Timothy Cloud. According to a local news article provided by the Department, Robert G. Johnson was sentenced to six months in prison, five months home detention, three years' probation, 150 hours of community service, and fined $30,000; E. Kenneth Twichell was sentenced to 15 days in prison, 45 days at a community-treatment center, 120 days home confinement, two years' probation, and fined $2,500; and Timothy Cloud was sentenced to 12 months' probation and fined $1,000. (Attachment 5).

9504367097 4

9504367097 5

9504367097 6

C. Recommendations Regarding Remaining Respondents

The remaining respondents in this matter are Tamara Twichell, Stephen Schneck, Mary Schneck, Todd Johnson, and John Steensland. These respondents acted as conduits for some of the contributions involved in the reimbursement scheme conducted by Robert Johnson and Ken Twichell. Although the aggregate amount of reimbursements involved in this matter is substantial, the amounts involved for each of these remaining respondents is small in comparison. Furthermore, the criminal prosecution of Robert Johnson and Ken Twichell, the principal actors in this matter, will serve as an effective deterrent to future violations of the Act. Thus, an admonishment would be a sufficient sanction for these respondents. Therefore, in view of these circumstances, this Office recommends that the Commission exercise its prosecutorial discretion and take no further action against Tamara Twichell, Stephen Schneck, Mary Schneck, Todd Johnson, and John Steensland, and close the file as to these

9504367009777

respondents. This Office will send appropriate letters of admonishment to these respondents.

III. RECOMMENDATIONS

1. Enter into conciliation with Robert G. Johnson; E. Kenneth Twichell; the National Association of Real Estate Appraisers, Inc.; National Association of Review Appraisers and Mortgage Underwriters, Inc.; International Real Estate Institute, a.k.a. International Institute of Valuers, Inc.; Professional Women's Appraisal Association, Inc.; and Todd Publishing, Inc.

2. Enter into conciliation with Timothy Cloud prior to a finding of probable cause.

3. Take no further action against Tamara Twichell, Stephen Schneck, Mary Schneck, Todd Johnson, and John Steensland, and close the file as to these respondents.

4. Approve the appropriate letters and attached conciliation agreements.

9/24/93
Date

Lawrence M. Noble
General Counsel

Attachments
1. Department of Justice Communications
2. Plea Agreements
3. Robert G. Johnson Statement of Facts
4. Conciliation Agreements (4)
5. News Article

Staff Assigned: Helen J. Kim

9504367009 78

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/BONNIE J. ROSS
COMMISSION SECRETARY

DATE: SEPTEMBER 29, 1993

SUBJECT: MUR 2984 - GENERAL COUNSEL'S REPORT
DATED SEPTEMBER 24, 1993.

The above-captioned document was circulated to the Commission on Monday, September 27, 1993 at 11:00.

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

Commissioner Aikens	
Commissioner Elliott	
Commissioner McDonald	
Commissioner McGarry	
Commissioner Potter	
Commissioner Thomas	XXX

This matter will be placed on the meeting agenda for Tuesday, October 5, 1993.

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

9504367009779

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 2984
Robert G. Johnson;	)	
National Association of Real Estate Appraisers, Inc.;	)	
National Association of Review Appraisers and Mortgage Underwriters, Inc.;	)	
International Real Estate Institute, Inc. (a.k.a. International Institute of Valuers, Inc.);	)	
Todd Publishing, Inc.;	)	
Professional Women's Appraisal Association, Inc.;	)	
E. Kenneth Twichell;	)	
Timothy Cloud;	)	
Tamara Twichell;	)	
Stephen Schneck;	)	
Mary Schneck;	)	
Todd Johnson;	)	
John Steensland	)	

9504367009 80

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on October 5, 1993, do hereby certify that the Commission decided by a vote of 5-0 to take the following actions in MUR 2984:

1. Enter into conciliation with Robert G. Johnson; E. Kenneth Twichell; the National Association of Real Estate Appraisers, Inc.; National Association of Review Appraisers and Mortgage Underwriters, Inc.; International Real Estate Institute, a.k.a. International Institute of Valuers, Inc.; Professional Women's Appraisal Association, Inc.; and Todd Publishing, Inc.

(continued)

2. Enter into conciliation with Timothy Cloud prior to a finding of probable cause.

3. Take no further action against Tamara Twichell, Stephen Schneck, Mary Schneck, Todd Johnson, and John Steensland, and close the file as to these respondents.

4. Approve the appropriate letters and conciliation agreements as recommended in the General Counsel's report dated September 24, 1993.

Commissioners Aikens, Elliott, McDonald, McGarry, and Thomas voted affirmatively for the decision; Commissioner Potter did not vote on this matter and was not present during its consideration.

Attest:

10-8-93
Date

Marjorie W. Emmons
Secretary of the Commission

9504367093 1

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

OCTOBER 18, 1993

Kenneth A. Gross, Esq.
Skadden, Aarps, Slate, Meagher & Flom
1440 New York Avenue
Washington, D.C. 20005-2107

RE: MUR 2984
Robert G. Johnson
National Association of Real Estate Appraisers, Inc.
National Association of Review Appraisers and Mortgage Underwriters, Inc.
International Real Estate Institute, Inc. (a.k.a. International Institute of Valuers, Inc.)
Professional Women's Appraisal Association, Inc.
Todd Publishing, Inc.

Dear Mr. Gross:

On January 16, 1992, the Federal Election Commission found that there is probable cause to believe your clients violated provisions of the Federal Election Campaign Act of 1971, as amended, concerning corporate contributions and reimbursements for contributions in connection with the 1988 presidential election and the 1988 election for U.S. Senate in Minnesota. On that same date, the Commission referred your clients to the Department of Justice for criminal prosecution.

Now that the Department of Justice's criminal prosecution has been completed, the Commission has determined to continue with its civil proceedings and enter into conciliation for a period of not more than 90 days pursuant to 2 U.S.C. § 437g(a)(4)(A)(i). 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 have Mr. Johnson sign them 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 checks for the civil penalties payable to the Federal Election Commission. If we are unable to reach an agreement during the prescribed 90 day period, the Commission may institute a civil suit in United States District Court and seek injunctive relief or other appropriate order including payment of civil penalties.

9504367009 82

If you have any questions or suggestions for changes in the enclosed conciliation agreements, or if you wish to arrange a meeting to in connection with mutually satisfactory conciliation agreements, please contact Jonathan A. Bernstein, Assistant General Counsel for Enforcement, at (202) 219-3690.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Conciliation Agreements

9504367009833

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

OCTOBER 18, 1993

E. Kenneth Twichell
2929 East Redfield Road
Phoenix, Arizona 85032

RE: MUR 2984

Dear Mr. Twichell:

On January 16, 1992, the Federal Election Commission found that there is probable cause to believe you violated provisions of the Federal Election Campaign Act of 1971, as amended, concerning corporate contributions and reimbursements for contributions in connection with the 1988 presidential election and the 1988 election for U.S. Senate in Minnesota. On that same date, the Commission referred you to the Department of Justice for criminal prosecution.

Now that the Department of Justice's criminal prosecution has been completed, the Commission has determined to continue with its civil proceedings and enter into conciliation for a period of not more than 90 days pursuant to 2 U.S.C. § 437g(a)(4)(A)(i). Enclosed is a conciliation agreement that the Commission has approved in settlement of this matter. If you agree with the provisions of the enclosed agreement, please sign and return it, along with the civil penalty, to the Commission within ten days. I will then recommend that the Commission accept the agreement. Please make your check for the civil penalty payable to the Federal Election Commission. If we are unable to reach an agreement during the prescribed 90 day period, the Commission may institute a civil suit in United States District Court and seek payment of a civil penalty.

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 Jonathan A. Bernstein, Assistant General Counsel for Enforcement, at (202) 219-3690.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Conciliation Agreement

9504367099 84

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

OCTOBER 18, 1993

Timothy Cloud
20627 North 36th Avenue
Glendale, Arizona 85308

MUR: 2984

Dear Mr. Cloud:

On April 9, 1991, you were notified that the Federal Election Commission found reason to believe that you violated 2 U.S.C. § 441f. As a result, the Commission conducted an extensive investigation to ascertain the facts in this matter. Although you have not requested conciliation, to expedite the resolution of this matter, on October 5, 1993, the Commission determined to offer to enter into negotiations directed towards reaching a conciliation agreement prior to a finding of probable cause to believe.

Enclosed is a conciliation agreement that the Commission has approved in settlement of this matter. If you agree with the provisions of the enclosed agreement, please sign and return it, along with the civil penalty, to the Commission. Checks for the civil penalty should be made payable to the Federal Election Commission. Conciliation negotiations before a finding of probable cause to believe are limited to 30 days. Thus, 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 Jonathan A. Bernstein, Assistant General Counsel, at (202) 219-3690.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Conciliation Agreement

95043670985

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

OCTOBER 18, 1993

Tamara Twichell
2929 East Redfield Road
Phoenix, Arizona 85032

RE: MUR 2984

Dear Ms. Twichell:

On April 5, 1991, you were notified that the Federal Election Commission found reason to believe that you violated 2 U.S.C. § 441f. On October 15, 1991, you submitted a response to the Commission's reason to believe finding.

After considering the circumstances of the matter, the Commission determined on October 5, 1993, to take no further action against you, and closed the file as it pertains to you. The file will be made public within 30 days after this matter has been closed with respect to all other respondents involved.

You are advised that the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) still apply with respect to all respondents still involved in this matter. The Commission will notify you when the entire file has been closed.

The Commission admonishes you that knowingly allowing your name to be used in effecting a contribution of another is a serious violation of 2 U.S.C. § 441f. You should take steps to ensure that this activity does not occur in the future.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Jonathan A. Bernstein
Assistant General Counsel

9504367009386

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

OCTOBER 18, 1993

Stephen Schneck
16418 N. 67th Street
Scottsdale, Arizona 85254

RE: MUR 2984

Dear Mr. Schneck:

On April 5, 1991, you were notified that the Federal Election Commission found reason to believe that you violated 2 U.S.C. § 441f. On July 9, 1991, you submitted a response to the Commission's reason to believe finding.

After considering the circumstances of the matter, the Commission determined on October 5, 1993, to take no further action against you, and closed the file as it pertains to you. The file will be made public within 30 days after this matter has been closed with respect to all other respondents involved.

You are advised that the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) still apply with respect to all respondents still involved in this matter. The Commission will notify you when the entire file has been closed.

The Commission admonishes you that knowingly allowing your name to be used in effecting a contribution of another is a serious violation of 2 U.S.C. § 441f. You should take steps to ensure that this activity does not occur in the future.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Jonathan A. Bernstein
Assistant General Counsel

9504367009987

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

OCTOBER 18, 1993

Mary Schneck
16418 N. 67th Street
Scottsdale, Arizona 85254

RE: MUR 2984

Dear Ms. Schneck:

On April 5, 1991, you were notified that the Federal Election Commission found reason to believe that you violated 2 U.S.C. § 441f. On July 9, 1991, you submitted a response to the Commission's reason to believe finding.

After considering the circumstances of the matter, the Commission determined on October 5, 1993, to take no further action against you, and closed the file as it pertains to you. The file will be made public within 30 days after this matter has been closed with respect to all other respondents involved.

You are advised that the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) still apply with respect to all respondents still involved in this matter. The Commission will notify you when the entire file has been closed.

The Commission admonishes you that knowingly allowing your name to be used in effecting a contribution of another is a serious violation of 2 U.S.C. § 441f. You should take steps to ensure that this activity does not occur in the future.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Jonathan A. Bernstein
Assistant General Counsel

9504367009988

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

OCTOBER 18, 1993

Todd Johnson
9395 E. Kalil Drive
Scottsdale, Arizona 85260

RE: MUR 2984

Dear Mr. Johnson:

On April 5, 1991, you were notified that the Federal Election Commission found reason to believe that you violated 2 U.S.C. § 441f. On July 9, 1991, you submitted a response to the Commission's reason to believe finding.

After considering the circumstances of the matter, the Commission determined on October 5, 1993, to take no further action against you, and closed the file as it pertains to you. The file will be made public within 30 days after this matter has been closed with respect to all other respondents involved.

You are advised that the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) still apply with respect to all respondents still involved in this matter. The Commission will notify you when the entire file has been closed.

The Commission admonishes you that knowingly allowing your name to be used in effecting a contribution of another is a serious violation of 2 U.S.C. § 441f. You should take steps to ensure that this activity does not occur in the future.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Jonathan A. Bernstein
Assistant General Counsel

9504367099 89

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

OCTOBER 18, 1993

John Steensland
3378 Buckbee Road
White Bear Lake, MN 55110

RE: MUR 2984

Dear Mr. Steensland:

On April 5, 1991, you were notified that the Federal Election Commission found reason to believe that you violated 2 U.S.C. § 441f. On October 15, 1991, you submitted a response to the Commission's reason to believe finding.

After considering the circumstances of the matter, the Commission determined on October 5, 1993, to take no further action against you, and closed the file as it pertains to you. The file will be made public within 30 days after this matter has been closed with respect to all other respondents involved.

You are advised that the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) still apply with respect to all respondents still involved in this matter. The Commission will notify you when the entire file has been closed.

The Commission admonishes you that knowingly allowing your name to be used in effecting a contribution of another is a serious violation of 2 U.S.C. § 441f. You should take steps to ensure that this activity does not occur in the future.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Jonathan A. Bernstein
Assistant General Counsel

9504336700990

Dec 23 1993

DEC 0658

FILED ___ LOGGED
RECEIVED ___ COPY
DEC 2 1993
CLERK U S DISTRICT COURT
DISTRICT OF ARIZONA
BY _____ DEPUTY

UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ROBERT G. JOHNSON,

Defendants.

NO. CR-93-205-PHX-EHC

ORDER

MUR 2984

This matter coming on regularly for hearing before the Court on December 20, 1993 pursuant to the defendant's motion to vacate sentence pursuant to Title 28 U.S. Code § 2255 and for immediate release pending decision;

IT IS HEREBY ORDERED that the execution of sentence as to Count One shall be stayed pending final resolution of FEC v. NRA Political Victory Fund, 6 F.3d 821 (D.C. Cir. 1993) or until further order of this Court;

IT IS FURTHER ORDERED that defendant's sentence as to Count Two shall be vacated, and the defendant shall be resentenced on Count Two, after a new calculation of the guideline range has been completed by the United States Probation and Parole office;

IT IS FURTHER ORDERED that the defendant shall be immediately released pending further proceedings in this case.

DATED: December 20, 1993

Earl H Carroll

Honorable Earl H. Carroll
Federal District Court Judge
District of Arizona

12-20-93

gDelva

9504367009911

JANET NAPOLITANO
United States Attorney
District of Arizona

STUART M. GOLDBERG
Senior Litigation Counsel
D.C. Bar No. 366805
RAYMOND N. HULSER
Trial Attorney
Mass. Bar No. 551350
Public Integrity Section
United States Department of Justice
Post Office Box 27518
Central Station
Washington, D.C. 20038
Telephone: (202) 514-1412

UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

UNITED STATES OF AMERICA, Plaintiff, v. ROBERT G. JOHNSON Defendant.	NO. CR-93-205-PHX-EHC **GOVERNMENT'S OPPOSITION TO DEFENDANT'S MOTION TO VACATE SENTENCE PURSUANT TO 28 U.S.C. § 2255 AND FOR IMMEDIATE RELEASE PENDING DECISION**

Defendant Robert Johnson moves the Court to vacate his sentence under 28 U.S.C. § 2255, and he requests immediate release pending a decision on his motion. The United States opposes defendant's motion on several grounds, and believes that the motion should be denied.

As discussed more fully below, the decision in Federal Election Commission ("FEC") v. NRA Political Victory Fund, 6 F.3d 821 (D.C. Cir. 1993), does not undermine defendant's conviction for perjury under 18 U.S.C. § 1621 because he did not challenge the

95043670992

validity of the FEC proceedings, but instead chose to lie in a sworn deposition before a Notary Public who was competent to administer his oath. Second, defendant assumes, without argument, that the decision in FEC v. NRA is correct and that it applies to his criminal case; but the decision is, in fact, contrary to binding Ninth Circuit law, and is limited to FEC civil enforcement actions. Moreover, even if FEC v. NRA were controlling law in the Ninth Circuit, it would not apply retroactively to this collateral challenge to defendant's criminal conviction under an unrelated criminal statute. Finally, defendant is not entitled to immediate release because the decision in FEC v. NRA is irrelevant to his conviction on Count Two of the Information, and he was sentenced to a concurrent term of imprisonment on Counts One and Two. Thus, defendant is not entitled to immediate release regardless of the outcome of this motion.[1]

9504336709993

BACKGROUND

Defendant pled guilty on June 14, 1993, to a two count Information. Count One charged defendant with perjury in a deposition given during the course of a Federal Election Commission ("FEC") investigation, in violation of 18 U.S.C. § 1621. Count Two charged defendant with causing a corporation to make $20,000 in contributions to the Presidential Trust (a fundraising arm of the

---

[1]As an initial matter, if a defendant in a Section 2255 proceeding could have raised an issue in a direct appeal but failed to do so, "he must demonstrate both cause excusing his procedural default, and actual prejudice resulting from the claim of error." United States v. Johnson, 988 F.2d 941, 945 (9th Cir. 1993) (citing United States v. Frady, 456 U.S. 152, 168 (1982). Defendant Johnson does not even attempt to meet this burden.

Republican National Committee), in violation of 2 U.S.C. §§ 441b and 437g(d). The charges arose out of a series of mass mailings and conduit contributions orchestrated by Johnson. When the FEC began investigating the mailings and contributions, Johnson made repeated false statements to the FEC and perjured himself numerous times in a sworn deposition.

On September 13, 1993, the Court sentenced defendant to 6 months of imprisonment and 5 months of home detention, to run concurrent as to Counts One and Two. The Court ordered that, upon his release, defendant was to be placed on supervised release for a period of 3 years as to Count One and 1 year as to Count Two. Defendant was ordered to surrender to a designated facility on October 4, 1993. At no time during the FEC's investigation or during his plea and sentencing proceedings did defendant challenge the constitutional validity of the FEC. He did not appeal any aspect of the sentence imposed by this Court.

On October 22, 1993, a two judge panel[2] of the United States Court of Appeals for the District of Columbia Circuit ruled, in the context of a civil enforcement action, that the presence of two legislative branch employees as ex officio, non-voting members on the FEC violated the separation of powers doctrine. FEC v. NRA, 6 F.3d 821 (D.C. Cir. 1993). On November 2, 1993, the newly reconstituted FEC voted unanimously to appeal the decision to the Supreme Court.

---

[2]Former Circuit Judge Ruth B. Ginsburg, now an Associate Justice of the Supreme Court, was a member of the panel when the case was argued but did not participate in the opinion.

9504367099 4

ARGUMENT

I. Defendant Lied During Sworn Testimony Before a Notary Who was Competent to Administer an Oath and He Cannot Challenge the Validity of the Underlying Statute that Led to his Deposition

At the time of his deposition, defendant did not challenge the authority of the FEC to subpoena him for a deposition. Instead, he chose to appear and testify falsely. If defendant wished to challenge the authority of the FEC to question him, that avenue was open to him before he testified. The alternative that he chose -- to commit perjury -- was not available:

> Our legal system provides methods for challenging the Government's right to ask questions - lying is not one of them. A citizen may decline to answer the question, or answer it honestly, but he cannot with impunity knowingly and willfully answer with a falsehood.

Bryson v. United States, 396 U.S. 64, 72 (1969) (footnote omitted).

Having made his decision to testify falsely, defendant has no standing to challenge the constitutional validity of the FEC's procedures that led to that deposition. See United States v. Knox, 396 U.S. 77, 79 (1969) ("[O]ne who furnishes false information to the Government in feigned compliance with a statutory requirement cannot defend against prosecution for his fraud by challenging the validity of the requirement itself."); Dennis v. United States, 384 U.S. 855, 867 (1966) ("The governing principle is that a claim of unconstitutionality will not be heard to excuse a voluntary, deliberate and calculated course of fraud and deceit."); Mengarelli v. United States, 426 F.2d 985, 986 (9th Cir.) ("[O]nce the element of deceit appears then the fact that the government ought not to have asked the question or required the act is not a defense ...

9504367095

whatever the form of the statute forbidding the deceit."), cert. denied, 400 U.S. 926 (1970) (citation omitted).

By attacking the constitutional validity of the FEC's composition, defendant effectively challenges the validity of the procedure that led to his sworn deposition. The case law is clear, however, that one who chooses to provide a false statement has no standing to later challenge the underlying government procedure that required the statement to be given:

> Petitioner's main argument is that the whole scheme of the statute is invalid .... When one undertakes to cheat the Government or to mislead its officers, or those acting under its authority, by false statements, he has no standing to assert that the operations of the Government in which the effort to cheat or mislead is made are without constitutional sanction.

Kay v. United States, 303 U.S. 1, 6 (1938). See United States v. Kapp, 302 U.S. 214, 218 (1937) ("Congress was entitled to protect the Government against those who would swindle it regardless of questions of constitutional authority as to the operations that the Government is conducting. Such claims cannot be raised by those who make false claims against the Government.").

A challenge much like the one raised by defendant Johnson was rejected by the court in Boehm v. United States, 123 F.2d 791 (8th Cir. 1941). The defendant in that case was charged with perjury before the Securities and Exchange Commission ("SEC"), and wished to offer evidence concerning the constitutional validity of the SEC and its authority to take his testimony. Id. at 809. The Court found that the validity of the SEC was not relevant to the defendant's perjury:

95043670996

> One who takes an oath to tell the truth and thereupon swears falsely can not defend against indictment for perjury on the ground that he believed the statute authorizing the taking of his testimony was unconstitutional. When he commits the perjury his offense is complete, even though the statute be subsequently found to be unconstitutional.

Boehm, 123 F.2d at 309. See United States v. Williams, 341 U.S. 58, 68 (1951) ("[The perjury] statute has led federal courts to uphold charges of perjury despite arguments that the federal court at the trial affected by the perjury could not enter a valid judgment due to lack of diversity jurisdiction, or due to the unconstitutionality of the statute out of which the perjury proceedings arose." (footnotes omitted) citing Boehm, 123 F.2d at 309).

Without addressing his lack of standing, defendant argues that his perjury conviction must be overturned "because the FEC was not competent to administer oaths in enforcement proceedings." Defendant's Memorandum at 3. His argument, however, is based on a fundamental flaw: defendant's oath was not administered by the FEC, but by a Notary Public for Maricopa County, Arizona, who was plainly competent to administer the oath. See Deposition of Robert G. Johnson, November 1, 1990, at 4-5, and 301 (Copies of the relevant pages of the deposition transcript are attached). Because defendant's oath was administered by a duly qualified Notary Public, and not by the "tribunal" whose constitutional validity he challenges, defendant's reliance on Christoffel v. United States, 338 U.S. 84 (1949), and other like cases is misplaced.

In Christoffel, the defendant was sworn and testified before a congressional Committee which, under the applicable rules, needed

9504367090997

a quorum before any sworn testimony could be taken. Id. at 87-88. The Committee's competency to administer the oath and take sworn testimony was thus conditioned on the presence of a quorum, and the presence of a quorum was "an indispensable part of the offense charged." Id. at 86. The Court found that there was evidence that, at the time of the defendant's testimony, there was no quorum of the Committee present. Consequently, the Court found that the government had not proved that there was a "competent tribunal" to administer the oath as required by the relevant perjury statute.[3] That finding is simply not applicable in this case because defendant Johnson's oath was administered by a competent officer.[4]

Unlike Christoffel, the Notary Public before whom defendant testified was competent to administer the oath required by Section 1621. Defendant was not sworn by, and did not appear before, the FEC. Accordingly, Count One of the Information charged that defendant testified falsely after taking an oath before a "competent officer," and did not mention any "tribunal." See

---

[3]The perjury statute applicable in Christoffel, was contained in the District of Columbia Code. The provision was the same as Section 1621 in all pertinent respects.

[4]The remaining cases cited by defendant rely upon the same finding that the "tribunal" before whom the oath was administered and the testimony taken was not competent. See United States v. Reinecke, 524 F.2d 435, 437-440 (D.C. Cir. 1075) (The government must prove that the "tribunal to which the statement was made was 'competent'"); Brown v. United States, 245 F.2d 549, 554-55 (8th Cir. 1957) (finding that the testimony did not come within the competency of the grand jury); United States v. Icardi, 140 F. Supp. 383, 388 (D.D.C. 1956) (finding that the committee was not acting as a "competent tribunal").

9504367099 8

Information, ¶ 5. Thus, the competency of the "tribunal" -- the FEC -- to administer oaths is simply not relevant to the charge.[5]

Defendant voluntarily chose to lie in his sworn deposition. Having chosen that course, he cannot now challenge his conviction for perjury under a criminal statute based upon a post hoc argument that the civil procedure that led to his deposition was somehow flawed.

II. FEC v. NRA is Incorrect and In Any Event Limited to Civil Enforcement Actions

Johnson's motion to vacate relies solely on FEC v. NRA, which he asks this Court to apply in this District. Even without an extended discussion of the separation of powers doctrine[6], it is clear that the panel's opinion in FEC v. NRA is misguided and contrary to the controlling law of this Circuit. Moreover, the holding in FEC v. NRA must be limited to the particular context of an FEC enforcement action. It is not pertinent to Johnson's conviction under the federal perjury statute, 18 U.S.C. §1621.

---

[5]Christoffel and the other perjury cases cited by the defense involved direct criminal appeals, and none involved an intervening change in the law. As a result, those cases are distinguishable from this collateral proceeding under Section 2255 in which defendant's argument is premised entirely upon a purported change in the law. See Bryson, 396 U.S. at 71, n. 10 (distinguishing Christoffel and noting, "[p]etitioner has cited no cases of this Court, and we know of none, in which there existed statutory authority to require a statement but the Court nevertheless held that a prosecution for false answer could not be maintained because the statute was later determined invalid.") (emphasis supplied). The retroactivity issue is discussed more fully in Part III, infra.

[6]For all the reasons cited herein mandating the denial of Johnson's motion, the Government sees no need to present additional arguments concerning the separation of powers issues at this time.

9504367099

A. FEC v. NRA is Contrary to Ninth Circuit Law and Unsupported by Buckley v. Valeo

In 1976, the Supreme Court in Buckley v. Valeo, 424 U.S. 1 (1976), carefully analyzed the structure of the FEC. The Court held that the limitations Congress placed on the President's power to nominate voting members of the FEC violated the Appointments Clause of the Constitution. At that time, the Commission had eight members: the Secretary of the Senate and the Clerk of the House of Representatives (non-voting and ex officio), and six voting members. The problems presented because Congress played varying roles in appointing the FEC's voting members were discussed in detail. The Court expressly acknowledged the presence of the ex officio members on the Commission, id. at 113, but raised no questions concerning their status. The Court's 150 page opinion was exhaustive, and provided detailed guidance to Congress for reformulating the FEC following the decision. In the course of such an opinion, the Court's failure to criticize the presence of the ex officio members indicates that the Court found no constitutional prohibition against their involvement.

Using the Supreme Court's opinion in Buckley as a roadmap, Congress re-structured the Commission. By statute, the FEC is now

> composed of the Secretary of the Senate and the Clerk of the House of Representatives or their designees, ex officio and without the right to vote, and 6 members appointed by the President, by and with the advice and consent of the Senate.

2 U.S.C. § 437c(a)(1). The Clerk and the Secretary as "[n]on-voting members cannot serve as chairman, cannot call or adjourn a

9504367 1000

meeting and are not counted in determining a quorum. FEC v. NRA, ___ F.3d ___, slip op. at 11.

The FEC v. NRA panel's holding that the present FEC structure is unconstitutional is based solely on its conclusion that the "mere presence of agents of Congress", that is the ex officio members, constitutes a violation of the separation of powers doctrine. Id. at 12. This finding is unsupported by the leading Supreme Court cases invoking the separation of powers doctrine to declare unconstitutional congressional involvement in another government agency -- Metropolitan Washington Airports Auth. v. Citizens for Abatement of Aircraft Noise, Inc., 111 S.Ct. 2298 (1991) and Bowsher v. Synar, 478 U.S. 714 (1986). As the panel concedes, each of these cases involved circumstances where legislative branch officials engaged in "explicit voting or decisionmaking power that is not present [at the FEC]." Id. at 12.

The FEC v. NRA panel's finding that the "mere presence" of ex officio members in the FEC is a sufficient basis upon which to invalidate the Commission's structure on separation of powers grounds is also contrary to the law in the Ninth Circuit. In Lear Siegler, Inc., Energy Products Division v. Lehman, 842 F.2d 1102 (9th Cir. 1988), withdrawn in part on other grounds, 893 F.2d 205 (9 Cir. 1989)(en banc), the Navy challenged the Competition in Contracting Act ("CICA"), arguing that it was unconstitutional because it permitted the Comptroller General, an officer of the legislative branch, to determine the length of stays or suspension of government contract awards when contracts were protested. In

95043671001

affirming the constitutionality of the CICA, the Court held that the proper inquiry in analyzing such a separation of powers issue is whether "the legislative agent exercises control or ultimate authority in the disposition of a particular issue." Id. at 1110. Where there is no control or authority--the ex officio members of the FEC have neither--there is no separation of powers problem. Thus, under the law of this Circuit, FEC v. NRA is wrongly decided.[7]

Indeed, as stated above, the Commission has already indicated that it will be appealing FEC v. NRA to the Supreme Court.[8]

B. FEC v NRA Must be Limited to the Civil Enforcement Context

Even if it were correctly decided and controlling in the Ninth Circuit, FEC v. NRA would not require the invalidation of the FEC's investigative activities, such as the taking of Johnson's deposition, as opposed to its actions in prosecuting civil enforcement actions in federal district court. FEC v. NRA barred the Commission from prosecuting a civil enforcement action in federal district court because of the Commission's structure. In FEC v NRA, the panel expressly found the FEC lacked the "authority to bring this enforcement action because its composition violates

---

[7]The Lear Siegler court also held that even if there is no control, the Court must consider the potential interference of the statute with the legitimate exercise of powers delegated to the Executive branch. Id. at 1111. Because of their total lack of authority, the ex officio members cannot be said to in anyway present interference with the Commission's activities.

[8]Thus, even if the Court were inclined to find FEC v. NRA valid, the most appropriate course would be to stay these proceedings pending a ruling by the Supreme Court.

9504367102

the Constitution's separation of powers. [illegible] at [illegible] emphasis added). The Commission action in that case had been brought under 2 U.S.C. § 437g(a)(6)(A), which empowers the FEC, after an affirmative vote of 4 of its members, to institute a civil action seeking civil penalties and injunctive relief. An FEC civil enforcement action against Johnson is not at issue here.[9] Rather, Johnson is challenging his conviction for perjury during an FEC investigation.

The Supreme Court has made clear that the FEC's investigative activities are not subject to the same separation of powers attacks that have been raised against its enforcement actions. In Buckley v. Valeo, the Supreme Court, conscious that Congress likely would restructure the FEC, sought to precisely identify what defects needed remedying. See 424 U.S. at 137 n.175. At the same time, it found that certain Commission actions were not jeopardized by the participation of voting members, appointed in varying degrees by Congress:

> Insofar as the powers confided in the Commission are essentially of an investigative and informative nature, falling in the same general category as those powers which Congress might delegate to one of its own committees, there can be no question that the Commission as presently constituted may exercise them.

424 U.S. at 137 (emphasis added). Quoting from McGrain v. Daugherty, 273 U.S. 135 (1927), the Court made clear that the authorization and execution of subpoenas and depositions was the

---

[9]Indeed, instead of challenging the FEC's ability to proceed civilly against him, defendant Johnson in his Motion to Reconsider Sentence, makes much of his purported efforts to resolve in the FEC "the various administrative issues raised by his conduct..." (at 9).

95043671003

type of investigative action not threatened by the Commission's constitutional defects:

> Experience has taught that mere requests for such information are unavailing, and also that information which is volunteered is not always accurate or complete; so some means of compulsion are essential to obtain which is needed.

424 U.S. at 138, quoting McGrain, supra, 273 U.S. at 175. Thus, the taking of a deposition as part of an investigation does not pose a separation of powers problem.[10]

Defendant Johnson's sworn deposition that is at issue here was given in the course of an FEC investigation, not in a civil enforcement action in which the Commission sought penalties or injunctive relief for violating the Act. Because the deposition was taken pursuant to the FEC's investigative powers, and not its enforcement powers, the separation of powers questions raised in FEC v NRA are not relevant here.

III. FEC v. NRA Does Not Apply Retroactively to Defendant's Collateral Challenge

Even assuming that FEC v NRA was appropriately decided, it would not apply retroactively to defendant's case. The Supreme Court considered and resolved this retroactivity question in

---

[10]The Supreme Court expressly contrasted the Commission's investigative power with the exercise of its enforcement power, noting that "[a] lawsuit is the ultimate remedy for a breach of the law, and it is to the President, not the Congress, that the Constitution entrusts the responsibility to 'take Care that the Laws be faithfully executed.' Art II. § 3." Buckely, supra., 424 U.S. at 138. The Court emphasized that it was those "provisions of the [Federal Election Campaign] Act, vesting in the Commission primary responsibility for conducting civil litigation in the courts of the United States for vindicating public rights, [that] violate the Art II, § 2 cl. 2, [the Appointments Clause] of the Constitution." 424 U.S. at 140.

95043671004

Buckley v. Valeo, supra. When the Supreme Court invalidated the original structure of the FEC on separation of powers grounds in that case, the Court took care to emphasize that its decision did not require a wholesale reversal of the Commission's past actions:

> It is also our view that the Commission's inability to exercise certain powers because of the method by which its members have been selected should not affect the validity of the Commission's administrative actions and determinations to this date...The past acts of the Commission are therefore accorded de facto validity, just as we have recognized should be the case with respect to legislative acts performed by legislators held to have been elected in accordance with an unconstitutional apportionment plan.

Buckley v. Valeo, 424 U.S. at 142 (empnasis added). There is no reason to deviate from this firm pronouncement in a case involving a subsequent, analogous challenge to the composition of the FEC.[11]

There is even less reason to apply the holding of FEC v. NRA retroactively in a collateral proceeding, where a defendant such as Johnson raises new claims after his sentence has been imposed and the time for appeal exhausted. "[T]he Supreme Court has limited the power of federal courts to impose new constitutional commands in collateral proceedings." Greenawalt v. Ricketts, 943 F.2d 1020, 1023 (9th Cir. 1991), cert denied, 113 S.Ct. 252 (1992). "Subject

---

[11]The Court's holding in Buckley v. Valeo is also supported by the de facto officer doctrine, which precludes a party from raising a post hoc, collateral attack on the authority of an official to take a particular action. See Andrade v. Lauer, 729 F.2d 1475, 1496 (D.C. Cir. 1984) ("The doctrine holds that collateral attacks pose too great a threat that the attacked officials' past actions would be subject to wholesale invalidation, which would interfere with the government's ability to take effective action and with third parties' reliance on apparently final government action.") Glidden Company v. Zdanok, 370 U.S. 530, 535 (1963); E.E.O.C. v. Sears, Robuck & Co., 650 F.2d 14, 17 (2d Cir. 1981). But see Silver v. U.S. Postal Service, 951 F.2d 1033 (9th Cir. 1991)(questioning the continuing vitality of the doctrine).

95043671005

to two narrow exceptions. A case that is decided after a defendant's conviction and sentence become final may not provide the basis for federal habeas relief if it announces a new rule." Gilmore v. Taylor, 113 S.Ct. 2112, 2116 (1993).[12] Defendant Johnson concedes that the two judge panel decision in FEC v. NRA, "must be regarded as a 'new rule'." (Def. Mem. at 4).

Johnson relies solely on the first of the two narrow exceptions. (Defendant Mem at 6). This exception "applies to new rules that place an entire category of primary conduct beyond the reach of the criminal law, or new rules that prohibit the imposition of a certain type of punishment for a class of defendants because of their status or offense." Sawyer v. Smith, 110 S.Ct. 2822, 2831 (1990)(citations omitted). Examples of rules placing an entire category of primary conduct beyond the reach of the criminal law are cases barring criminal convictions for uttering words contemptuous of the American flag while burning it, privately possessing obscenity for personal use, using contraceptives while married, and engaging in racial intermarriage.[13] Mackey, 401 U.S. at 692 n.7[14]. Defendant's

---

[12]A plurality of the Court first articulated this standard in Teague v. Lane, 489 U.S. 288 (1989), using a test formulated by Justice Harlan in his concurrence in Mackey v. United States, 401 U.S. 667 (1971). The Teague test was adopted by the Court as a whole in Penry v. Lynaugh, 492 U.S. 302 (1989). The Teague test applies to federal prisoners seeking relief under § 2255 as well as state prisoners doing so pursuant to §2254. United States v. Salerno, 964 F.2d 172, 176-77 (2nd Cir. 1992).

[13]See respectively, Street v. New York, 394 U.S. 576 (1969); Stanley v. Georgia, 394 U.S. 557 (1969), Griswold v. Connecticut, 381 U.S. 479 (1965) and Loving v. Virginia, 388 U.S. 1 (1967).

95043671006

conduct at issue here is lying under oath; this is not "primary, private individual conduct beyond the power of the criminal law-making authority to proscribe." Teague, supra, at 311. Nor did FEC v. NRA prohibit "the imposition of a certain type of punishment for a class of defendants because of their status or offense." See e.g., Penry v. Lynaugh, 492 U.S. 302 (1989)(holding rule prohibiting the execution of mentally retarded persons would fall within this exception). The D.C. Circuit panel's decision did not "decriminalize" perjury, see Saffle v. Parks, 494 U.S. 484, 495 (1990), or limit who could be punished under 18 U.S.C. §1621; rather, it simply barred an FEC civil enforcement action due to the composition of the Commission.

Johnson vainly attempts to analogize his situation to that of the defendant in McIntyre v. Trickey, 938 F.2d 899 (8th Cir. 1991), vacated, 112 S.Ct. 1458 (1992). In McIntyre, the defendant initially was convicted of first degree tampering, for operating an auto without the consent of the car dealership from which it was taken. In a second trial, he was convicted of stealing the same automobile. On each conviction, the defendant was sentenced to 10 years imprisonment, with the second sentence to run consecutively to the first. The McIntyre court found that the defendant could collaterally attack by writ of habeas corpus his prosecution for stealing, based on the Supreme Court's new double jeopardy standard

---

[14]These examples come from Justice Harlan's opinion in Mackey (opinion concurring in judgments in part and dissenting in part), from which the Teague test was lifted.

9504367100 7

articulated in Grady v. Corbin, 110 S.Ct. 2084 (1990).[15] The court held that Grady, though a new rule, fell within the first Teague exception, finding:

> The protection afforded by the double jeopardy clause operates at an elemental level. The purpose of the clause is not to ensure the fairness of the trial, but to prevent the trial from taking place at all. Because it bars an unconstitutional prosecution, a rule concerning double jeopardy is analogous to the rule discussed in Penry, which would have barred the imposition of an unconstitutional punishment.

938 F.2d at 904(citations omitted).

The Eighth Circuit's analysis was rejected by the Second Circuit in United States v. Salerno, 964 F.2d 172 (2nd Cir. 1992), which emphasized that the exceptions to the nonretroactivity of a new rule are fairly narrow. More importantly, the retroactivity questions confronted in McIntyre are not similar to those posed in FEC v. NRA. Grady announced a new rule based on the double jeopardy clause, a constitutional provision squarely directed at prohibiting certain criminal prosecutions. That arguably is analogous to Penry's prohibition on unconstitutional punishment, such as executing a mentally retarded person. However, the holding in FEC v. NRA that an FEC civil enforcement action is barred due to the Commission having ex officio members who are legislative employees, simply is not.[16]

---

[15]Grady of course has since been overruled by United States v. Dixon, 113 S.Ct. 2849 (1993). This perhaps suggests an additional reason why a court should tread carefully before vacating a conviction based on a "new rule" promulgated by a Circuit Court.

[16]Johnson does not rely on the second exception articulated in Teague--nor can he. That exception is for new rules that are "'watershed rules of criminal procedure' that are necessary to the fundamental fairness of the criminal proceeding. Sawyer v. Smith,

95043671008

III. Defendant is Not Entitled to Immediate Release

Defendant has requested that the Court issue an order releasing him immediately pending a decision from this Court on his motion to vacate his conviction on Count One. Defendant's request, however, ignores the fact that his sentence of imprisonment and home detention is to run concurrently as to Counts One and Two. Defendant has no basis to challenge his conviction on Count Two, and he scarcely attempts to do so. Consequently, defendant is not entitled to immediate release regardless of the Court's ruling on his motion as to Count One.

Defendant asserts in a footnote, Defense Memorandum at 2 n. 1, that his conviction on Count Two suffers from the same constitutional infirmity as Count One, but he fails to cite any authority for that proposition. In fact, the ruling in FEC v. NRA did not address the substantive provisions of the Federal Election

---

110 S.Ct. 2822, 2831 (1990). "A rule that qualifies under this exception must not only improve accuracy, but also 'alter our understanding of the bedrock procedural elements' essential to the fairness of the proceeding." Sawyer, supra., at 2831 (emphasis in original). "[I]t is clearly meant to apply only to a small core of rules requiring 'observance of those procedures that ... are implicit in the concept of ordered liberty.'" Graham v. Collins, 113 S.Ct 892 at 903 (1993). Because this exception is directed only at new rules essential to the accuracy and fairness of the criminal process, it is "unlikely that many such components of basic due process have yet to emerge." Teague, 489 U.S. at 313.

Similarly Johnson cannot rely on Davis v. United States, 417 U.S. 333 (1974). Any shortcoming with the composition of FEC from the standpoint of a civil enforcement proceeding, cannot be found to be a "'fundamental defect which inherently results in a complete miscarriage of justice,' and ... 'present[s] exceptional circumstances where the need for the remedy afforded'" by collateral relief is apparent. There has been no intervening change in the substantive law under which Johnson was convicted, and his conviction for perjury under 18 U.S.C. § 1621 must stand.

950436710009

Campaign Act, and thus the provisions prohibiting corporate contributions, 2 U.S.C. §§ 441b and 437g(d), were not affected. See 2 U.S.C. § 454 ("If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the validity of the remainder of the Act and the application of such provision to other persons and circumstances shall not be affected thereby."). The substantive prohibitions contained in the Act may be enforced through criminal proceedings regardless of the validity of the FEC's composition. See United States v. Int'l Union of Operating Engineers, Local 701, 638 F.2d 1161, 1163 (9th Cir. 1979), cert. denied, 100 S.Ct. 1026 (1980) (criminal prosecution by the Department of Justice is not conditioned on prior consideration or referral by the FEC); United States v. Tonry, 433 F. Supp. 620, 622-23 (E.D. La. 1977) (same). Thus, defendant's conviction and sentence on Count Two are not affected by the decision in FEC v. NRA. Because defendant's sentence was concurrent on Counts One and Two, the Court should deny defendant's request for immediate release.

CONCLUSION

For the foregoing reasons, defendant's motion to vacate his

9504367110

conviction pursuant to 28 U.S.C. § 2255 and for immediate release should be denied.

DATED this 14th day of December, 1993.

JANET NAPOLITANO
United States Attorney
District of Arizona

STUART M. GOLDBERG
Senior Litigation Counsel
RAYMOND N. HULSER
Trial Attorney
Public Integrity Section
Criminal Division

95043671011

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Government's Opposition to Defendant's Motion to Vacate Sentence Pursuant to 28 U.S.C. § 2255 and For Immediate Release was served this 14th day, of December, 1993, by overnight mail to:

Michael Scott
1100 East Washington
Suite 200
Phoenix, Arizona 85034

Theodore F. Schwartz
Commerce Bank Building
Suite 1100
11 South Meramec Avenue
Clayton, Missouri 63105

Raymond N. Hulser

9504367101 2

RECEIVED
F.E.C.
SECRETARIAT
94 JAN -5 AM 11:06

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	**SENSITIVE**
Robert G. Johnson National Association of Real Estate Appraisers, Inc. National Association of Review Appraisers and Mortgage Underwriters, Inc. International Real Estate Institute, Inc. (a.k.a. International Institute of Valuers, Inc.) Todd Publishing, Inc. Professional Women's Appraisal Association, Inc. E. Kenneth Twichell Timothy Cloud	)	MUR 2984

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On January 14, 1992, the Commission made knowing and willful probable cause findings in this matter and referred Robert G. Johnson, E. Kenneth Twichell, and the incorporated entities listed above, to the Department of Justice ("Department") for criminal prosecution pursuant to 2 U.S.C. § 437g(a)(5)(C).[1] In a General Counsel's Report dated May 26, 1993, this Office reported to the Commission that Robert G. Johnson, E. Kenneth Twichell, and Timothy Cloud agreed to enter into criminal plea agreements. The General Counsel's Report dated September 24, 1993 provided further

1. On July 15, 1991, the Office of the General Counsel had provided a brief to Robert Johnson, NAREA, NARA/MU, PWAA, and IREI recommending probable cause to believe. Additionally, on September 13, 1991, this Office forwarded a brief on probable cause to E. Kenneth Twichell. On September 20 and October 23, 1991, this Office received response briefs. In its Report dated January 8, 1992, this Office forwarded its probable cause (as well as criminal referral) recommendations to the Commission.

9504367101 13

information on the criminal proceeding and contained conciliation recommendations for the principal respondents. By Memorandum dated October 7, 1993, this Office provided information as to the sentencing of the defendants.[2/] This report contains recommendations to assure that this matter conforms to the Court's opinion in FEC v. NRA Political Victory Fund, et al., No. 91-5360 (D.C. Cir. Oct. 22, 1993) ("NRA"), and conveys additional developments in the Department's criminal prosecution.

II. RECOMMENDED ACTIONS IN LIGHT OF FEC v. NRA

This Office recommends that the Commission, consistent with its November 9, 1993 decisions concerning compliance with the NRA opinion, 1) ratify its August 30, 1988, September 19, 1989, and March 26, 1991 findings against Robert Johnson, NAREA, NARA/MU, PWAA, IREI, E. Kenneth Twichell, and Timothy Cloud regarding reason to believe in this matter; 2) based upon this Office's probable cause briefs, the responses, and this Office's Report dated January 8, 1992, revote the determinations to find probable cause to believe that Robert G. Johnson knowingly and willfully violated 2 U.S.C. §§ 441f and 441b(a); NAREA knowingly and willfully violated 2 U.S.C. §§ 441f, 441d(a) and 441b(a); NARA/MU knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441d(a); PWAA knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441d(a); Todd Publishing, Inc., knowingly and willfully violated 2 U.S.C. §§ 441f and 441b(a); IREI knowingly and willfully violated 2 U.S.C. §§ 441f and 441b(a); E. Kenneth Twichell

2. Mr. Johnson began serving his six month prison sentence on October 4, 1993.

9504367014

knowingly and willfully violated 2 U.S.C. §§ 441f and 441b(a); and find no probable cause to believe E. Kenneth Twichell violated 2 U.S.C. § 441a(a)(1)(A); 3) revote the determinations to enter into probable cause conciliation with Robert Johnson, NAREA, NARA/MU, PWAA, Todd Publishing, Inc., IREI, and E. Kenneth Twichell, and enter into pre-probable cause conciliation with Timothy Cloud; and 4) approve the conciliation agreements covering these respondents that were attached to the General Counsel's Report dated September 24, 1993. This Office has attached the selected Certifications in this matter, with the relevant portions marked, for the Commission's information (Attachment 1).[3/]

II. Developments in the Criminal Prosecution

On December 2, 1993, counsel for Robert Johnson filed a motion to vacate Mr. Johnson's sentence (Attachment 2). Counsel argued that the enforcement proceeding in which Mr. Johnson perjured himself was invalid under NRA. Counsel's pleading also requested Mr. Johnson's immediate release pending resolution of this issue. This Office forwarded to Department attorneys Commission briefs filed on issues raised by NRA and had discussions with them. The Department's Opposition dated December 14, 1993 is appended as Attachment 3. After a December 20, 1993 hearing on the motion, the court issued an order (Attachment 4) staying execution of the sentence for Mr. Johnson's perjury

3. This Office makes no recommendations regarding International Association Managers, George Bush, George Bush for President Committee and its treasurer, Tamara Twichell, Stephen Schneck, Mary Schneck, Todd Johnson, and John Steensland, the respondents in this matter as to whom the Commission earlier closed the file.

9504367101 5

conviction pending final resolution of NRA; vacating his sentence for the section 441b(a) misdemeanor conviction in favor of a later, separate resentencing; and ordering the defendant's immediate release pending further proceedings.[4/] As a result, Robert Johnson was released from prison after serving less than three months of his six month sentence. This Office will make further report to the Commission as developments warrant.

IV. RECOMMENDATIONS

1. Ratify the Commission's August 30, 1988, September 19, 1989, and March 26, 1991 findings against Robert Johnson, NAREA, NARA/MU, PWAA, IREI, E. Kenneth Twichell, and Timothy Cloud regarding reason to believe in this matter.

2. Find no probable cause to believe E. Kenneth Twichell violated 2 U.S.C. § 441a(a)(1)(A) and find probable cause to believe E. Kenneth Twichell knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f.

3. Find probable cause to believe Robert G. Johnson knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f.

4. Find probable cause to believe National Association of Review Appraisers and Mortgage Underwriters knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441d(a).

5. Find probable cause to believe Todd Publishing, Inc., knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f.

6. Find probable cause to believe Professional Women's Appraisal Association knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441d(a).

7. Find probable cause to believe National Association of

---

4. Mr. Johnson pled guilty to felony perjury under 18 U.S.C. § 1621, and to a misdemeanor FECA violation under sections 441b and 437g(d) and was sentenced concurrently for both. Because the latter conviction was apparently not at issue in defendant's motion, the court ordered a new pre-sentence report and separate resentencing based only on this conviction. Although much of the Department's arguments on the main conviction at issue do not depend at all on further resolution of NRA, the court made clear it was unwilling to decide the issue until NRA is finally resolved.

9504367101 6

Real Estate Appraisers knowingly and willfully violated 2 U.S.C. §§ 441b(a), 441d(a), and 441f.

8. Find probable cause to believe International Real Estate Institute, Inc., also known as International Institute of Valuers knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f.

9. Enter into conciliation with Robert G. Johnson; E. Kenneth Twichell; the National Association of Real Estate Appraisers, Inc.; National Association of Review Appraisers and Mortgage Underwriters, Inc.; International Real Estate Institute, a.k.a. International Institute of Valuers, Inc.; Professional Women's Appraisal Association, Inc.; and Todd Publishing, Inc.

10. Enter into conciliation with Timothy Cloud prior to a finding of probable cause.

11. Approve the conciliation agreements attached to the General Counsel's Report dated September 24, 1993.

12. Approve the appropriate letters.

1/4/94
Date

Lawrence M. Noble
General Counsel

Attachments:
1. Certifications dated August 30, 1988, September 19, 1989, March 26, 1991, January 14, 1992, and October 5, 1993 of Commission actions
2. Robert Johnson's Motion to Vacate Sentence
3. Department of Justice Opposition
4. Court Order dated December 20, 1993.

Staff Assigned: Jonathan A. Bernstein
Colleen Sealander

95043671017

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Robert G. Johnson;	)	MUR 2984
National Association of Real Estate Appraisers, Inc.;	)	
National Association of Review Appraisers and Mortgage Underwriters, Inc.;	)	
International Real Estate Institute, Inc. (a.k.a. International Institute of Valuers, Inc.);	)	
Todd Publishing, Inc.;	)	
Professional Women's Appraisal Association, Inc.;	)	
E. Kenneth Twichell;	)	
Timothy Cloud.	)	

9504367101 8

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on January 10, 1994, the Commission decided by a vote of 4-0 to take the following actions in MUR 2984:

1. Ratify the Commission's August 30, 1988, September 19, 1989, and March 26, 1991 findings against Robert Johnson, NAREA, NARA/MU, PWAA, IREI, E. Kenneth Twichell, and Timothy Cloud regarding reason to believe in this matter.

2. Find no probable cause to believe E. Kenneth Twichell violated 2 U.S.C. § 441a(a)(1)(A) and find probable cause to believe E. Kenneth Twichell knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f.

3. Find probable cause to believe Robert G. Johnson knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f.

(continued)

4. Find probable cause to believe National Association of Review Appraisers and Mortgage Underwriters knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441d(a).

5. Find probable cause to believe Todd Publishing, Inc., knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f.

6. Find probable cause to believe Professional Women's Appraisal Association knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441d(a).

7. Find probable cause to believe National Association of Real Estate Appraisers knowingly and willfully violated 2 U.S.C. §§ 441b(a), 441d(a), and 441f.

8. Find probable cause to believe International Real Estate Institute, Inc., also known as International Institute of Valuers knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f.

9. Enter into conciliation with Robert G. Johnson; E. Kenneth Twichell; the National Association of Real Estate Appraisers, Inc.; National Association of Review Appraisers and Mortgage Underwriters, Inc.; International Real Estate Institute, a.k.a. International Institute of Valuers, Inc.; Professional Women's Appraisal Association, Inc.; and Todd Publishing, Inc.

10. Enter into conciliation with Timothy Cloud prior to a finding of probable cause.

(continued)

9504367101 9

11. Approve the conciliation agreements attached to the General Counsel's Report dated September 24, 1993.

12. Approve the appropriate letters, as recommended in the General Counsel's Report dated January 4, 1994.

Commissioners Aikens, Elliott, McDonald, and Thomas voted affirmatively for the decision; Commissioner Potter recused himself from this matter and did not cast a vote. Commissioner McGarry did not cast a vote.

Attest:

1-10-94
Date

Marjorie W. Emmons
Secretary of the Commission

Received in the Secretariat: Wed., Jan. 05, 1994 11:06 a.m.
Circulated to the Commission: Wed., Jan. 05, 1994 4:00 p.m.
Deadline for vote: Mon., Jan. 10, 1994 4:00 p.m.

bjr

9504367102O

FEDERAL ELECTION COMMISSION

JANUARY 31, 1994

Timothy Cloud
20627 North 36th Avenue
Glendale, Arizona 85308

RE: MUR 2984
Timothy Cloud

Dear Mr. Cloud:

On April 9, 1991, the Federal Election Commission found reason to believe that you violated 2 U.S.C. § 441f. On October 5, 1993, the Commission entered into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe, and a proposed conciliation agreement was mailed to you.

As you may be aware, on October 22, 1993, the D.C. Circuit declared the Commission unconstitutional on separation of powers grounds due to the presence of the Clerk of the House of Representatives and the Secretary of the Senate or their designees as members of the Commission. FEC v. NRA Political Victory Fund, No. 91-5360 (D.C. Cir. Oct. 22, 1993). Since the decision was handed down, the Commission has taken several actions to comply with the court's decision. While the Commission petitions the Supreme Court for a writ of certiorari, the Commission, consistent with that opinion, has remedied any possible constitutional defect identified by the Court of Appeals by reconstituting itself as a six member body without the Clerk of the House and the Secretary of the Senate or their designees. In addition, the Commission has adopted specific procedures for revoting or ratifying decisions pertaining to open enforcement matters.

In this matter, on January 10, 1994, the Commission revoted to find reason to believe that you violated 2 U.S.C. § 441f, and to approve the Factual and Legal Analysis previously mailed to you. You should refer to that document for the basis of the Commission's decision. If you need an additional copy, one will be provided upon request.

9504367102 1

In addition, the Commission also revoted to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe, and revoted to approve the enclosed proposed conciliation agreement, which is a copy of the conciliation agreement previously mailed to you.

If you agree with the provisions of the enclosed agreement, please sign and return it to the Commission within ten days. Please make the check for the civil penalty payable to the Federal Election Commission.

If you have any questions, please contact Jonathan Bernstein, Assistant General Counsel at (202) 219-3690.

For the Commission,

Danny L. McDonald
Vice Chairman

Enclosure
Conciliation Agreement

9504367102 2

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JANUARY 31, 1994

E. Kenneth Twichell
2929 East Redfield Road
Phoenix, Arizona 85032

RE: MUR 2984
E. Kenneth Twichell

Dear Mr. Twichell:

On January 16, 1992, the Federal Election Commission found that there is probable cause to believe you violated provisions of the Federal Election Campaign Act of 1971, as amended. On October 5, 1993, the Commission entered into negotiations directed towards reaching a conciliation agreement in settlement of this matter, and a proposed conciliation agreement was mailed to you.

As you may be aware, on October 22, 1993, the D.C. Circuit declared the Commission unconstitutional on separation of powers grounds due to the presence of the Clerk of the House of Representatives and the Secretary of the Senate or their designees as members of the Commission. FEC v. NRA Political Victory Fund, No. 91-5360 (D.C. Cir. Oct. 22, 1993). Since the decision was handed down, the Commission has taken several actions to comply with the court's decision. While the Commission petitions the Supreme Court for a writ of certiorari, the Commission, consistent with that opinion, has remedied any possible constitutional defect identified by the Court of Appeals by reconstituting itself as a six member body without the Clerk of the House and the Secretary of the Senate or their designees. In addition, the Commission has adopted specific procedures for revoting or ratifying decisions pertaining to open enforcement matters.

In this matter, on January 10, 1994, the Commission ratified its prior findings of reason to believe in this matter, and revoted to find probable cause to believe that you knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f, and no probable cause to believe that you violated 2 U.S.C. § 441a(a)(1)(A). In addition, the Commission voted to approve the enclosed proposed conciliation agreement, which is a copy of the conciliation agreement previously mailed to you.

9504367102 3

If you agree with the provisions of the enclosed agreement, please sign and return it to the Commission. The check for the civil penalty should be made payable to the Federal Election Commission.

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.

If you have any questions, please contact Jonathan Bernstein, Assistant General Counsel, at (202) 219-3690.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Conciliation Agreement

9504367102 4

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JANUARY 31, 1994

Kenneth A. Gross, Esq.
Skadden, Aarps, Slate, Meagher & Flom
1440 New York Avenue
Washington, D.C. 20005-2107

RE: MUR 2984
Robert G. Johnson
National Association of Real Estate Appraisers, Inc.
National Association of Review Appraisers and Mortgage Underwriters, Inc.
International Real Estate Institute, Inc. (a.k.a. International Institute of Valuer's, Inc.)
Professional Women's Appraisal Association, Inc.
Todd Publishing, Inc.

Dear Mr. Gross:

On January 16, 1992, the Federal Election Commission found that there is probable cause to believe your clients violated provisions of the Federal Election Commission Campaign Act of 1971, as amended. On October 5, 1993, the Commission entered into negotiations directed towards reaching a conciliation agreement in settlement of this matter, and a proposed conciliation agreement was mailed to you.

As you may be aware, on October 22, 1993, the D.C. Circuit declared the Commission unconstitutional on separation of powers grounds due to the presence of the Clerk of the House of Representatives and the Secretary of the Senate or their designees as members of the Commission. FEC v. NRA Political Victory Fund, No. 91-5360 (D.C. Cir. Oct. 22, 1993). Since the decision was handed down, the Commission has taken several actions to comply with the court's decision. While the Commission petitions the Supreme Court for a writ of certiorari, the Commission, consistent with that opinion, has remedied any possible constitutional defect identified by the Court of Appeals by reconstituting itself as a six member body without the Clerk of the House and the Secretary of the Senate or their designees. In addition, the Commission has adopted specific procedures for revoting or ratifying decisions pertaining to open enforcement matters.

9504367102 5

In this matter, on January 10, 1994, the Commission ratified its prior findings of reason to believe in this matter, and revoted to find probable cause to believe that Robert G. Johnson, Todd Publishing, Inc. and the International Real Estate Institute, Inc. (a.k.a. International Institute Institute of Valuers, Inc.) knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f; the National Association of Review Appraisers and Mortgage Underwriters and the Professional Women's Appraisal Association, Inc. knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441d(a); and that the National Association of Real Estate Appraisers knowingly and willfully violated 2 U.S.C §§ 441b(a), 441d(a), and 441f. In addition, the Commission voted to approve the enclosed proposed conciliation agreements, which are copies of the conciliation agreements previously mailed to you.

If you agree with the provisions of the enclosed agreements, please have Mr. Johnson sign them 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 checks for the civil penalties payable to the Federal Election Commission.

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.

If you have any questions, please contact Jonathan Bernstein, Assistant General Counsel, at (202) 219-3690.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Conciliation Agreement

9504367102 6

OGC 460

RECEIVED
FEDERAL ELECTION
COMMISSION
MAIL ROOM

Mar 10 11 30 AM '94

March 1, 1994

attn: Jonathan Bernstein
FEC
Washington, D.C. 20463

Dear Sir:

This in regards to MUR 2984 and your request for a check for $20,000.00.

I have filed Chapter 13 Bankruptcy.

Sincerely,

Timothy M. Cloud

94 MAR 10 PM 2:53

RECEIVED
FEDERAL ELECTION COMMISSION

95043671027

RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT
Jul 25 10 47 AM '94

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Robert G. Johnson	)	SENSITIVE
National Association of Real Estate Appraisers, Inc.	)	MUR 2984
National Association of Review Appraisers and Mortgage Underwriters, Inc.	)	
International Real Estate Institute, Inc. (a.k.a. International Institute of Valuers, Inc.)	)	
Todd Publishing, Inc.	)	
Professional Women's Appraisal Association, Inc.	)	
E. Kenneth Twichell	)	
Timothy Cloud	)	

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On January 10, 1994, the Commission ratified reason to believe findings and revoted probable cause findings in this matter in which the Commission two years ago had referred Robert G. Johnson, E. Kenneth Twichell and the incorporated entities listed above to the Department of Justice ("Department") for criminal prosecution pursuant to 2 U.S.C. § 437g(a)(5)(C). This Office notified the Respondents of the revote via letters dated January 31, 1994, which enclosed fresh copies of the conciliation agreements initially transmitted in October of last year. Respondent Timothy Cloud has responded to the Commission's notification, pointing out that he has initiated a personal bankruptcy proceeding.

9504367102 8

9504367102 9

II. DEVELOPMENTS IN THE CRIMINAL PROSECUTION

In its report dated January 4, 1994, this Office apprised the Commission of the NRA arguments made by Robert Johnson in his criminal case and the court's order staying execution of the remaining duration of Johnson's prison sentence. Since this report, the Department has advised this Office that Respondent E. Kenneth Twichell filed a similar petition. Attachment 1. The Court did not wait for the Department's response and instead issued an order on January 14, 1994 staying the remainder of Twichell's sentence.[1/] Attachment 2. The Department's January 19, 1994 Motion for Reconsideration, Attachment 3, has not been acted on by the court. Department attorneys expressed to this Office that it appeared the the court is going to await the final outcome of NRA before acting in a final way.

III. DISCUSSION OF CONCILIATION

(Pages 3-7 discuss conciliation and have been deleted)

---

1. Respondent Twichell had finished his short incarceration and was serving the home detention part of his sentence when the petition was filed. Attachment 1, page 2.

IV. **RECOMMENDATIONS**

1. Take no further action and close the file as to Timothy Cloud.

2. Approve the attached revised conciliation agreement for Robert G. Johnson.

3. Approve the appropriate letters.

Date 7/25/94

Lawrence M. Noble
General Counsel

9504367110330

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Robert G. Johnson;	)	MUR 2984
National Association of Real Estate Appraisers, Inc.;	)	
National Association of Review Appraisers and Mortgage Underwriters, Inc.;	)	
International Real Estate Institute, Inc. (a.k.a. International Institute of Valuers, Inc.);	)	
Todd Publishing, Inc.;	)	
Professional Women's Appraisal Association, Inc.;	)	
E. Kenneth Twichell;	)	
Timothy Cloud.	)	

95043671031

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on July 28, 1994, the Commission decided by a vote of 4-0 to take the following actions in MUR 2984:

1. Take no further action and close the file as to Timothy Cloud.

(continued)

2. Approve the revised conciliation agreement for Robert G. Johnson, as recommended in the General Counsel's Report dated July 25, 1994.

3. Approve the appropriate letters, as recommended in the General Counsel's Report dated July 25, 1994.

Commissioners Aikens, Elliott, McGarry, and Thomas voted affirmatively for the decision; Commissioner McDonald did not cast a vote. Commissioner Potter recused himself from this matter and did not cast a vote.

Attest:

7-28-94
Date

Marjorie W. Emmons
Secretary of the Commission

Received in the Secretariat: Mon., July 25, 1994 10:47 A.M.
Circulated to the Commission: Mon., July 25, 1994 4:00 P.M.
Deadline for vote: Thurs., July 28, 1994 4:00 P.M.

mck

9504367103 2

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 12, 1994

Mr. Timothy M. Cloud
20627 North 35th Avenue
Glendale, AZ 85308

RE: MUR 2984
Timothy Cloud

Dear Mr. Cloud:

As you recall, the Federal Election Commission previously found reason to believe that you knowingly and willfully violated 2 U.S.C. § 441f. This letter is to advise you that on July 28, 1994, after considering the circumstances of this matter, the Federal Election Commission determined to take no further action against you, and closed its file in this matter as it pertains to you.

The file will be made public within 30 days after the matter has been closed with respect to all other respondents involved. You are advised that the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) still apply with respect to all respondents still involved in this matter. The Commission will notify you when the entire file has been closed.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Jonathan Bernstein by MAA

Jonathan Bernstein
Assistant General Counsel

9504367103 3

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

August 12, 1994

CERTIFIED MAIL

Mr. E. Kenneth Twichell
2929 East Redfield Road
Phoenix, AZ 85032

RE: MUR 2984
E. Kenneth Twichell

Dear Mr. Twichell:

On January 31, 1994 you were notified that the Federal Election Commission ("Commission") had found probable cause to believe you knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f, provisions of the Federal Election Campaign Act of 1971, as amended ("Act"). Enclosed with the letter was a conciliation agreement

To date, this Office has not received either a signed copy of the conciliation agreement or any response to its letter informing you of the Commission's actions. Although the statutory deadline for conciliation under 2 U.S.C. § 437g(a)(4)(A)(i) has expired, I have enclosed a new copy of the conciliation agreement previously provided to you. Please call me immediately to discuss this matter. If you do not contact the Office of the General Counsel within ten (10) days of receipt of this letter, this Office may recommend to the Commission that it fulfill its enforcement obligation by filing a civil suit against you in federal district court. I look forward to hearing from you.

Sincerely,

Jonathan A. Bernstein by MA

Jonathan A. Bernstein
Assistant General Counsel

Enclosure
Conciliation Agreement for E. Kenneth Twichell

9504336710034

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

August 12, 1994

Mr. Kenneth A. Gross, Esq.
Skadden, Arps, Slate, Meagher & Flom
1440 New York Avenue, NW
Washington, D.C. 20005-2107

RE: MUR 2984
Robert G. Johnson
National Association of Real Estate Appraisers, Inc.
National Association of Review Appraisers and Mortgage Underwriters, Inc.
International Real Estate Institute, Inc. (a.k.a. International Institute of Valuers, Inc.)
Todd Publishing, Inc.
Professional Women's Appraisal Association, Inc.

Dear Mr. Gross:

Nonetheless, in an effort to resolve this matter, and in recognition of Mr. Johnson's criminal conviction on charges stemming for the same series of events at issue here, the Commission approved a revised conciliation agreement for Mr. Johnson.

9504367 1035

The Commission is still hopeful that this matter can be settled through a conciliation agreement. In light of the statute's mandatory 90 day limit for conciliation, you should respond to the Commission's offer as quickly as possible. Should you have any questions, please contact me at (202) 219-3690.

Sincerely,

Jonathan Bernstein by MA

Jonathan Bernstein
Assistant General Counsel

Enclosures
Conciliation Agreement for Robert G. Johnson
Conciliation Agreement for Respondent Corporations

9504367110336

Joel D. Sacks
Attorney At Law

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
SEP 23 1 09 PM '94

September 17, 1994

Federal Election Commission
Attn.: Jonathan A. Bernstein
Assistant General Counsel
999 E Street N.W.
Washington, DC 20463

Re: MUR 2984; E. Kenneth Twichell

Dear Jonathan:

In accord with our telephone call I am reducing to writing our conversation and my understanding of how we are to proceed. I will begin with a brief history.

At the age of 25, and freshly out of college, Mr. Twichell began to work for some corporations whose stock was owned by Mr. Robert Johnson. The time was approximately 1986. At no time, from his initial hiring until the present, did Mr. Twichell own any stock in any of the corporations and was never a director nor an officer of any of the Johnson held corporations. He was always an employee earning a fixed salary. In the past two years he has not had any raises nor received any bonuses.

During the pre-election period of 1988, Mr. Johnson was engaged in fund raising for George Bush. At some point Mr. Twichell was approached and was told he would receive a bonus which, it was clear, was to be "contributed" directly to the Bush for president campaign. Such contribution was made.

Later, following the initiation of an FEC investigation, both Mr. Twichell and Mr. Johnson were going to be interviewed. Mr. Johnson hired Randall King to represent him (Johnson) and told Twichell that King was also going to represent Twichell and, for such services, Johnson would pay the fees. To an attorney, the conflict of interest was clear. To a layman it never crossed Twichell's mind to retain his own counsel. King talked with Twichell and prepared him for the FEC deposition. That preparation included telling

4645 S. Lakeshore Dr. Suite 8 Tempe, Arizona 85282
(602) 345-2300 Fax (602) 345-2537

9504367110337

Twichell what to say that would protect his primary client, Robert Johnson. It is no secret that Twichell lied, and as a result of his lies now stands a convicted felon at the age of 32.

For that conviction, Twichell was sent to jail, spent time at a half-way house following his release, will likely lose his job and find it nearly impossible to find work in any field requiring applicant screening or the need to hold a license. To compound his problem, he is in financial ruin, barely holding on each month.

At your request I have asked Mr. Twichell to prepare a financial statement and obtain copies of his tax returns. He is complying and hopes to have the information soon. I will be on vacation until October 9, 1994, at which time I will be in my office at the address indicated on this stationery. It is my understanding you will not be taking action against Mr. Twichell until you and I come to some agreement or determine that we cannot agree. If I am in error, please advise.

Sincerely,

Joel D. Sacks

jmf

9504367110338

SKADDEN, ARPS, SLATE, MEAGHER & FLOM
1440 NEW YORK AVENUE, N.W.
WASHINGTON, D.C. 20005-2111
(202) 371-7000

FAX: (202) 393-5760
DIRECT DIAL: (202) 371-7007

BOSTON
CHICAGO
HOUSTON
LOS ANGELES
NEWARK
NEW YORK
SAN FRANCISCO
WILMINGTON
BEIJING
BRUSSELS
BUDAPEST
FRANKFURT
HONG KONG
LONDON
MOSCOW
PARIS
PRAGUE
SYDNEY
TOKYO
TORONTO

November 21, 1994

Via Facsimile

Jonathan Bernstein
Federal Election Commission
999 E Street, N.W.
Washington, D.C.

Re: MUR 2984 National Association of Real Estate Appraisers et al.

Dear Mr. Bernstein:

As we have discussed, the cases involving Robert Johnson and his companies should be held in abeyance or dismissed pending the outcome of the Supreme Court decision in the National Rifle Association case. Also, we continue to maintain that the Federal Election Commission's efforts to impose civil penalties for a matter that it referred to the Department of Justice is duplicative and should be barred. We assert this position as a matter of law and as a matter of fairness.

Thus, we urge that the civil case be dismissed forthwith or at the very least held until the resolution of the criminal case. However, holding the case, rather than dismissing it, is unnecessary because the misconduct in this case has been fully redressed in the criminal proceeding.

Thank you for your attention to this matter.

Sincerely,

Kenneth A. Gross

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
NOV 21 12 41 PM '94

9504367103 9

TO THE READER OF THE PUBLIC RECORD FILE:

THE GENERAL COUNSEL'S REPORT, DATED APRIL 28, 1995, IN THE MATTER OF 28 U.S.C §2462 - STATUTE OF LIMITATIONS, CONTAINS DISCUSSION OF SEVERAL CASES CURRENTLY UNDER REVIEW BY THE COMMISSION. THAT DISCUSSION HAS BEEN DELETED FROM THE PUBLIC RECORD FILE, AND PAGES FOLLOWING IT HAVE BEEN REDESIGNATED AS (A), (B), ETC.

9504367110040

AGENDA DOCUMENT NO. X95-39

RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT
Apr 28 4 02 PM '95

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) 28 U.S.C. § 2462
) Statute of Limitations
)

GENERAL COUNSEL'S REPORT

SENSITIVE
MAY 16 1995
EXECUTIVE SESSION

I. INTRODUCTION[1]

As the Commission is aware, on February 24, 1995, the U.S. District Court for the District of Columbia decided in Federal Election Commission v. National Republican Senatorial Committee, 1995 WL 83006 (D.D.C. 1995) ("NRSC"), that the statute of limitations set forth at 28 U.S.C. § 2462 ("Section 2462") applied to Commission enforcement suits seeking civil penalties, relying upon the D.C. Circuit's opinion in 3M Co. v. Browner, 17 F.3d 1453 (D.C. Cir. 1994). This Report discusses the statute of limitations generally, describes

enforcement matters potentially affected by the NRSC court's conclusion and makes recommendations for each of the potentially affected matters.[2]

---

1. This is a combined General Counsel's Report from the Enforcement and Public Financing, Ethics and Special Projects ("PFESP") areas of the Office of the General Counsel.

9504367104 1

In NRSC, Judge Pratt held that the Commission could not seek a civil penalty in conjunction with its civil enforcement action against the defendant for violations of 2 U.S.C. §§ 441a(h) and 434(b) because the 5-year federal catch-all statute of limitations found at 28 U.S.C. § 2462 applied to Commission-initiated enforcement suits seeking civil penalties. The court, however, allowed the Commission's suit to go forward notwithstanding this conclusion, ruling that Section 2462 did not apply to the declaratory and equitable relief also sought by the Commission. Therefore, the court so far has issued no final appealable decision.

On May 17, 1994, in FEC v. Williams, the U.S. District Court for the Central District of California reached the opposite conclusion about the applicability of 28 U.S.C. § 2462 to the Commission's enforcement actions. Mr. Williams' contributions in the name of another took place more than 5 years before the Commission filed its complaint and counsel raised 28 U.S.C. § 2462 as an affirmative defense. However, the court ruled at an oral hearing that the statute of limitations did not apply. Instead, the court awarded the Commission a $10,000 civil penalty against Mr. Williams for violations of 2 U.S.C. § 441f. FEC v. Williams, No. 93-6321 (C.D. Cal. Jan. 31, 1995), appeal docketed, No. 95-55320 (9th Cir. 1995) ("Williams"). Mr. Williams has filed a notice of appeal regarding, inter alia, the district court's

9504367110042

statute of limitations decision. Thus, whether and to what extent the statute of limitations at 28 U.S.C. § 2462 will apply to Commission enforcement cases will be before the 9th Circuit shortly, and could also be the subject of a later appeal before the D.C. Circuit in NRSC.[3]

In light of this conflict between the courts and the pendency of the appeal, this Office believes a decision to close enforcement cases based solely on a conclusion that the 5 year statute of limitations would apply to any potential enforcement suits would be unwarranted. This is especially true since neither 28 U.S.C. § 2462 nor the NRSC decision limits the Commission's authority to complete administrative investigations or seek civil penalties in voluntary conciliation prior to filing suit. Nonetheless, the Office of the General Counsel recognizes that until the stautue of limitations is finally resolved by the courts, respondents are likely to raise it as a defense, making settlement more complicated. Thus, even though the Commission is not bound by the NRSC decision in other cases, the Office of the General Counsel believes the Commission should take this issue into consideration on a case-by-case basis when looking at its active and inactive enforcement cases -- particularly those with older activity -- and, in an exercise of its prosecutorial discretion, attempt to bring the matters most vulnerable to

9504367104 3

statute of limitations difficulties to an early administrative disposition.[4]

In order to give the Commission the broadest picture of the possible effect of a statute of limitations on its caseload, this Office has analyzed all enforcement cases where there is FECA-violative activity that will be 5 years old at some point during this year. Section II of this Report gives an overview of principles involved in analyzing the statute of limitations issue, with particular attention to determining when a Commission cause of action might accrue, and when the running of the statute may be tolled by equitable principles. Section III describes how this Office applied these principles to its active and inactive enforcement caseload and the approach used in making its recommendations for Commission action. Section IV includes descriptions of each of the potentially affected enforcement matters, outlines the statute of limitations difficulties this Office foresees for each, and recommends specific Commission action for each potentially affected matter.

9504367104

II. THE LAW

This section discusses 28 U.S.C. § 2462, the federal catch-all statute of limitations, and issues relating to when the statute begins to run, under what circumstances it may be tolled

and declaratory and equitable relief available to the Commission even if the statute of limitations has run completely.

A. Accrual

Section 2462 requires commencement of a suit for civil penalties within five years from the date when the claim first accrued.[5] Thus, as a threshold matter, in considering the potential effect of the limitations period on a particular case, one must determine the complex issue of when the claim first accrued.

1. General Principles

A cause of action normally accrues when the factual and legal prerequisites for filing suit are in place, i.e., at the precise moment when the violation occurred.[6] However, federal courts have generally applied the discovery rule of accrual, an equitable doctrine under which a claim is considered to have accrued at the time that a potential claimant knew, or through the exercise of reasonable diligence should have known, of the facts underlying the cause of action.[7]

9504367104 5

---

5. 28 U.S.C. § 2462 provides:

> Except as otherwise provided by Act of Congress, an action, suit or proceeding for the enforcement of any civil fine, penalty, or forfeiture, pecuniary or otherwise, shall not be entertained unless commenced within five years from the date when the claim first accrued . . . .

6. United States v. Lindsay, 346 U.S. 568, 569 (1954).

7. See, e.g., Delaware State College v. Ricks, 449 U.S. 250, 259 (1980) (Court implicitly applied discovery rule to Title VII discrimination suit); United States v. Rubrick, 444 U.S. 111, 122-25 (1979) (court implicitly endorsed discovery rule of accrual, but limited it to discovery of facts underlying a claim,

The substantial harm theory of accrual can be considered analytically as a particular application of the discovery rule. It is usually advanced in personal injury actions involving latent injuries or injuries difficult to detect, especially in cases of "creeping disease" such as asbestosis. The rule rests on the idea that plaintiffs cannot have a tenable claim for the recovery of damages unless and until they have been harmed. Under the substantial harm theory, therefore, damage claims in cases involving latent injuries or illnesses do not accrue until substantial harm matures or, in other words, until the harm becomes apparent.

The Supreme Court has cautioned against "attempting to define for all purposes when a cause of action first accrues. Such words are to be interpreted in light of the general purposes of the statute and of its other provisions, and with due regard to those practical ends which are to be served by any limitation of the time within which an action must be brought."[8] Thus, in determining the time of accrual in cases arising under the FECA,

9504367110046

(Footnote 7 continued from previous page)
rather than extending the rule to discovery of legal cause of action); see also Oshiver v. Levin, Fishbein, Sedran & Berman, 38 F.3d 1380, 1386 (3d Cir. 1994); Dixon v. Anderson, 928 F.2d 212, 215 (6th Cir. 1991); Cada v. Baxter Healthcare Corp., 920 F.2d 446, 450 (7th Cir. 1990); Corn v. City of Lauderdale Lakes, 904 F.2d 585, 588 (11th Cir. 1990); Alcorn v. Burlington Northern Railroad Co., 878 F.2d 1105, 1108 (8th Cir. 1989); Lavellee v. Listi, 611 F.2d 1129, 1131 (5th Cir. 1980); Cullen v. Margiotta, 811 F.2d 698, 725 (2d Cir. 1987); Cline v. Brusett, 661 F.2d 108, 110 (9th Cir. 1981); Bireline v. Seagondollar, 567 F.2d 260, 263 (4th Cir. 1977).

8. Crown Coat Front Co., Inc. v. United States, 386 U.S. 503, 517 (1967) (quoting Reading Co. v. Koons, 271 U.S. 58, 62 (1926)).

courts will look to the nature and goals of the FECA versus the interests underlying the five-year limitations period.

2. Accrual in the Context of the FECA

While the discovery rule has been applied in a wide range of cases, originating in the tort context and extending to, inter alia, contract, Title VII, and RICO actions, to date, it appears that only the United States District Court for the District of Columbia has held that the Section 2462 statute of limitations is applicable to the FECA. The court also addressed the precise question of when a cause of action accrues under the FECA. Inasmuch as the district court in NRSC relied on the decision of the Court of Appeals for the District of Columbia in 3M Co. v. Browner, 17 F.3d 1453 (D.C. Cir. 1994) ("3M"), the latter case will be summarized first.

3M was an action brought by the Environmental Protection Agency ("EPA") to impose civil penalties against a company for violations of the Toxic Substances Control Act, wherein the EPA argued that in the exercise of due diligence it could not have discovered the violations earlier. In 3M, the defendant misstated and failed to include information on notices required by the EPA. The court acknowledged that the District of Columbia Circuit has adopted the discovery rule, under which, as discussed above, a claim is considered to have accrued at the time that a claimant knew or should have known of the facts underlying the cause of action. However, the 3M court found that the discovery rule had only been applied in limited circumstances -- those involving remedial, civil claims -- and specifically rejected the discovery

9504367104 7

rule under the circumstances presented, stating that the rule proposed by the EPA in that case was a "discovery of violation" rule. The court concluded that in civil penalty actions the running of the limitations period of Section 2462 is measured from the date of the violation.[9]

In NRSC, a suit arising from violations of the FECA involving excessive contributions and failure to report such contributions to the FEC, the court repeated the options for defining the time of accrual set forth in 3M, stating that a claim accrues "when the defendant commits his wrong or when substantial harm matures." Then, without pinpointing the exact time of accrual, and without specifically attempting to define accrual in the FECA context, the court held that the FECA claim accrued "considerably before the end of the [FEC's] administrative process." While the district court's accrual finding was imprecise, Judge Pratt's construction of 3M suggests that the discovery rule of accrual may be rejected in FECA claims brought in that Circuit.

On the other hand, the Court of Appeals for the Third Circuit, in considering a citizens' suit brought under the Clean

9504367 1048

---

9. In 3M, the court cited the Supreme Court's decision in Unexcelled Chemical Corp. v. United States, 345 U.S. 59 (1953), which was a suit for liquidated damages against a government contractor for unlawfully employing child labor. As the 3M decision noted, in that case, the Supreme Court held that "a cause of action is created when there is a breach of duty owed the plaintiff. It is that breach of duty, not its discovery, that normally is controlling." However, the Supreme Court's focus was the question of whether the claim accrued at the time of the violation versus after it had been administratively determined that the contractor was liable. The Court was not concerned specifically with the question of whether the claim accrued at the time of the violation versus when the plaintiff knew or should have known of the facts underlying the claim.

Water Act, which has statutory self-reporting requirements comparable to the FECA, held the Section 2462 statute of limitations applicable and embraced the discovery rule. There, the Third Circuit held that since the defendant was responsible for filing reports under the Act and the public could not reasonably be deemed to have known about any violation until the defendant filed the report, the cause of action did not accrue until the reports listing the violations were filed.[10] A district court in Virginia[11] has also embraced this discovery rule for determining accrual under the Clean Water Act.[12]

B. EQUITABLE TOLLING

There are instances in which a court may determine that equitable considerations require the statute of limitations to be tolled. Such a determination is made on a case-by-case basis and

9504367104 9

10. Public Interest Research Group v. Powell Duffryn Terminals, Inc., 913 F.2d 64, 75 (3d Cir. 1990), cert. denied, 498 U.S. 1109 (1991).

11. United States v. Hobbs, 736 F. Supp. 1406 (E.D. Va. 1990).

12. Various other circuit courts have grappled with the question of when the federal five-year statute of limitations of Section 2462 begins to run, but these cases, which have produced conflicting rulings, have all involved actions to recover civil penalties rather than actions to impose them. Compare United States Dept. of Labor v. Old Ben Coal Co., 676 F.2d 259 (7th Cir. 1982) (in action to recover civil penalty, claim accrues only after administrative proceeding has ended, penalty has been assessed, and violator failed to pay) and United States v. Meyer, 808 F.2d 912 (1st Cir. 1987) (in civil penalty enforcement action limitations period is triggered on date civil penalty is administratively imposed) with United States v. Core Laboratories Inc., 759 F.2d 480 (5th Cir. 1985) (in suit to recover civil penalty limitations period begins to run on date of underlying violation).

is referred to as equitable tolling.[13] Equitable tolling presumes claim accrual and steps in to toll, or stop, the running of the statute of limitations in light of established equitable considerations.[14] The most fundamental rule of equity is that a party should not be permitted to profit from its own wrongdoing.

There are three principal situations in which equitable tolling may be appropriate: (1) where the defendant has actively misled the plaintiff regarding the plaintiff's cause of action; (2) where the plaintiff in some extraordinary way has been prevented from asserting his or her rights; and (3) where the

9504367105O

---

13. Some courts have pointed out that, in instances where the defendant has taken active steps to prevent the plaintiff from suing, e.g., in cases involving fraudulent concealment, the tolling of the statute of limitations is more appropriately referred to as equitable estoppel. See Cada v. Baxter Healthcare Corp., 920 F.2d 446, 450-51 (7th Cir. 1990).

14. Courts have held that statutes of repose cannot be extended by federal tolling principles, see Baxter Healthcare, 920 F.2d at 451; First United Methodist Church of Hyattsville v. United States Gypsum Company, 882 F.2d 862 (4th Cir. 1989). While statutes of repose and statutes of limitations have sometimes been referred to interchangeably, a statute of repose is legally distinguishable from a statute of limitations. Whereas a statute of limitations is a procedural device motivated by considerations of fairness to the defendant, a statute of repose is a substantive grant of immunity after a legislatively determined period of time and is based on the economic interest of the public as a whole and a legislative balance of the respective rights of potential plaintiffs and defendants. See First United Methodist Church, supra. To date, this Office's research has revealed no instances in which a court has held that Section 2462 is a statute of repose in the legal sense and, therefore, held tolling principles to be inapplicable. Indeed, in 3M, the court noted the potential applicability of the doctrine of fraudulent concealment to Section 2462. See 3M, 17 F.3d at 1461, n.15.

plaintiff has timely asserted his or her rights mistakenly in the wrong forum.[15]

1. Doctrine of Fraudulent Concealment

The Supreme Court has defined the doctrine of fraudulent concealment as the rule that "where a plaintiff has been injured by fraud and remains in ignorance of it without any fault or want of diligence or care on his part, the bar of the statute does not begin to run until the fraud is discovered, though there be no special circumstances or efforts on the part of the party committing the fraud to conceal it from the knowledge of the other party." Holmberg v. Armbrecht, 327 U.S. 392, 397 (1946). The Court went on to state that this equitable doctrine is read into every federal statute of limitation. Id.

The doctrine, as applied by the circuit courts of appeal, requires the plaintiff to plead[16] and prove three elements:

9504367105

15. School District of City of Allentown v. Marshall, 657 F.2d 16, 19-20 (3d Cir. 1981) (quoting Smith v. American President Lines, Ltd., 571 F.2d 102, 109 (2d Cir. 1978)). It should also be noted that statutes of limitations are subject to waiver and may be tolled by agreement of the parties. See Zipes v. Trans World Airlines, Inc., 455 U.S. 385, 393 (1982).

16. Pleading requirements for fraudulent concealment are very strict. Some courts invoke Fed. R. Civ. P. 9(b) and require a plaintiff to meet the pleading requirements for fraud. See Dayco Corp. v. Goodyear Tire & Rubber Co., 523 F.2d 389, 394 (6th Cir. 1975). Other courts, while not specifically invoking Rule 9, still require specificity and particularity in pleading. See Rutledge v. Boston Woven Hose & Rubber Co., 576 F.2d 248, 250 (9th Cir. 1978); Weinberger v. Retail Credit Co., 498 F.2d 552, 555 (4th Cir. 1974).

(1) use of fraudulent means by the defendant;
(2) plaintiff's failure to discover the operative facts that are the basis of his cause of action within the limitations period; and
(3) plaintiff's due diligence until discovery of the facts.

State of Colorado v. Western Paving Construction, 833 F.2d 867, 874 (10th Cir. 1987).

The first prong of the plaintiff's burden under the doctrine - the use of fraudulent means by the defendant - warrants some elaboration. The courts have generally held that to establish this element of the doctrine one of two facts must be shown: 1) that fraud is an inherent part of the violation so that the violation conceals itself; or 2) that the defendant committed an affirmative act of concealment - a trick or contrivance intended to exclude suspicion or prevent inquiry.[17] These approaches to establishing the first element of the doctrine of fraudulent concealment have been referred to, respectively, as the self-concealing theory and the subsequently concealed theory. By contrast, the courts have pointed out that silence, without some fiduciary duty, never satisfies this element.[18]

9504367105 2

17. See Riddell v. Riddell Washington Corp., 866 F.2d 1480, 1491 (D.C. Cir. 1989); State of Colorado v. Western Paving Construction, 833 F.2d at 876-78.

18. See Rutledge v. Boston Woven Hose & Rubber Co., 576 F.2d 248, 250 (9th Cir. 1978); Dayco Corp. v. Firestone Tire & Rubber Co., 386 F. Supp. 546, 549 (N.D. Ohio 1974), aff'd sub. nom., Dayco Corp. v. Goodyear Tire & Rubber Co., 523 F.2d 389 (6th Cir. 1975). Some courts have also held that a denial of an accusation of wrongdoing does not constitute fraudulent concealment. See King & King Enters. v. Champlin Petroleum Co., 657 F.2d 1147, 1155 (10th Cir. 1981), cert. denied, 454 U.S. 1164 (1982); but see Rutledge, supra ("denying wrongdoing may constitute fraudulent concealment where the circumstances make the plaintiff's reliance upon the denial reasonable").

Where the plaintiff establishes all three of the required elements, the doctrine provides the plaintiff with the full statutory limitations period, starting from the date the plaintiff discovers, or with due diligence could have discovered, the facts supporting the plaintiff's cause of action.

2. Inducement Due to Intentional or Unintentional Misrepresentation

In cases where the plaintiff has refrained from commencing suit during the period of limitation because of inducement by the defendant, the Supreme Court has found the statutory period tolled because of the conduct of the defendant. See Glus v. Brooklyn Eastern Terminal, 359 U.S. 231 (1973). Under the facts of Glus, supra, the plaintiff averred that the defendant had fraudulently or unintentionally misstated information upon which the plaintiff relied in withholding suit.

3. Subpoena Enforcement

Several district courts have tolled other statutes of limitations in circumstances where the plaintiff was forced to initiate subpoena enforcement proceedings to uncover facts underlying the cause of action.[19] While research to date has not revealed specific instances in which a court has tolled the Section 2462 statute of limitations because the plaintiff was

9504367105 3

---

19. EEOC v. Gladieux Refinery, Inc., 631 F. Supp. 927, 935-36 (N.D. Ind. 1986) (Court held that the statute of limitations was tolled during the time between issuance of subpoena and enforcement because defendant did not have valid basis for not complying with subpoena); EEOC v. City of Memphis, 581 F. Supp. 179, 182 (W.D. Tenn. 1983) (Court held that the statute of limitations was tolled until documents sought in subpoena were made available to EEOC).

forced to initiate subpoena enforcement proceedings, Section 2462 is sufficiently similar to those statutes which courts have tolled to suggest that the same result would be appropriate. Further, a good argument could be made for equitably tolling Section 2462 in such circumstances because defendants' refusal to comply with the Commission's subpoenas, whether that refusal is reasonable or otherwise, frustrates the Commission's ability to bring the action within the limitations period. Not tolling the statute of limitations in such circumstances while allowing defendants to plead the statute of limitations as an affirmative defense to actions brought by the Commission would allow defendants to profit from refusing to comply with subpoenas, and thus "offer a tempting method of defeating the basic purpose of [the Act]."[20]

4. Continuous Violation Theory

The continuous violation theory is another theory that operates to toll statutes of limitations. In the case of a continuing violation, the violation is not complete for purposes of the statute of limitations as long as the proscribed course of conduct continues, and the statute of limitations does not begin to run until the last day of the continuing offense.[21]

The Supreme Court has cautioned that continuing offenses are not to be too readily found, explaining in the criminal context that "such a result should not be reached unless the

20. See Hodgson v. International Printing Press, 440 F.2d 1113, 1119 (6th Cir. 1973).

21. See Fiswick v. United States, 329 U.S. 211, 216 (1946); United States v. Butler, 792 F.2d 1528, 1532-33 (11th Cir. 1986).

95043671054

explicit language of the substantive criminal statute compels such a conclusion, or the nature of the crime involved is such that Congress must assuredly have intended that it be treated as a continuing one." Toussie v. United States, 397 U.S. 112, 115 (1970). Thus, the question of whether a violation is a continuing one is largely a matter of statutory interpretation involving the precise statutory definition of the violation.

Courts will generally not find that a violation is continuous absent clear language in the statute.[22]

C. Declaratory Relief and Equitable Remedies

The limitations period set forth in 28 U.S.C. § 2462 applies only to suits for civil penalties. Section 2462, by its own terms, has no bearing on suits in equity.[23] The following is a purely exemplary, non-exhaustive list of various forms of equitable relief that may be available. It should be noted that it is within the discretion of the courts to grant or withhold

9504367105

---

22. Compare Toussie, 397 U.S. 112 (1970) (Court held that failure register for draft was not continuing violation where draft statute contained no language that clearly contemplated continuing offense, and regulation under Act referring to continuing duty to register was insufficient, of itself, to establish continuing offense) with United States v. Cores, 356 U.S. 405 (1958) (statute prohibiting alien crewmen from remaining in United States after permits expired contemplated continuing offense where conduct proscribed is the affirmative act of willfully remaining, and crucial word "remains" permits no connotation other than continuing presence). See also Keystone Insurance Company v. Houghton, 863 F.2d 1125 (3d Cir. 1988) (In RICO action, court held that language of the Act, which makes a pattern of conduct the essence of the crime, "clearly contemplates a prolonged course of conduct."); West v. Philadelphia Electric Co., 45 F.3d 744 (3d Cir. 1995) (Court applied continuing violation theory where cause of action required showing of intentional, pervasive, and regular racial discrimination).

23. See Hobbs, 736 F. Supp. at 1410; NRSC, 1995 WL 83006, at *4.

equitable remedies and courts will exercise that discretion on a case-by-case basis in light of the particular circumstances of each case.

o Declaratory Judgment - A declaratory judgment is a court judgment which establishes the rights of parties or expresses the opinion of the court on a question of law without the court necessarily ordering anything to be done. While a declaratory judgment is similar in some respects to an advisory opinion, unlike the latter, a declaratory judgment is rendered in an adversarial proceeding and is legally binding on all the parties involved.

o Disgorgement - Disgorgement is aimed at preventing the unjust enrichment of a wrongdoer. The disgorgement remedy takes away "ill-gotten gains," thereby depriving a respondent of wrongfully obtained proceeds and returning the wrongdoer to the position the wrongdoer was in before the proceeds were wrongfully obtained.

o Injunction - A prohibitory injunction is a court order that requires a party to refrain from doing or continuing a particular act or activity. Prohibitory injunctions are generally considered preventative measures which guard against future acts rather than affording remedies for past wrongs.

By contrast, a mandatory injunction is a type of injunction that requires some positive action. A mandatory injunction (1) commands the respondent to do a particular thing; (2) prohibits the respondent from refusing (or persisting in refusing) to do or permit some act to which the plaintiff has a legal right; or (3) restrains the respondent from permitting his previous wrongful act to continue to take effect, thus virtually compelling him or her to undo it. A conciliation agreement provision that requires a committee to amend its reports in conformance with the Act is similar in effect to a mandatory injunction, albeit one entered into voluntarily and without court order. In addition, the creative forms of equitable relief listed below are examples of possible mandatory injunctions that the Commission might seek in court.

o Creative Forms of Equitable Relief

- require defendant(s) to notify the public that the defendant(s) violated the FECA, e.g., bulletin board posting.
- require additional reporting relevant to preventing future violations of the type committed.
- require defendant(s) to put different procedures in place to prevent future violations of the type committed.
- require defendant(s) to take courses to become familiar with the requirements of the FECA.

9504367 1056

III. ANALYSIS

This section outlines the underlying legal assumptions and other factors considered by this Office in evaluating and making recommendations for each of the potentially affected cases discussed in Section IV, infra. As a preliminary matter, this Office notes that it has reviewed all of the active and inactive enforcement matters where there appears to have been FECA-violative activity prior to January 1, 1991 that will thus be at least 5 years old by the end of this year. By selecting the cases in this manner, this Office has attempted to bring to the Commission's attention all of the matters where, were the NRSC decision applied, the statute of limitations might run this year.[24]

9504367105 7

This Office has assumed for purposes of these recommendations the possibility of a uniform application of the Section 2462 statute of limitations to the FECA in all circuits

This Office has further assumed that it is possible courts will deem claims arising under the FECA to have accrued at the precise moment that the violation occurred.

9504367105 8

9504367105 9

In setting forth the case summaries, this Office has divided its discussion into three sections.

The third

section analyzes matters which this Office recommends that the Commission not pursue.

9504367110600

9504367106 1

9504367106 2

IV. CASE DISCUSSIONS

This section provides brief descriptions of enforcement matters assigned to the Public Financing, Ethics and Special Projects and Enforcement areas, including the Central Enforcement Docket.

3. Cases this Office Recommends the Commission Close

MUR 2984 (Robert Johnson et al.)

This matter involves 1988 corporate fundraising mailings for the 1988 Bush/Quayle campaign and a pattern of contributions made in the name of another, resulting in knowing and willful probable cause findings for violations of 2 U.S.C. §§ 441f, 441b(a), and 441d(a) against the individual and corporate actors.

Of the respondents still open in the matter, Robert G. Johnson and E. Kenneth Twichell were formally referred to the Department of Justice for criminal prosecution; Mr. Johnson pled guilty to felony perjury for lying under oath in a Commission deposition and Mr. Twichell pled guilty to obstructing the Commission's investigation. The corporate respondents, all closely tied to Mr. Johnson, were neither pursued nor prosecuted during the criminal proceeding. As this Office has reported, Mr. Johnson's remaining sentence was stayed based on NRA arguments

No action has taken place since the Supreme Court dismissed the Commission's appeal in NRA, and whether Mr. Johnson will have to serve the balance of his sentence is still unclear.

All of the transactions underlying FECA liability date from 1988, thus posing an obstacle under 28 U.S.C. § 2462 in the event the Commission chose to litigate this matter to obtain civil penalties. The Commission found probable cause in January of 1992, but then referred the matter to the Department of Justice, and resumed proceedings in late 1993 after resolution of the criminal proceedings. Prosecutorial discretion strongly counsels against further pursuing the remaining respondents in this matter. The age of the activity as compared to other pending matters, and the desirability of making public the Commission's initiating role in the prosecution of Mr. Johnson argue in favor of closing this matter.

For the reasons outlined above, this Office recommends the Commission take no further action with respect to the remaining respondents in this matter and close the file.

Staff Assigned: Jonathan Bernstein and Colleen Sealander

9504367 1063

MUR 3182 (Kentucky Democratic Party, et al.)

This matter, a merger of MURs 3145 and 3182, involves television ads broadcast by the Kentucky Democratic Party during the 1990 general election campaign on behalf of the Democratic Party's Senatorial candidate, Dr. Harvey Sloane. The complaints allege that the ads were prepared by the Sloane campaign's media consultant, paid for by the Kentucky Democratic party's nonfederal account, and financed in part by contributions from the ATLA PAC and from Mary C. Bingham. Mrs. Bingham recently passed away.

Most of the outstanding issues in this matter occurred in the Fall of 1990, slightly less than five years ago. Thus, it does not appear that the Commission would presently be barred from seeking a civil penalty even under the strictest reading of Section 2462. In order for the Commission to obtain a judicially imposed civil penalty in this matter, civil suit must be filed by November of 1995. Yet, even if the Commission were to devote substantial resources to this matter, it is virtually inconceivable that the deadline would be met.

First, in order to proceed, the Commission must review and revote its earlier determinations in this matter to comply with the NRA opinion. Second, this matter is still in the investigatory stage and further investigation appears necesarry. Third, the issues are complex and the two staff attorneys previously assigned to this matter have been transferred to other areas of this agency. Moreover, the allocation regulations at issue in this matter are no longer in effect, having been revised in 1991

Finally, it does not appear that equitable relief would be appropriate here as the only feasible remedy we may obtain is injunctive relief on the misallocation issue: The Sloan Committee has virtually no money for disgorgement and Sloan has never been a candidate in any other federal election. In view of all the foregoing, this Office recommends the Commission take no further action and close this file.

Staff Assigned: Lisa Klein (pending reassignment)

9504367 1064

MUR 3228 (Dahlson for Congress, et al.)

This matter was generated by a referral from the Commission's Reports Analysis Division, and involves the subsidization of the campaign by a corporation associated with the candidate (§ 441b(a)) and the misreporting of one of the corporate loans (§ 434(b)). Specifically, the candidate funneled approximately $47,000 in corporate funds to the campaign through his personal checking account, thus concealing the true source of the funds. The candidate/corporate loans took place from May to October 1990. Further, the committee misreported the source of a May 2, 1990 direct contribution from the corporation ($10,000) in its 12-Day Pre-Primary report filed May 21, 1990. Consequently, assuming 28 U.S.C. § 2462 applies, the Commission might be unable to obtain a judicially imposed civil penalty for most of the violations as early as May of this year.

This matter is presently in the investigative stage after an unsuccessful attempt at pre-probable cause conciliation. Most recently, on March 2, 1995, this Office interviewed the campaign's treasurer. The interview established that the treasurer was not involved in the committee's receipt of the funneled corporate contributions and that the misreporting may have resulted from innocent error. Consequently, the available evidence suggests that the candidate Roy Dahlson was the individual chiefly responsible for the violations in this matter.

Additional investigation would be necessary -- including the taking of depositions -- to prove that the § 441b(a) violations by Mr. Dahlson are knowing and willful. This investigation and the subsequent procedural stages leading to litigation would have to be completed in the most expeditious fashion. This Office recommends that the Commission forgo this course. Mr. Dahlson was a one-time candidate who won the primary election but lost the general election with 35% of the vote. Mr. Dahlson is now retired. Accordingly, this matter does not warrant the expenditure of resources necessary for its most expeditious completion and resolution. Therefore, this Office recommends that the Commission take no further action in this matter and close the file.

Staff Assigned: Jonathan Bernstein and Jose Rodriguez

9504367 1065

MUR 3787 (Georgia Republican Party)
Public Financing, Ethics and Special Projects

This case involves violations committed during the 1988 election cycle. In particular, an audit of the Georgia Republican Party ("the Party") revealed that the Party accepted $20,350 in excessive contributions from five individuals that were not resolved in a timely manner. Similarly, the Party accepted $13,403 in prohibited contributions that were not resolved in a timely manner. The Party also did not properly document approximately $333,270 in individual contributions. In addition, the Commission found reason to believe that the respondent violated 2 U.S.C. § 441a(f) by paying phone bank employees to conduct get-out-the-vote activities and voter identification on behalf of the Bush-Quayle campaign.

The Party admits that it erred in accepting the prohibited and excessive contributions, but urged the Commission to accept as a mitigating factor the fact that it rid its accounts of the impermissible amounts upon discovery. Similarly, the Party concedes that it failed to keep adequate records for certain contributions, but asserts that a large portion of those receipts were $35 contributions which it did not believe it was required to document. Finally, this Office has concluded that documentation and affidavits furnished by the Party demonstrate that only $26,700 of the more than $300,000 in Party expenditures made for get-out-the-vote and voter identification activities amounted to impermissible contributions by the Party.

Although it may be possible to enjoin similar conduct in future elections, the Party has acknowledged that it violated the Act. Accordingly, assuming that the NRSC decision is followed and judicially-imposed civil penalties are time-barred then in light of the age of this case and the ordering of the Commission's priorities, we recommend that the Commission take no further action in this matter and close the file. If the Commission adopts this recommendation, the notification letter to the Party will contain appropriate admonishment language.

Staff Assigned: Kenneth E. Kellner and Jane Whang

9504367106 6

MUR 3973 (Bob Davis)

This matter stems from a House Bank Task Force referral indicating that former Representative Bob Davis used his committee's petty cash to make disbursements in excess of $100. Between 1988 and 1992, the committee reported disbursing $22,708 in petty cash disbursements, $16,567 of which was reported as having been disbursed by Mr. Davis. In May of last year the Commission found reason to believe that Mr. Davis, his committee and its treasurer violated 2 U.S.C. § 432(h)(1), and that his committee and its treasurer additionally violated 2 U.S.C. § 432(h)(2) for failing to maintain a petty cash journal as required. However, because RAD had allowed the committee to terminate some months before, the Commission took no further action with respect to the committee's violations. Thus, only Mr. Davis remains a respondent in the case.

Of the $22,708 in petty cash, all but approximately $9,400 was disbursed prior to 1991. Thus, if 28 U.S.C. § 2462 applies, the Commission might be time-barred from obtaining a judicially imposed civil penalty for a substantial portion of the petty cash.

While our inquiries have confirmed that the committee kept no petty cash journal, that it possesses receipts for only a portion of its cash transactions, and that a small number of the disbursements exceeded $100, it now appears that Mr. Davis' role in the committee's petty cash was de minimus. Affidavits from two members of Mr. Davis' congressional staff and one from his former campaign treasurer state that while Mr. Davis was the payee of many of the checks, and was reported as same, this was to enable the staff to easily cash the checks at the Wright-Patman Federal Credit Union. In fact, the affiants maintain, the majority of the petty cash was disbursed by the campaign and congressional staff and not Mr. Davis.

Given the age of these violations, the fact that Mr. Davis is no longer a candidate for federal office and his apparently limited personal involvement in his committee's petty cash violations, this Office recommends the Commission take no further action in MUR 3973 and close the file.

Staff Assigned: Jonathan Bernstein and Colleen Sealander

9504367100 67

MUR 4013 (National Freedom PAC)
Public Financing, Ethics and Special Projects

This matter involves chronic reporting violations and the apparent commingling of Committee funds with the personal funds of the Committee's treasurer, Rick Woodrow. The respondents are the Committee and Mr. Woodrow. The material events occurred in 1990.[31]

This is an inactive, internally generated matter. Assuming that the NRSC decision is followed and judicially-imposed civil penalties are time-barred then in light of the age of the violations at issue, this Office recommends that the Commission take no further action with respect to this matter and close the file.

Staff Assigned: Kenneth E. Kellner and Delanie Dewitt Painter

9504367 1068

31. On July 20, 1994, MUR 3516 was merged with MUR 4013. In MUR 3516, which arose out of a RAD referral, the Commission found reason to believe that National Freedom PAC committed reporting violations.

V. RECOMMENDATIONS

Take no further action, close the file and approve the appropriate letters in the following matters:

1) MUR 2984
2) MUR 3182
3) MUR 3228
4) MUR 3787
5) MUR 3973
6) MUR 4013

9504367110 69

9504367107 0

With regard to MUR 3492:

1) Accept the attached conciliation counteroffer.

2) Close the file.

3) Approve the appropriate letter.

4) Approve the appropriate letters.

4/28/95
Date

Lawrence M. Noble
General Counsel

Staff Assigned

Staff members assigned to each of the potentially affected matters prepared their respective case discussions; the PFESP cases were coordinated by Jim Portnoy; Tracey Ligon drafted the legal section; and Colleen Sealander combined the parts into one document.

9504367107 1

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) Multiple MURS
28 U.S.C. § 2462)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on May 16, 1995, do hereby certify that the Commission took the following actions with respect to the above-captioned matter:

1. Decided by a vote of 6-0 to take no further action, close the file and approve the appropriate letters in the following matters.

   MUR 3182
   MUR 3228
   MUR 3973
   MUR 4013

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

2. Decided by a vote of 5-0 to take no further action, close the file and approve the appropriate letters in the following matters:

   MUR 2984
   MUR 3787

   Commissioners Aikens, Elliott, McDonald, McGarry, and Thomas voted affirmatively for the decision. Commissioner Potter recused himself with respect to these matters and was not present during their consideration.

Attest:

5-18-95
Date

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

9504367102

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 29, 1995

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. John R. Lair
P.O. Box 306
Atkins, AR 72823

RE: MUR 2984

Dear Mr. Lair:

On March 21, 1988, the Federal Election Commission received your complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended ("the Act"). On August 30, 1988, the Commission found reason to believe that the National Association of Real Estate Appraisers ("NAREA") violated 2 U.S.C. § 441b(a). On that same date, the Commission determined that there was reason to believe E. Kenneth Twichell violated 2 U.S.C. §§ 441d(a) and 441a(a)(1)(A). Additionally, on September 19, 1989, the Commission found reason to believe Robert Johnson violated 2 U.S.C. §§ 441f and 441b(a). Also on that date, the Commission found reason to believe that the National Association of Review Appraisers and Mortgage Underwriters ("NARA/MU") and International Association Managers ("IAM") and NAREA, each violated 2 U.S.C. §§ 441f and 441b(a). Moreover, on March 26, 1991, the Commission determined that there was reason to believe the International Real Estate Institute ("IREI") as well as Todd Publishing, Inc., knowingly and willfully violated 2 U.S.C. §§ 441f and 441b(a) and that Timothy Cloud violated 2 U.S.C. § 441f. Also on March 26, 1991 the Commission found reason to believe Professional Women's Appraisal Association ("PWAA") knowingly and willfully violated 2 U.S.C § 441b(a).

After an investigation was conducted, on January 14, 1992, the Federal Election Commission found probable cause to believe that Robert G. Johnson, National Association of Real Estate Appraisers, Inc., Todd Publishing, Inc., E. Kenneth Twichell, and International Real Estate Institute, Inc., knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f. On that same date, the Commission found probable cause to believe that the National Association of Review Appraisers and Mortgage Underwriters, Inc., and Professional Women's Appraisal Association, Inc., knowingly and willfully violated 2 U.S.C. § 441b(a). The Commission then referred Robert G. Johnson, E. Kenneth Twichell and the above-referenced corporations to the Department of Justice for criminal prosecution. The Department of Justice successfully prosecuted Messrs. Johnson and Twichell,

95043671073

and also Timothy Cloud, for criminal violations of the Act as well as subsequent actions they took to interfere with the Commission's investigation.

Following the criminal prosecutions, and after considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no further action against respondents. See attached narrative. Accordingly, the Commission closed its file in this matter on May 16, 1995. This matter will become part of the public record within 30 days. The Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

If you have any questions, please contact me at (800) 424-9530.

Sincerely,

Erik Morrison

Erik Morrison
Staff Member

Attachment
Narrative

95043671074

MUR 2984 (Robert Johnson et al.)

This matter involves 1988 corporate fundraising mailings for the 1988 Bush/Quayle campaign and a pattern of contributions made in the name of another, resulting in knowing and willful probable cause findings for violations of 2 U.S.C. §§ 441f, 441b(a), and 441d(a) against the individual and corporate actors.

Of the respondents still open in the matter, Robert G. Johnson and E. Kenneth Twichell were formally referred to the Department of Justice for criminal prosecution; Mr. Johnson pled guilty to felony perjury for lying under oath in a Commission deposition and Mr. Twichell pled guilty to obstructing the Commission's investigation. The corporate respondents, all closely tied to Mr. Johnson, were neither pursued nor prosecuted during the criminal proceeding. As this Office has reported, Mr. Johnson's remaining sentence was stayed based on NRA arguments. No action has taken place since the Supreme Court dismissed the Commission's appeal in NRA, and whether Mr. Johnson will have to serve the balance of his sentence is still unclear.

All of the transactions underlying FECA liability date from 1988, thus posing an obstacle under 28 U.S.C. § 2462 in the event the Commission chose to litigate this matter to obtain civil penalties. The Commission found probable cause in January of 1992, but then referred the matter to the Department of Justice, and resumed proceedings in late 1993 after resolution of the criminal proceedings. Prosecutorial discretion strongly counsels against further pursuing the remaining respondents in this matter. The age of the activity as compared to other pending matters, and the desirability of making public the Commission's initiating role in the prosecution of Mr. Johnson argue in favor of closing this matter.

For the reasons outlined above, this Office recommends the Commission take no further action with respect to the remaining respondents in this matter and close the file.

Staff Assigned: Jonathan Bernstein and Colleen Sealander

9504367107 5

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

June 29, 1995

Mr. William Whitfield
Compliance Officer
Employment Standards Administration
U.S. Department of Labor
3221 North 16th Street, #301
Phoenix, AZ 95016

RE: MUR 2984
Robert Johnson, National
Association of Real
Estate Appraisers, et al.

95043671076

Dear Mr. Whitfield:

This is in reference to the matter which your office referred to the Federal Election Commission on July 18, 1989, involving Robert Johnson, International Association Managers, Inc., National Association of Real Estate Appraisers and Mortgage Underwriters, International Real Estate Institute, Professional Womens Appraisal Association, and Todd Publishing. On August 30, 1988, the Commission found reason to believe that the National Association of Real Estate Appraisers ("NAREA") violated 2 U.S.C. § 441b(a). On that same date, the Commission determined that there was reason to believe E. Kenneth Twichell violated 2 U.S.C. §§ 441d(a) and 441a(a)(1)(A). Additionally, on September 19, 1989, the Commission found reason to believe Robert Johnson violated 2 U.S.C. §§ 441f and 441b(a). Also on that date, the Commission found reason to believe that the National Association of Review Appraisers and Mortgage Underwriters ("NARA/MU") and International Association Managers ("IAM") and NAREA, each violated 2 U.S.C. §§ 441f and 441b(a). Moreover, on March 26, 1991, the Commission determined that there was reason to believe the International Real Estate Institute ("IREI") as well as Todd Publishing, Inc., knowingly and willfully violated 2 U.S.C. §§ 441f and 441b(a), and that Timothy Cloud violated 2 U.S.C. § 441f. Also on March 26, 1991 the Commission found reason to believe Professional Women's Appraisal Association ("PWAA") knowingly and willfully violated 2 U.S.C § 441b(a).

On January 14, 1992, the Federal Election Commission found probable cause to believe that Robert G. Johnson, National Association of Real Estate Appraisers, Inc., Todd Publishing, Inc., E. Kenneth Twichell, and International Real Estate Institute, Inc., knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f. On that same date, the Commission found probable cause to believe that the National Association of

Review Appraisers and Mortgage Underwriters, Inc., and Professional Women's Appraisal Association, Inc., knowingly and willfully violated 2 U.S.C. § 441b(a). In addition, the Commission referred the matter to the Department of Justice which successfully prosecuted Messrs. Johnson, Twichell and Cloud for criminal violations of the Act as well as actions relating to the Commission's investigation.

Following the criminal prosecutions, and after considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no further action against the respondents. See attached narrative. Accordingly, the Commission closed its file in this matter on May 16, 1995. This matter will become a part of the public record within 30 days.

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 Erik Morrison, the staff member assigned to this matter, at (202) 219-3690.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Attachment
Narrative

9504367110 77

MUR 2984 (Robert Johnson et al.)

This matter involves 1988 corporate fundraising mailings for the 1988 Bush/Quayle campaign and a pattern of contributions made in the name of another, resulting in knowing and willful probable cause findings for violations of 2 U.S.C. §§ 441f, 441b(a), and 441d(a) against the individual and corporate actors.

Of the respondents still open in the matter, Robert G. Johnson and E. Kenneth Twichell were formally referred to the Department of Justice for criminal prosecution; Mr. Johnson pled guilty to felony perjury for lying under oath in a Commission deposition and Mr. Twichell pled guilty to obstructing the Commission's investigation. The corporate respondents, all closely tied to Mr. Johnson, were neither pursued nor prosecuted during the criminal proceeding. As this Office has reported, Mr. Johnson's remaining sentence was stayed based on NRA arguments. No action has taken place since the Supreme Court dismissed the Commission's appeal in NRA, and whether Mr. Johnson will have to serve the balance of his sentence is still unclear.

All of the transactions underlying FECA liability date from 1988, thus posing an obstacle under 28 U.S.C. § 2462 in the event the Commission chose to litigate this matter to obtain civil penalties. The Commission found probable cause in January of 1992, but then referred the matter to the Department of Justice, and resumed proceedings in late 1993 after resolution of the criminal proceedings. Prosecutorial discretion strongly counsels against further pursuing the remaining respondents in this matter. The age of the activity as compared to other pending matters, and the desirability of making public the Commission's initiating role in the prosecution of Mr. Johnson argue in favor of closing this matter.

For the reasons outlined above, this Office recommends the Commission take no further action with respect to the remaining respondents in this matter and close the file.

Staff Assigned: Jonathan Bernstein and Colleen Sealander

9504367107 8

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 29, 1995

Stuart Goldberg
Public Integrity Section
Criminal Division
U.S. Department of Justice
12100 Bond Building
1400 New York Avenue, N.W.
Washington, D.C. 20005

RE: MUR 2984
Robert Johnson, National
Association of Real
Estate Appraisers, et al.

Dear Mr. Goldberg:

On January 14, 1992, the Commission referred this matter to your office. This is to advise you that this matter is now closed. The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Erik Morrison

Erik Morrison
Staff Member

9504367107 9

FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

June 29, 1995

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

RE: MUR 2984
Robert G. Johnson; National Association of Real Estate Appraisers, Inc.; National Association of Review Appraisers and Mortgage Underwriters, Inc.; International Real Estate Institute, Inc.; Todd Publishing, Inc.; Professional Women's Appraisal Association, Inc.; International Association Managers, Inc.

Dear Mr. Gross:

On August 30, 1988, the Commission found reason to believe that the National Association of Real Estate Appraisers ("NAREA") violated 2 U.S.C. § 441b(a). Additionally, on September 19, 1989, the Commission found reason to believe Robert Johnson violated 2 U.S.C. §§ 441f and 441b(a). Also on that date, the Commission determined that the National Association of Review Appraisers and Mortgage Underwriters ("NARA/MU"), the International Association Managers ("IAM") and NAREA violated 2 U.S.C. §§ 441f and 441b(a). Moreover, on March 26, 1991, the Commission determined that there was reason to believe the International Real Estate Institute ("IREI") as well as Todd Publishing, Inc., knowingly and willfully violated 2 U.S.C. §§ 441f and 441b(a). Also on March 26, 1991 the Commission found reason to believe Professional Women's Appraisal Association ("PWAA") knowingly and willfully violated 2 U.S.C § 441b(a).

On January 14, 1992, the Federal Election Commission found probable cause to believe that Robert G. Johnson, National Association of Real Estate Appraisers, Inc., Todd Publishing, Inc., and International Real Estate Institute, Inc., knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f. On that same date, the Commission found probable cause to believe that the National Association of Review Appraisers and Mortgage

9504367100 80

Underwriters, Inc., and Professional Women's Appraisal Association, Inc., knowingly and willfully violated 2 U.S.C. § 441b(a). Following the D.C. Circuit's decision in FEC v. NRA Political Victory Fund, 6 F.3d 821 (D.C. Cir.), petition for cert. dismissed for want of jurisdiction, 115 S.Ct. 537 (1994) declaring the Commission to be unconstitutional as then-structered, the Commission reconstituted itself as a six-member body and, on January 10, 1994, ratified its previous reason to believe findings and revoted its probable cause to believe determinations with respect to your clients.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no further action against respondents. See attached narrative. Accordingly, the Commission closed its file in this matter on May 16, 1995.

The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receipt of your additional materials, any permissible submissions will be added to the public record when they are received.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Erik Morrison

Erik Morrison
Staff Member

Attachment
Narrative

9504367108 1

MUR 2984 (Robert Johnson et al.)

This matter involves 1988 corporate fundraising mailings for the 1988 Bush/Quayle campaign and a pattern of contributions made in the name of another, resulting in knowing and willful probable cause findings for violations of 2 U.S.C. §§ 441f, 441b(a), and 441d(a) against the individual and corporate actors.

Of the respondents still open in the matter, Robert G. Johnson and E. Kenneth Twichell were formally referred to the Department of Justice for criminal prosecution; Mr. Johnson pled guilty to felony perjury for lying under oath in a Commission deposition and Mr. Twichell pled guilty to obstructing the Commission's investigation. The corporate respondents, all closely tied to Mr. Johnson, were neither pursued nor prosecuted during the criminal proceeding. As this Office has reported, Mr. Johnson's remaining sentence was stayed based on NRA arguments. No action has taken place since the Supreme Court dismissed the Commission's appeal in NRA, and whether Mr. Johnson will have to serve the balance of his sentence is still unclear.

All of the transactions underlying FECA liability date from 1988, thus posing an obstacle under 28 U.S.C. § 2462 in the event the Commission chose to litigate this matter to obtain civil penalties. The Commission found probable cause in January of 1992, but then referred the matter to the Department of Justice, and resumed proceedings in late 1993 after resolution of the criminal proceedings. Prosecutorial discretion strongly counsels against further pursuing the remaining respondents in this matter. The age of the activity as compared to other pending matters, and the desirability of making public the Commission's initiating role in the prosecution of Mr. Johnson argue in favor of closing this matter.

For the reasons outlined above, this Office recommends the Commission take no further action with respect to the remaining respondents in this matter and close the file.

Staff Assigned: Jonathan Bernstein and Colleen Sealander

9504367108 2

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 29, 1995

Mr. Joel D. Sacks, Esq.
4645 S. Lakeshore Drive
Suite 8
Tempe, AZ 85282

RE: MUR 2984
E. Kenneth Twichell

Dear Mr. Sacks:

On August 30, 1988, the Federal Election Commission ("Commission") found reason to believe that your client, E. Kenneth Twichell, violated 2 U.S.C. §§ 441d(a) and 441a(a)(1)(A). On January 14, 1992, the Federal Election Commission found probable cause to believe that Mr. Twichell knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f. Following the D.C. Circuit's decision in FEC v. NRA Political Victory Fund, 6 F.3d 821 (D.C. Cir.), petition for cert. dismissed for want of jurisdiction, 115 S.Ct. 537 (1994) declaring the Commission to be unconstitutional as then-structered, the Commission reconstituted itself as a six-member body and, on January 10, 1994, ratified its previous reason to believe findings and revoted its probable cause to believe determinations with respect to Mr. Twichell.

After considering the circumstances of this matter, however, the Commission in an exercise of its prosecutorial discretion determined to take no further action against your client, and closed its file in this matter on May 16, 1995. See attached narrative.

The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receipt of your additional

9504367110 83

materials, any permissible submissions will be added to the public record when they are received.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Erik Morrison

Erik Morrison
Staff Member

Attachment
Narrative

9504367110084

MUR 2984 (Robert Johnson et al.)

This matter involves 1988 corporate fundraising mailings for the 1988 Bush/Quayle campaign and a pattern of contributions made in the name of another, resulting in knowing and willful probable cause findings for violations of 2 U.S.C. §§ 441f, 441b(a), and 441d(a) against the individual and corporate actors.

Of the respondents still open in the matter, Robert G. Johnson and E. Kenneth Twichell were formally referred to the Department of Justice for criminal prosecution; Mr. Johnson pled guilty to felony perjury for lying under oath in a Commission deposition and Mr. Twichell pled guilty to obstructing the Commission's investigation. The corporate respondents, all closely tied to Mr. Johnson, were neither pursued nor prosecuted during the criminal proceeding. As this Office has reported, Mr. Johnson's remaining sentence was stayed based on NRA arguments. No action has taken place since the Supreme Court dismissed the Commission's appeal in NRA, and whether Mr. Johnson will have to serve the balance of his sentence is still unclear.

All of the transactions underlying FECA liability date from 1988, thus posing an obstacle under 28 U.S.C. § 2462 in the event the Commission chose to litigate this matter to obtain civil penalties. The Commission found probable cause in January of 1992, but then referred the matter to the Department of Justice, and resumed proceedings in late 1993 after resolution of the criminal proceedings. Prosecutorial discretion strongly counsels against further pursuing the remaining respondents in this matter. The age of the activity as compared to other pending matters, and the desirability of making public the Commission's initiating role in the prosecution of Mr. Johnson argue in favor of closing this matter.

For the reasons outlined above, this Office recommends the Commission take no further action with respect to the remaining respondents in this matter and close the file.

Staff Assigned: Jonathan Bernstein and Colleen Sealander

9504367 1085

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 29, 1995

Timothy Mark Cloud
20627 N. 35th Avenue
Glendale, AZ 85308

RE: MUR 2984

Dear Mr. Cloud:

This is to advise you that this matter is now closed. The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public.

Although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receipt of your additional materials, any permissible submissions will be added to the public record when received.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Erik Morrison

Erik Morrison
Staff Member

9504367108 6

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

June 29, 1995

Mark A. Krull, Esq.
Merchant & Gould
1000 Norwest Center
55 East Fifth Street
Saint Paul, MN 55101-2701

RE: MUR 2984
Stephen Schneck, Mary Schneck, John Steensland Tamara Twichell, Todd Johnson

Dear Mr. Krull:

This is to advise you that this matter is now closed. The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public.

Although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receipt of your additional materials, any permissible submissions will be added to the public record when received.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Erik Morrison

Erik Morrison
Staff Member

9504367110087

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 29, 1995

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

RE: MUR 2984
George Bush,
George Bush for
President and
Stan Huckaby, as
treasurer

Dear Mr. Baran:

This is to advise you that this matter is now closed. The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public.

Although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receipt of your additional materials, any permissible submissions will be added to the public record when received.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Erik Morrison

Erik Morrison
Staff Member

9504367103 8

OGC 6879

TRANSCRIPT OF PROCEEDINGS

UNITED STATES OF AMERICA

BEFORE THE

FEDERAL ELECTION COMMISSION

- -x

IN RE:

M U R 2984

- -x

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 JUL -9 AM 10: 13

9504367 0089

DEPOSITION OF TIMOTHY M. CLOUD

Phoenix, Arizona

Wednesday, June 20, 1990

ACE-FEDERAL REPORTERS, INC.
Stenotype Reporters
444 North Capitol Street
Washington, D.C. 20001
(202) 347-3700
Nationwide Coverage
800-336-6646

43191.0

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of:)
)
) MUR 2984
)
)
)

DEPOSITION OF TIMOTHY M. CLOUD

Phoenix, Arizona
June 20, 1990
10:00 a.m.

COPY

KENT L. CARTER, RPR, CM
Court Reporter

9504390090

I N D E X

WITNESS	PAGE
TIMOTHY M. CLOUD	
Examination by Mr. Raich	4

EXHIBITS	DESCRIPTION	MARKED
No. 1	Subpoena	47
No. 2	Deposit Slip and Check	47
No. 3	Check	47
No. 4	Subpoena to Produce Documents 11-89	51
No. 5	Subpoena to Produce Documents 2-90	51
No. 6	Letter from Twichell 2-4-88	71
No. 7	Statement, NAREA to Twichell 3-88	77
No. 8	Bank Statements	110

9504367 10091

The deposition of TIMOTHY M. CLOUD was taken before Kent L. Carter, RPR, CM, a Notary Public in and for the County of Maricopa, State of Arizona, at the Federal Building, 230 North First Avenue, Room 3449, Phoenix, Arizona 85025, on the 20th day of June, 1990, beginning at the hour of 10:00 a.m.

APPEARANCES:

For the Federal Election Commission:

ROBERT A. RAICH, ESQ.
Attorney
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

JONATHAN A. BERNSTEIN, ESQ.
Assistant General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

For the Deponent:

TEILBORG, SANDERS & PARKS, P.C.
3030 North Third Street
Suite 1300
Phoenix, Arizona 85012
BY: BRUCE A. PELKEY, ESQ.

9504367 0092

TIMOTHY M. CLOUD,

after being first duly sworn by the Notary,

was examined and testified as follows:

MR. RAICH: This is a deposition pursuant to subpoena of the Federal Election Commission and a stipulation signed by the deponent's attorney. This is part of an investigatory administrative investigation being conducted in accordance with 2 U.S.C. Section 437g. Tim Cloud is appearing as a nonrespondent witness.

E X A M I N A T I O N

BY MR. RAICH:

Q. Please state your full name.

A. Timothy Mark Cloud.

Q. Have you ever had your deposition taken before?

A. No.

Q. All right, I am going to ask you a series of questions. If at any time you don't understand the question, just say so and I'll be happy to try to rephrase it.

A. Okay.

9504367 0093

Q. If at any time you don't tell me that you don't understand the question, I will assume you do understand the question and that your answer is responsive. Is that clear?

A. That's clear.

Q. It's necessary that you speak in words, because Kent here is taking down everything that you say.

A. Okay.

Q. And it's hard for him to transcribe gestures or noises.

Is that all right?

A. Um-hum. Yes.

Q. Do you recognize the significance of the oath that you've just taken?

A. Yes.

Q. And do you realize that that is the same significance as if you were testifying before a Judge and a jury?

A. Yes.

Q. Please state your home address.

A. [redacted].

Q. And what is your home telephone number?

A. [redacted]

Q. What is your work address?

A. 8383 East Evans Road, Scottsdale, Arizona 85260.

Q. And what is your work telephone number?

A. 998-2000.

Q. Are you represented by counsel here today?

A. Yes.

Q. And is that Mr. Pelkey sitting here?

A. Yes, it is.

Q. Is Mr. Pelkey representing you personally?

A. Yes.

Q. Has he previously represented you in any other legal matters?

A. No.

Q. How did he come to represent you in this matter?

A. He was referred.

Q. By whom?

A. By Mr. Johnson.

Q. Is that Robert Johnson?

A. Yes.

Q. What did Robert Johnson say about Mr. Pelkey when he referred Mr. Pelkey to you?

9504367 0094

Q. If at any time you don't tell me that you don't understand the question, I will assume you do understand the question and that your answer is responsive. Is that clear?

A. That's clear.

Q. It's necessary that you speak in words, because Kent here is taking down everything that you say.

A. Okay.

Q. And it's hard for him to transcribe gestures or noises.

Is that all right?

A. Um-hum. Yes.

Q. Do you recognize the significance of the oath that you've just taken?

A. Yes.

Q. And do you realize that that is the same significance as if you were testifying before a Judge and a jury?

A. Yes.

Q. Please state your home address.

A. [redacted]

Q. And what is your home telephone number?

9504 36 21094

A. [redacted]

Q. What is your work address?

A. 8383 East Evans Road, Scottsdale, Arizona 85260.

Q. And what is your work telephone number?

A. 998-2000.

Q. Are you represented by counsel here today?

A. Yes.

Q. And is that Mr. Pelkey sitting here?

A. Yes, it is.

Q. Is Mr. Pelkey representing you personally?

A. Yes.

Q. Has he previously represented you in any other legal matters?

A. No.

Q. How did he come to represent you in this matter?

A. He was referred.

Q. By whom?

A. By Mr. Johnson.

Q. Is that Robert Johnson?

A. Yes.

Q. What did Robert Johnson say about Mr. Pelkey when he referred Mr. Pelkey to you?

9504367095

A. Said he was a fine lawyer.

Q. Anything else?

A. Basically that's all I recall, yes.

Q. Who have you talked to about this deposition?

MR. PELKEY: I am going to object on the basis that it's vague. Do you mean, counsel, do you mean other -- the respondents? Could you clarify it a little bit?

Q. BY MR. RAICH: Have you talked to your counsel about this deposition?

A. Yes.

Q. Have you talked to anybody else about this deposition?

A. Yes.

Q. Who are the other people you talked to about this deposition?

A. Robert Johnson.

Q. Anyone else?

A. No.

Q. What did you talk about with Mr. Johnson concerning this deposition?

A. Just my involvement.

Q. How many times have you talked to Mr. Johnson

9504367 0995

about this deposition?

A. Oh, I don't recall.

Q. Was it several times?

A. No, probably a couple times. Few times. Just basically whenever we were -- when we came down here the previous time, our conversation we had here.

Q. When was the last time you talked to Robert Johnson about this deposition?

A. Oh, week ago when I had to tell him that I would be gone today, this morning.

Q. What did he say about that?

A. Said that was fine.

Q. Did he say anything else about the deposition?

A. No.

Q. Did you say anything else about the deposition?

A. No.

Q. Did you discuss what you'd be talking about at the deposition?

A. No.

Q. When was the time before that that you had talked to Robert Johnson about the deposition?

A. When we appeared here in April.

9504367 10096

Q. And when was the time before that that you talked to him about the deposition?

A. When I received a phone call from yourself.

Q. And what did you tell Robert Johnson then?

A. I told him basically what you told me, that he was under investigation and that I was a witness in it.

Q. And did he respond at all?

A. I can't recall what was said. It wasn't -- nothing that was earth shattering or anything.

Q. Did you discuss what you would be talking about at a deposition?

A. Oh, no.

Q. And was that the first time that you talked to Robert Johnson about this deposition?

A. Yes, that's the first first I knew about it.

Q. You mentioned there was that time when you were here at the courthouse before. What did you talk to Robert Johnson about at that time concerning the deposition?

A. Basically what I should do at that point. I was going to be out of town the following three days and I didn't know about the deposition until the Saturday morning before it was taken, and plans had already been made for me

9504367 1097

to be out of town. Flight arrangements, hotel.

Q. Did you discuss what you would be saying in the deposition at all?

A. No.

Q. And just so I can clarify, there was nobody else present when you were talking to Robert Johnson at that time?

A. No, my legal counsel and his legal counsel, it was in the hall.

Q. Was Ken Twichell present?

A. I really don't recall. I don't remember if he was or not.

Q. And those are the only times you've talked to anybody but counsel about this deposition; is that correct?

A. Correct.

Q. Now, other than the discussions you had about your deposition, have you talked to anybody about this investigation the Federal Election Commission is conducting?

A. My girlfriend.

Q. What's her name?

A. Shonn Fitzgerald.

MR. PELKEY: S-H-O-N-N.

9504367 0098

A. Yeah, it's a rare spelling.

MR. PELKEY: It really is.

Q. BY MR. RAICH: And what did you tell her about the investigation?

A. Oh, basically that I was just involved in it. Not too -- and, you know -- a subpoena came and stuff like that. Nothing regarding the actual events or anything.

Q. And what did she say?

A. I don't recall. It was just supportive-type stuff.

Q. And have you only talked to her about it once or were there numerous times?

A. Well, like this morning I told her that I was going. She knew that I was going. You know, stuff like that. Nothing pertaining to the deposition itself.

Q. And other than her did you speak to anybody else about this investigation?

A. No. Not that I recall.

Q. Have you heard anybody else talk about this investigation?

A. At -- from what point? I don't understand the question, I guess.

9504362 0099

Q. Have you ever been present when you overheard other people discussing this investigation by the Federal Election Commission?

A. No.

Q. Have you ever read anything about this investigation?

A. Other than my deposition -- or my subpoenas, no. And what was supplied to me by Mr. Pelkey. Concerning conversations between your office and his office.

Q. Did Mr. Pelkey supply you with anything other than conversations with our office?

A. Regarding --

Q. Regarding this investigation.

A. No. Just -- just what concerned me.

Q. What concerned you in the context of this deposition; correct?

A. Exactly. And the proceedings of the -- up to the deposition.

Q. All right. What is your occupation?

A. I'm a computer operations manager.

Q. And who is your employer?

A. Robert Johnson.

9504367.100

Q. Do you work for anybody else?
A. Ken Twichell is the office manager, as such.
Q. Do you work for any organization?
A. I work for an association management firm, yes.
Q. What is its name?
A. IAMI, International Association Managers, Incorporated.
Q. Do you work for any other organization?
A. We manage several different associations. From a central location.
Q. Are your paychecks written by the Association?
A. Um-hum. Yes.
Q. Or by Robert Johnson?
A. By the Association.
Q. What position do you hold for Robert Johnson?
A. Computer Operations Manager.
Q. Is that the same position you hold for the associations you work for?
A. Yeah.
Q. When did you start working for Robert Johnson?
A. Oh --
MR. PELKEY: I'm just going to object at this

9504367 1101

point just for the point of clarification. And hopefully we can clarify this by me asking this question. Are you actually employed by Mr. Johnson or by the Association?

A. By the Association.

MR. PELKEY: Okay. So I think the question probably should be directed to that. Because I just don't want to get confused between whether Robert Johnson employs him or the Association employs him.

A. Yes. Robert Johnson is the Executive Director of the Association Managers.

Q. BY MR. RAICH: He runs the IAM, Inc.; is that correct?

A. He is the Executive Director, yes. I'm not a personal employee of his.

Q. You mentioned that you also worked for Ken Twichell.

A. Work with Ken Twichell, yes. Clarify that.

Q. Do you work for only IAM, Inc., or do you work as an employee for the other associations in that same location?

A. Well, IAMI manages the other associations; so in that respect, yes, I guess I work for all the associations.

9504367102

But I actually am employed by IAMI.

Q. When did you start working for IAMI?

A. I believe March of '87. Or May of '87, excuse me.

Q. Who did you work for before May of '87?

A. A company called Compuspec, C-O-M-P-U-S-P-E-C.

Q. And when did you stop working for them?

A. A week before I started with IAMI.

Q. Now, when you originally started working for an entity controlled by Robert Johnson, was it really IAMI or was it some other entity?

A. Not at that time, it was NAREA.

Q. What does that stand for?

A. National Association of Real Estate Appraisers.

Q. How long was NAREA your employer?

A. Oh, I can't say for sure, I don't -- I would say -- I -- this is a guess -- June of '89.

Q. But you're not sure about that?

A. I'm not -- no. No. Not at all.

Q. How did it happen that at one time you worked for NAREA and then subsequently started working for IAMI?

A. It was just they -- I don't -- I can't answer

9504367 103

that, I don't know. They decided to manage several different associations under one -- one management association. That's the best I can explain that, I don't really -- I'm not familiar with the workings of how it came about.

Q. All you knew that at one point you had a new entity that you worked for; is that right?

A. Right. That managed all the associations instead of working for one particular one.

Q. All right. What are the associations that IAMI manages?

A. This could take a while. NAREA; NARA slash MU.

Q. What does that stand for?

A. National Association of Review Appraisers and Mortgage Underwriters.

Q. All right.

A. IREI.

Q. Stands for?

A. International Real Estate Institute.

Q. All right.

A. And NSAA, and that stands for National Surgical Assistants Association. And ISMP, which is International

9504367.104

Society of Meeting Planners.

Q. Any others?

A. Not that I -- oh, TOMA. T-O-M-A, which is Travel Owners and Managers Association International, I believe, on the end.

Q. Any others?

A. No.

Q. Is there a professional women's association?

A. Oh, yes. PWAA. Professional Women's Appraisal Association.

Q. Are you familiar with Relocation Management Network?

A. Yes.

Q. Is that also one of the entities?

A. We do a directory, yeah. NIRD, National International Relocation Directory.

Q. N-I --

A. R-D.

Q. R-D.

MR. PELKEY: Got some great names.

A. Really. I like that one, too.

Q. BY MR. RAICH: So just let me sum these up, if I

9504367 105

can make sure I have them all.

A. Okay.

Q. We have IAMI, which controls all of the -- which manages -- would that be correct to say -- all the following entities?

A. Right.

Q. All right. NAREA, NAR/MU, IREI, NSAA, ISMP, TOMA, PWAA, and NIRD.

A. Correct.

Q. Are there any others other than the ones I mentioned on that list?

A. No. Not under IAMI. That I'm aware of. Or that I deal with, I guess.

Q. Are there other entities that IAMI manages that you don't deal with?

A. Not that I'm aware of, no.

Q. What I'd like to do is go through each of these organizations, and if you could explain what its business is. All right? Why don't we start with IAMI.

MR. PELKEY: Let me just object at this point; and I am not going to interfere with your questioning of him, I just object on the basis of relevancy. I'm not sure

9504367 1106

what his connection with this investigation or his personal knowledge with respect to each of these organizations does has any relevancy to his deposition. But you can go ahead and ask the questions.

Q. BY MR. RAICH: All right. You can answer.

A. It manages the following -- the associations mentioned.

Q. Does it do anything other than manage those associations?

A. Not that I'm aware of.

Q. When you say it manages the associations, what specifically does that mean?

A. It means that we manage, we take care of their membership, we generate letters to members, we solicit for new membership, we -- well, that's all within the other. But what we do is just keep it all under one roof, so to speak, and handle everything from one central location instead of having seven or eight different locations with seven or eight different staffs involved.

Q. Is IAMI the only entity that pays the paychecks for employees?

A. Yes. Yes.

5043911107

Q. Is IAMI the entity that pays the rent on the headquarters building?

A. I couldn't tell you that, I don't have any idea.

Q. Is IAMI the entity that hires and fires employees?

A. I have not -- I couldn't -- I don't know.

Q. Does IAMI have any members of its own?

A. No.

Q. How many employees does IAMI have?

A. I would say 22, rough guess. Maybe more, maybe less. I don't know.

Q. All right. Looking now at NAREA, what is its business?

A. It's a real estate appraisers association, national level. They have members all throughout the nation and into Canada; and they put on seminars, maintain memberships, keep them updated on State and federal legislation regarding real estate appraising; and basically it, as far as I know.

Q. Do you know how many members it has?

A. Over 26,000, I believe, at this time.

Q. Has it grown in the past couple of years?

9504367-108

A. Yes.

Q. How many members did it have, say, in 1988?

A. Oh, this is a total guess, 17,000.

Q. So in any case, as far as you know, it grew significantly --

A. There's the -- yeah.

Q. -- during that time?

A. Not in any jumps or anything, just a steady growth.

Q. Does NAREA have any employees of its own?

A. I don't know.

Q. Looking now at NARA slash MU.

A. Um-hum.

Q. What is its business?

A. It deals mainly with the underwriters and review appraisers, same principle, send out -- we put on seminars, send out information on their particular environment. Maintain their membership database.

Q. Anything else?

A. Basically the same thing as NAREA, only on a different profession.

Q. And that would be mortgage underwriters versus

9504367 1106

real estate appraisers?

A. Right.

Q. Approximately how many members does it have?

A. 7,000, I think, estimate.

Q. Has it grown at all recently?

A. That's substantially slower, it's a smaller group of professionals. I don't know if it's even grown. If it has, it's been, you know, not major steps, not thousands or anything like that; been pretty stable over the years.

Q. As far as you know, it also doesn't have any employees of its own; does it?

A. Not that I know of, no. I'm not really familiar with that end of the situation.

Q. You mean the employment?

A. Employees, who belongs to what organization. I really am not involved.

Q. As far as you know, none of the other organizations you mentioned have any of their own employees?

A. That's right.

Q. All right. Looking at IREI, what is its business?

A. They deal with the real estate on an inter-

9504367 0110

national level, which involves buying land in other countries and investments and the whole spectrum of real estate as the investing, you know, that type of thing.

Q. Who are the members of that organization?

A. Investors from England, a lot of foreign members, most of their members are foreign. They are investors that invest in other countries.

Q. How many members does it have?

A. Around 2,000. It's a smaller group yet. It's a more elite group yet. I'm sorry.

Q. Why do you say it's a more elite group? What do you mean by that?

A. Well, international investors, real estate investors are a smaller group, there's not that many people involved in it.

Q. When you say it's an elite group, did you mean the people who are members of it are more wealthy than the other two?

A. I don't know about that, I don't know. They're just -- it's a smaller -- in comparison to real estate appraisals as a whole, you know, real estate investment, investors on an international level are a smaller group.

9504367

Q. Has IREI grown any recently?

A. No, it's stayed pretty stable, too.

Q. All right, moving on to NSAA. What is its business?

A. It basically deals with surgical nursing, nurses, people that are in the operating room on a nursing level. Doing the same thing, informing them of new techniques in the operating room, putting on seminars, keeping them up to date, providing them with information, that sort of thing. Basically the same as all of 'em do. In their given field.

Q. How many members does it have?

A. That I couldn't tell you, because I don't deal with that group; I don't know.

Q. Do you deal with the computer operations for that group?

A. I deal with it, but I couldn't even give you a number, I don't know. I would say a thousand. I could be way off. I don't know. I've never ever -- I got people that work for me that I distribute the smaller organizations to. As far as running jobs or maintaining membership. I couldn't obviously do all of them or I'd be running around all day.

9504367 1112

Q. I see. Would it be fair to say that you do more of the work for the larger organizations such as NAREA and people who work under you do more of the mailing and computer work for the smaller organizations?

A. No, I basically maintain the system -- that's not a fair assumption, because I do work for all of them. But I basically maintain the system, make sure it stays running, stuff like that. I don't -- only reason I cannot give you an exact or a number on that is because I have not had occasion to check the membership to see how large it is at any given time. It's a fairly new organization.

Q. When did it start?

A. I would -- just a guess, I would say eight months ago, six months ago. We took it over.

Q. Had it previously been run by somebody else?

A. It was -- yeah, previously -- once again I'm -- they -- I think the people that started it back in the east coast, they needed better management and we took it over for them.

Q. All right, looking now at ISMP. What is its business?

A. They deal mainly with meeting planners. Doing

9504367 1113

the same thing, providing them with information, seminars, maintaining their membership, making them aware of the meeting planner industry, what's new and happening in their given field.

Q. Do you know how many members it has?

A. It's a new organization. I would say three or 400 right now, it's growing.

Q. When did it start?

A. Just a guess, three, four, five months ago.

Q. All right. And what about TOMA, what is its business?

A. They deal mainly with the travel agency owners and managers doing basically the same thing, keeping them aware of what's going on in travel -- the travel industry. They're a sister organization of ISMP, they work hand in hand.

Q. Did it start at the same time as ISMP?

A. I really don't know for sure.

Q. Do you know how many members TOMA has?

A. No, it's one of them that I don't really deal with. It's fairly new, small.

Q. About when did it start?

9504367 1114

A. Within the last three months, I would say.

Q. And what about PWAA, what is its business?

A. It deals mainly with women appraisal industry, hitting the women of the appraisal field.

Q. Would it be common for people to be members of both PWAA and NAREA?

A. Um-hum, that's not uncommon. It's a very --

MR. PELKEY: You need to say yes.

A. Yes, I'm sorry. I'll try to.

Q. BY MR. RAICH: How many members does PWAA have?

A. I would say estimating, 500.

Q. Has it grown any recently?

A. No. It's been pretty much the same.

Q. All right. Finally looking at NIRD. What is its business?

A. That's a relocation directory. We produce -- they produce a directory to relocation companies or to actually -- I'm not really familiar with that end of it. It's a relocation directory of appraisers, brokers, the whole real estate spectrum that we provide for whoever would need a relocation, or a relocation firm or a relocation broker or a relocation appraiser, you know.

9504367 115

Q. So it doesn't have members; does it?

A. No. It's a directory only.

Q. How often does this directory come out?

A. Once a year, I believe.

Q. Does it get distributed just in the United States or internationally?

A. Internationally.

Q. Do you know about how many issues come out?

A. Not really, no.

Q. Are you familiar with an organization called Todd Publishing?

A. It's a publishing company that we are affiliated with, we use.

Q. When you say we use, do you mean IAMI uses it?

A. Yeah. As well as all these groups obviously, IAMI uses it.

Q. What is its business?

A. That I'm not really for sure on. I don't know.

I mean, they produce books and take care of books relative to the different fields that we're interested in.

Q. Let me see if I can try to understand it a little. Such as, for example, if any of these organizations

9504367 116

are sending out mailings to their members, would Todd Publishing be the entity that actually published the mailing? Is that a fair thing to say?

A. Published the mailings as -- could you explain that a little bit?

Q. Do the printing for it?

A. The actual letters?

Q. Yes.

A. No.

Q. Who would do the actual letters?

A. That would probably -- that would be generated by us, more than likely. By the computer room.

Q. If there is a directory that's published by any of the associations, would Todd Publishing publish that directory?

A. Oh, I don't know. I don't deal with that end of it.

Q. Would it be fair to say that you really don't deal with Todd Publishing too much per se at all?

A. Not me, no.

Q. Do you know who runs Todd Publishing?

A. Todd Johnson, I believe.

9504367 117

Q. Does Robert Johnson control it?

A. I don't have any idea.

Q. Why do you think Todd Johnson controls Todd Publishing?

MR. PELKEY: Objection, calls for speculation.

Q. BY MR. RAICH: Go ahead and answer.

A. I'm assuming -- 'cause I know Todd Johnson runs that particular thing. That's one of his things.

Q. Is that because you know him personally and you know what --

A. Yes, I know him.

Q. -- his work is?

A. I know Todd, yes.

Q. And you have talked to Todd about what his job is?

A. No, he's never ever actually told me yes, I run Todd Publishing; but I just assumed, it was an assumption on my part.

Q. Are you familiar with an organization called Robert Johnson and Associates?

A. I've heard of it, I don't deal with it.

Q. What have you heard about it?

9504367 1118

A. Just I just heard the name.

Q. Do you know if it still exists?

A. Not that I know of. I -- I don't --

Q. Do you mean you don't know one way or the other?

A. I don't know -- yeah.

Q. Do you know if Todd Publishing has any of its own employees?

A. Not -- I don't.

Q. Just to make sure I understand correctly, Robert Johnson is the person who runs all of these organizations, with the exception of Todd Publishing. Is that right, as far as you know?

A. As far as I know he runs IAMI. Actually seeing letterhead with his name on it, it's been NAR/MU is the only one I've seen, as well as IREI. He is Executive Director, I have seen letterhead with his name on those two.

Q. But you know personally that he runs IAMI; is that right?

A. Exactly. He is the Executive Director. As far as I know, yes.

Q. And it's your understanding that the job of Executive Director is the individual who carries on all

9504367 1119

day-to-day operations to make sure --

A. Correct.

Q. -- that the organizations run?

Is that right?

A. Yes.

MR. PELKEY: You have to let him finish his question before you answer, otherwise it's difficult for the court reporter.

A. Okay.

I'm new at this.

MR. PELKEY: No problem.

MR. RAICH: Sure, that's fine.

Q. BY MR. RAICH: Who is next in line in terms of running the organizations after Robert Johnson?

A. I can't answer that for sure, I don't know. There would be -- I don't know.

Q. Does Robert Johnson receive any assistance in running IAMI?

A. I don't know. I mean, we've got three or more managers around the office that handle different aspects. Whether they would be next in line or what they do as far as that goes. I know I manage the computer room and Ken

9504367 120

Twichell manages the NAREA, and Richard Hersch (phonetic) manages ISMP and TOMA.

Q. Anybody else?

A. Basically that's it now.

Q. Does Robert Johnson's wife have a management role in IAMI?

A. Not that I know of. Not that I'm aware of.

Q. Does Todd Johnson have a management role in it?

A. Same, I don't know.

Q. So you report directly to Robert Johnson; is that right?

A. Correct.

Q. But you also report directly to Ken Twichell with regard to NAREA activities; is that correct?

A. Correct.

Q. You don't report directly to Ken Twichell with regard to any other activity?

A. Correct. Yes.

Q. Now, what activities do you engage in in your running of the computer operation?

A. From my point, my job?

Q. Yes.

9504367 121

A. I'm in charge of purchasing and upgrading and maintaining the computer room and the computers throughout the office, everything that has to do with computers. Maintaining the databases, membership databases, seminar databases. Generating letters as a group, the computer room, we generate letters for all the associations. Basically it. As a day-to-day basis.

Q. How many people work under your supervision?

A. I have two full time day people and four night people.

Q. How does that work between the day and the night people?

A. At 5:15 the night shift comes in, and they -- basically they are night keyers, is what we call them; they work four hours a night. Two on Mondays, Wednesdays, and Fridays, and two on Tuesday, Thursday, and Saturday morning, part-time.

Q. And they are keyers?

A. Yeah.

Q. What does that mean?

A. They just key in stuff into the database, whatever needs to be keyed.

9504367 122

Q. Are you there supervising them at that time?

A. No, I'm there when they first come in, get them started; and they're basically on their own after that.

Q. And what do the people who are there in the daytime do?

A. They're operators. They do basically what I ask them to do in helping distribute work. I distribute the work load to them, whatever needs to be done.

Q. What specifically are those jobs that they would do that you would instruct them to do?

A. Oh, maintaining membership files, updating, entering in new members, running solicitations or information requests, or basically it. That covers a wide range.

Q. Do they also run the computers themselves? Or is that your job personally?

A. By running, what do you mean?

Q. Are they the people who program the computers?

A. No. That's all done by myself and an outside programmer.

Q. Are they the people who keep the computers running each day?

9504367 123

A. They're the ones that operate the computers, keying in. If something goes wrong with their computers, then that's definitely my area. They are not computer professionals or anything along that line.

Q. All right. What is your education?

A. Have an associate's degree in computer programming and operation.

Q. And what college did you receive that?

A. Danville Area Community College in Danville, Illinois.

Q. Do you have any higher degree?

A. No.

Q. Have you taken any subsequent seminars or training --

A. Oh, yes.

Q. -- since that time?

A. Over the years, yes.

Q. What year did you receive your degree from Danville College?

A. '86, I believe.

Q. Now, you mentioned that the organizations send out mailings to their members.

9504367 124

A. Correct.

Q. Is there a mailing operation that's going on constantly, almost every day?

A. Oh, yeah. Yes.

Q. And would that be for some of the organizations more than other of the organizations?

A. Not on any given day. It probably evens out in the end. Some days there might be a lot going out to the NAREA, some days there might be a lot going out to IREI, as well as anything else.

Q. About how many mailings can go out on a given day?

A. On a given day, on a full day, a 24-hour period is best explained, about -- I don't know, 15, 20,000 or more. Depending on the complexity of the mailing itself. If I'm just doing -- if the letter has been shot, meaning being printed by an outside printer and all I'm running is labels, I can run 20,000, 30,000 or more in a given 24-hour period.

Q. Would these labels be printed right in your offices?

A. Yes.

9504367125

Q. And you have equipment that will affix labels to envelopes?

A. No, that's all done on an outside basis.

Q. Does IAMI contract with outsiders to put labels on?

A. I don't know if IAMI does it, I think it's done on an individual basis. I could be wrong, I don't deal with that end of it.

Q. As far as you know, somebody else outside of your offices?

A. Exactly, yes. Small jobs are done in-house by employees.

MR. PELKEY: I just wanted to remind you to let him finish the question before you start answering.

A. Okay, fine.

Q. BY MR. RAICH: Do you have any interaction with these outside employees who do things like put labels on?

A. No.

Q. Do you even know how many of them there are?

A. No.

Q. So you would print the labels. Would you actually print the letters themselves?

9504367 1126

A. Sometimes, yes. Depending on the complexity of the job and the size of the job maybe.

Q. Sometimes the organizations would contract out for others to print letters, too; is that right?

A. Yes.

Q. And when that happens you might give an outside printing company a tape with membership record information on it for them to print out letters with; would that be fair to say?

A. No. It would -- what I mean by that is it could be done -- a single, fine, nicely done copy that is instead of having personalized logo and a personalized name at the top, it would say Dear Designated Member or Dear Real Estate Professional; and that would be shot by, you know, any printer, any corner store; you know what I'm talking about?

Q. Sure.

A. Corner printer. Of which I don't know who they use at any given time.

Q. But would it be fair to say that any mailings that are personalized, that actually have the members' name and address listed right on the letter itself, would it be fair to say that those items would be printed by you in

9504367127

house?

A. Printed by the computer room, depending on the size. They could be done by any desk out in the office also, because they have -- each of them has computers, access to databases, and printers right at their desk. Yes.

Q. But in a time when you are printing, say, 20,000 letters in a day, that would all be done on printers under your control rather than printers at people's desks; is that right?

A. Yes, it is.

Q. All right, you were running the computer operations for IAMI in 1988; is that right?

A. I don't believe it was IAMI at that time; but I was running for the associations, yes.

Q. Just to make sure we know what we mean when we say the associations, you mean any of the associations --

A. That's right.

Q. -- you have listed that are now organized by IAMI?

A. Correct.

Q. Do you remember the names of your employees, people who worked under you in 1988?

9504367 1128

A. Not right off the top of my head. At that point we went -- I went through several -- not several, but a few different people at that time. I really couldn't give you any -- I would -- one for sure, yes, Lisa Morgan.

Q. Anyone else you remember?

A. I don't -- no, not without further checking into it.

Q. Okay. Does Lisa Morgan still work for you?

A. Yes.

Q. Is there anybody else who works for you right now who was working for you in 1988?

A. One night keyer.

Q. What is that person's name?

A. Kathy Rispoli, R-I-S-P-O-L-I.

Q. Did you have more employees then than you do now?

A. No.

Q. Did you have fewer employees then than you do now?

A. Yes.

Q. How many employees did you have in 1988 working underneath you?

A. At any given time, two to four.

9504367129

Q. Did you still have it set up the same way that you do now, that is, two people working in the daytime and others at night?

A. Um-hum. Yes.

Q. So when you said any given time there was two to four people working under you, would that mean there were always two regular daytime people who were doing the work for you?

A. No, not on any -- on any given week I might have only had one girl if I was -- if one had quit the week before. We went through three -- three or four girls during a month's time.

Q. I see. There's a lot of high turnover in those jobs; right?

A. Just in -- yeah, right then, at that period.

Q. The 1988 period?

A. Right.

Q. Were there times in 1988 that you didn't have any night keyers working for you?

A. No.

Q. You always had at least one?

A. Yes.

9504362130

Q. And their jobs were basically set up the same way that the day people and the night people's jobs are set up now; is that right?

A. Yes.

Q. You have so many organizations that are sending letters out at the same time it can be complicated keeping track of what's happening with one organization and what's happening with another one; isn't it?

A. Yes. Yes.

Q. Is there a person whose job it is to keep track of what's happening with these various mailings at one time?

A. That would be -- as far as distributing them to the person who gave me the job, that would be me for the most part.

Q. You mean you would receive information that a job needed to be done, correct, and then mail it to somebody else, right, and give it back to somebody else; right?

A. Right. Basically I could -- somebody could type a letter on any given terminal in the building, have it okayed by their supervisor, then relay the job to me with an okay from their supervisor that it was to run, who it was to run to. And I would copy it through the system, maybe not

9504367 11 31

even seeing the letter; but it's all done automatic. I can transfer documents around the office to any given terminal. And return it back to the person that gave it to me, the finished job.

Q. When you say return the finished job, would that be a stack of letters that would all be printed? Is that what kind of finished job you are talking about?

A. Right. Yes. Yes.

Q. Was there anybody whose job it was to be the gatekeeper as to what organization's letters would be printed on one day and what organization's letters would be printed another day?

A. That would just be a distribution -- or a work load scheduling, which would be my responsibility.

Q. Was there anyone whose job it was to contract out with these outside label stickers for one given day versus another given day?

A. That would be whoever gave me the job to begin with, that was their responsibility to have it stuffed, as we call it. With the information.

Q. So what did you call these people who affixed the labels and did the stuffing of the envelopes?

9504367 11 32

A. They were stuffing companies or stuffing individuals, depending on the size of the project. There are companies out there that do that, do nothing but stuffing for all different kinds of companies.

Q. Are these people called stuffers?

A. That's what we call them, yes.

Q. Whose job was it to contact them or contact the stuffing companies?

A. Whoever gave me the job. Assistants, whoever gave me the job, secretaries, depending on who had gave me the job, that's who the job went back to.

Q. Now, back in 1988 do you recall what your income was?

A. Oh, I would say 18. Anywhere from 16 to 18.

Q. Would that be --

A. Thousand per year.

Q. Would that be gross or net?

A. Gross.

Q. And so it was actually even less than that that you actually took home; is that right?

A. Yes. Now, during that period I did -- I started moving up the ladder, as they say. I started out as an

9504367 1133

operator with the Association, which comes in at a base fee.

Q. I see, and you were working for somebody else who now has your job?

A. No. When I came in it was -- it was small enough, I worked for -- yes -- yes -- no, she doesn't work there no longer. I'm sorry. She no longer works there, the girl that trained me, so to speak.

Q. I see. So you came on as one of the operators?

A. Exactly.

Q. And then the person who trained you left; is that right?

A. Yes.

Q. And then you took over her job; is that right?

A. Yes.

Q. During 1988?

A. It was shortly after I started. Be in '87, I guess.

Q. Okay. Did you receive any raises in 1988?

A. Yes.

Q. Have you received any raises since then?

A. Yes.

Q. And what is your income right now approximately?

9504367 1134

A. I would -- as of right this minute?

Q. Yes.

A. [redacted]

Q. Would that be gross?

A. That would be gross, yes.

Q. Now, did you review any documents in preparation for this deposition today?

A. No.

Q. Did you bring any documents with you today?

A. No.

(Exhibit 1 was marked for identification by the Court Reporter.)

Q. BY MR. RAICH: I am showing you what has been marked as Exhibit number 1. Have you ever seen that before?

A. Yes.

(Exhibits 2 and 3 were marked for identification by the Court Reporter.)

Q. BY MR. RAICH: I am showing you what has been marked as Exhibits 2 and 3. Have you seen those before?

A. Yes.

Q. Did you produce Exhibits 2 and 3 in response to the subpoena that is Exhibit 1?

9504367135

A. Yes.

Q. And just flushing this out some, is that because what is Exhibit 3 is a check by you to Presidential Trust Fund all the checks you wrote in 1988 to any candidate or political party; is that right?

A. Yes.

Q. And what has been marked as Exhibit 2 is a check you received in 1988 for that same purpose; is that correct?

MR. PELKEY: I am going to object. For what purpose?

Q. BY MR. RAICH: For the purpose of benefiting a candidate for office or political party.

MR. PELKEY: You are asking if number 2 -- he received number 2 for that purpose?

MR. RAICH: That's right.

A. No.

Q. BY MR. RAICH: I see. Why did you produce Exhibit number 2 in response to the subpoena that is Exhibit number 1?

A. It asked me for all copies of checks received from any source and all checks you wrote in 1988.

Q. The rest of that same sentence you just read, is

9504367 11136

that right, for the purpose of --

A. I also produced a check register, I believe. Not a check register, I'm sorry.

MR. PELKEY: Can we just take a break for just a minute?

MR. RAICH: Sure. Off the record.

(Discussion off the record.)

MR. RAICH: All right, go back on the record.

Q. BY MR. RAICH: Do you want to make a statement, Mr. Cloud?

MR. PELKEY: Let me just clarify hopefully that the -- all of the documents which we sent to the Federal Election Commission were sent in response to a document request. And I'm looking for the -- apparently there have been several of them, but that was the purpose for the production of the documents. They were all produced contemporaneously, not just in response to Exhibit number 1.

MR. RAICH: I see.

Q. BY MR. RAICH: A minute ago you said you produced your check register; is that right?

A. That was a mistake. It was not my register, it was a listing from my bank -- I do not get my canceled

9504367 1137

checks back, I had to go through the bank and get photocopies, of which I sent to you of all my statements.

Q. Bank statements from the bank?

A. My check register does not exist.

Q. Is that because -- do you keep a check register?

A. I do now. At the time it wasn't a big deal, and I've moved twice since then; so I -- I've looked for it trying to, you know, produce it for the dep -- or the subpoena; and I cannot locate it. I think my bank statements more or less I can vouch for everything on it.

Q. Did you keep a check register in 1988?

A. I did. It was a very loose register. My ingoing and outgoing were not large, you know, not a large amount of transactions warranted me keeping it for my own personal records.

Q. Now, specifically looking at the subpoena that is Exhibit number 1, after you received that would you please tell me what efforts you went through to produce the documents that are asked for there?

A. I contacted my bank, and they told me that it would take some time, which I didn't have enough time to be able to -- take more time than it would allow for me to

9504367 1138

produce it at that time. If I remember correctly. This was some time ago.

Q. And the only thing you were trying to get from your bank was what has been marked as Exhibit 3?

A. Yes. As well as -- I think -- correct.

Q. Did you ask your bank to find Exhibit number 2 in response to the subpoena, which is Exhibit 1?

A. No, that was for the second subpoena.

(Exhibits 4 and 5 were marked for identification by the Court Reporter.)

Q. BY MR. RAICH: I am showing you what have been marked as Exhibits 4 and 5. Have you ever seen those before?

(Pause.)

MR. PELKEY: Do you remember his question?

A. I'm sorry?

Q. BY MR. RAICH: Have you ever seen Exhibits 4 and 5 before?

A. I think so, yes.

Q. Now, focusing first of all just on Exhibit 4, what efforts did you make to produce the documents asked for in Exhibit 4?

9504367139

A. I complied with it to the best of my -- best of my ability. The check registers were the only thing I couldn't find.

Q. What else did you do to comply with the subpoena?

A. I contacted my bank.

Q. Anything else?

A. And had them do what they do, they photocopied everything that was requested. I believe.

MR. PELKEY: This is the --

A. Yes, this is just up to June 30.

Q. BY MR. RAICH: If I am understanding, the only effort you made to comply with the subpoena that is Exhibit 4 was to contact your bank; is that right?

A. That was basically my only recourse. And -- well, I searched all my storage in my house and everything I could in my own personal belongings looking for the check registers, but that was basically it. Yes.

Q. Did you look at work anywhere to try to comply with the subpoena?

A. Is this the one that requested letters to members? Yes.

Yes, I did. Of which there are none. We have

9504367 1140

programs to eliminate letters that have been on the system after a certain period of time, otherwise we would use excessive amounts of data storage. I searched; and I'm not saying that any letters were there, I'm just saying that there weren't any there when I was asked to produce any letters.

Q. So you looked in your computer records?

A. That's right.

Q. And you were unable to find any of the letters that are asked for in question 3; is that right?

A. Yes.

Q. How often does this program automatically purge letters that are in files?

A. Documents that have not been accessed for 60 days. Plus there's also manual cleanings that we do on a six-month basis that we can tell when the last time somebody was in a certain document and purge them automatically.

Q. Do you have any hard files that are not in the computer?

A. Not of -- no, not of documents. We keep membership backups, of course. But documents, no.

Q. Do you keep any computer records that are on --

9504367 1141

A. Any means?

Q. By any means other than on line with the computer?

A. Yes, membership databases.

Q. Do you keep backup copies of any letters?

A. No.

Q. On those --

A. No.

Q. Now, moving to Exhibit 5. Can you please tell me what efforts you made to comply with that subpoena?

A. I complied with it. This is the one regarding -- right.

Q. What efforts did you make to comply with it?

A. I contacted my bank once again to get the added, additional information you requested, which was requested. And I again searched again for documents on the system. Hardcopy, whatever.

Q. And did you also search your files at home?

A. Exactly.

Q. About how long do you think you spent looking for all these records?

A. Overall?

9504367 1142

Q. Yes.

A. Oh, at least two days.

Q. When you say two days, do you mean one day after you received Exhibit 4 and another day after you received Exhibit 5?

A. No, I received this in November, and this is a continuation basically saying the same thing only wanting more documents from my financial end to July 1st. Basically everything else was the same. I spent -- when I received the first one, Exhibit 4, I searched -- it took over -- at least 10 days for my bank to comply with this end of it, at which time I also searched the system at work and at my home for any -- for the lost register. And this one.

Q. Now you are pointing to Exhibit 5?

A. Yeah, point -- yeah, Exhibit 5. It took a little less time to get the document from my bank, and I again searched my home and storage area and the system at work.

Q. Okay. Now, focusing on Exhibit 4, you mentioned you searched the files at work, your home, and your storage area. About how much time do you think you spent in that process?

A. At home, two evenings, one at home and one at the

9504367143

storage facility. And at work, approximately two hours.

Q. And with regard to Exhibit 5, approximately how much time do you think you spent searching for records?

A. One -- one evening at home; and I don't know, an hour or so at work. But I couldn't find it the first time around, I couldn't find it the second time, I guess is what I am saying; I didn't spend as much time the second time. I was wanting to be as cooperative as I could on that matter.

Q. Do you remember searching your storage facility to try to come up --

A. My storage facility is at my house.

Q. I see. When you said you spent an evening each trying to comply with Exhibit 4 and Exhibit 5, do you remember about how many hours that was?

A. The first one being Exhibit 4, I searched at least three hours the first night and a couple hours, two hours the second night.

Q. And Exhibit 5?

A. About an hour.

Q. About an hour at home?

A. Yeah. Yes.

Q. Now, are there any documents that are responsive

9504367 1144

to any of these three subpoenas that you have that have not been produced?

A. No.

Q. What kinds of documents do you regularly receive from the associations?

A. Could you explain that?

Q. For example. Do you receive a paycheck from the associations on a regular basis?

A. Yes. No. Excuse me. Not from the associations, but IAMI, the Managers Association.

Q. And with regard to the 1988 calendar period, was that also the case?

A. No. IAMI was not in existence at that time.

Q. Didn't you state earlier that you thought IAMI began about May of 1987?

A. '89.

MR. PELKEY: I think he said he started -- first he started in May of '87, and then you corrected it to March of '87, I think.

A. Vice versa.

Q. BY MR. RAICH: Thank you. So in 1988 who were you receiving paychecks from?

9504367 1145

A. Best of my recollection, NAREA, National Association of Real Estate Appraisers.

Q. And were those actual paper checks?

A. Yes.

Q. And you did not receive electronic fund transfers from them; is that correct?

A. Correct.

Q. How often did you receive a check from your employer?

A. Every two weeks.

Q. Did you receive a stub with those checks?

A. No.

Q. Did you receive a statement with those paychecks?

A. No.

Q. Did you receive a statement from your employer at the end of the year indicating items such as the amount of money you received, the amount of deductions that you had had taken out?

A. Yes.

Q. Other deductions?

A. Yes.

Q. Did you receive such documents at times other

9504367 I 46

than at the end of the year?

A. No.

MR. PELKEY: Excuse me. When you say such a document, you mean a statement of how much he had made?

MR. RAICH: Sure, either year to date.

MR. PELKEY: Like a W-2 kind of form?

A. That was the form I was referring to.

Q. BY MR. RAICH: I see. So you did receive a W-2 form?

A. Yes.

Q. Did you receive -- are you familiar with IRS Forms 1099?

A. I'm not familiar with it.

Q. Is a W-2 form the only form you remember receiving from your employer at the end of the year concerning your salary for '88?

A. '88? No, I received another form for outside work that I had performed.

Q. And was that at the end of the year?

A. That was at the end of the year, um-hum.

Q. Do you remember what that form was?

A. I don't remember the number of the form.

9504367 1147

Q. Was it a tax form?

A. Yes.

Q. You were about to say it might be something?

A. It was -- I was just going to try to explain the form. It was a form -- I'm not familiar with the form. It's a form that was for outside work, of which I had to pay extra tax for. It was like a contract or like if I was employed by myself, I guess was the form. If that helps you out. It could have been the 1099. I'm not for sure on the form.

Q. And did you have to list on your income tax return the amount of income --

A. Oh, yes.

Q. -- that they had listed on this receipt you received?

A. Yes.

Q. Did you ever have to submit check authorization forms to your employer for any of these outside services you performed?

A. Not that I'm aware of, no. I don't understand the question, I guess.

Q. Let me ask it this way. When you performed

9504367 1148

outside services for which you received this statement at the end of the year --

A. Um-hum.

Q. -- did you have to submit a bill or any other form in order to get that check?

A. No.

Q. How many checks did you receive for outside services in 1988?

A. Just one.

Q. And that one check is the check that we see on Exhibit number 2?

A. Yes.

Q. Just to make sure I understand your testimony here, is it that you received no checks from any of the associations in 1988 other than your regular salary every two weeks and this one check listed in Exhibit 2? Is that your testimony?

A. Oh, I might have received other bonuses. But they were included on my W -- that was considered a bonus, not an outside contract-type situation.

I don't remember, I can't remember specifics, but.

9504367149

Q. All right. Let me see if I understand then. Other than your regular salary every two weeks --

A. Um-hum.

Q. -- and bonuses, the only other income you received from the associations in 1988 was the single check listed in Exhibit number 2. Is that right?

A. Yes.

Q. Now, looking first with regard to the W-2 form you said you received at the end of the year from the Association.

A. Um-hum.

Q. Did you retain a copy of that?

A. Yes.

Q. Do you still have a copy of that?

A. Yes.

Q. All right. After this deposition is concluded, would you mail that to the Federal Election Commission?

MR. PELKEY: I am going to object on the basis of relevancy.

Q. BY MR. RAICH: You can answer.

A. Yes.

MR. PELKEY: Well, I would suggest that you and I

9504392150

discuss that and resolve that issue of relevancy before you agree to do it.

A. Okay.

MR. PELKEY: That's all I'm saying.

Q. BY MR. RAICH: Just for the purpose of streamlining this a little bit. I believe that the W-2 form is something that would clearly fall within the parameters of the document requests, which are Exhibits 4 and 5.

A. I don't see that it says anything --

MR. PELKEY: I don't either.

A. Regarding W -- I would not have had a problem with that.

MR. RAICH: Produce all documents that in any way reflect financial activity between you and the specified persons, which includes the associations.

MR. PELKEY: I think we can work this out after the deposition, I don't think that we necessarily need to go into it now unless you want to. I think that Mr. Cloud's intent and my intent or understanding of the FEC's intent, rather, was that you were looking specifically for checks that he had received, deposit lists, canceled checks, et cetera, which would show essentially his income. He did not

9504362-151

keep copies of his specific paychecks. There were no check stubs, he does not keep deposit slips or canceled checks; and so that's the reason why he produced bank statements, because I think the bank statement would reflect his income, his deposits.

MR. RAICH: I see. That perhaps was the root of the problem. When we said in question number 2 produce all documents, we meant all documents.

MR. PELKEY: But you did not --

A. You said everything else, deposit slips. To me that didn't -- I would have had no problem with that. It's not a problem at all.

MR. RAICH: Okay.

MR. PELKEY: And I guess I would still probably object on the basis of relevancy on two grounds. One is that the information can be found elsewhere, number one, in his bank statements. And secondly, the W-2 would just be a summary document, which would, you know, would not reflect what I understood the intent of the investigation, and that is any specific checks to campaigns, et cetera.

That was our reasoning in responding to the request.

9504362 1152

Q. BY MR. RAICH: In any event, do you have an objection to producing for the FEC your W-2 for 1988?

A. I myself, I don't. No. I'd have to confirm that with my counsel. But I've got nothing to hide as far as that goes. As he said, everything that's stated on there is on my -- my -- the bank thing that you guys received.

Q. All right. You mentioned also that you recall having received some document reflecting income as an outside contractor --

A. Correct.

Q. -- in 1988.

Do you still have that document?

A. Correct.

Q. Do you have any objection to producing that document to the FEC?

A. Like I said before, I myself don't. I'd have to talk to my counsel again. It is in the information I gave you, too.

Q. Pardon me?

A. The check itself was on the bank register, the bank monthly statement. It was in there. There was only one. And it was filed correctly and everything accordingly.

9504362 1153

Q. When you said it was filed, do you mean it was filed in your -- with the FEC?

A. No, with the IRS.

MR. PELKEY: In other words, you --

A. I paid my taxes.

MR. PELKEY: You accounted for that other income on your tax return.

A. Exactly. Exactly.

Q. BY MR. RAICH: Did you enter into any contract in 1988 with the associations?

A. I entered one, a verbal contract, a written thing, or anything was not put down on paper.

Q. And you previously stated that you never submitted any bills or invoices to the associations; is that right?

A. It was all verbal.

Q. When was the last time that you saw your check register for 1988?

A. Probably the day I took it out of my checkbook. Seriously.

Q. And do you know about when that was?

A. Oh, sometime in August or September of '88.

9504367 1154

Q. You mean the last time you saw your 1988 check register was still during 1988?

A. Sure.

Q. Did you maintain a check register for the latter months of 1988?

A. I don't -- what I am saying is I don't know when my actual -- the check register filled up. I don't -- I'm just guessing, is what I'm doing. I don't know when I took it out.

MR. PELKEY: Don't guess.

A. Okay. I don't -- I don't remember.

Q. BY MR. RAICH: You don't remember when the last time was that you saw your 1988 check register?

A. Exactly.

Q. Just to make sure we both understand what we are talking about, by a check register I am referring to the document that accompanies checks in which you write down checks that you have written and any receipts that you received.

A. Exactly.

Q. But you did keep one for the latter part of 1988; is that right?

9504367155

A. Yes. It was very sloppy, it was not something legible other than myself.

Q. I'm just a little bit confused. You said you think the last time you saw it was in about September of 1988.

A. That was my --

Q. But you kept it through for the rest of 1988?

A. That was my mistake. I really don't -- the first register I found was from '89 in February. If there was a register before that, I don't -- it's gone. I don't have any idea. My record keeping in '86, '87, and '88 was not anything that warranted a major accounting program on a computer to run, it was very simplistic. So.

Q. All right. So what you are saying is that you took out that document that had your 1988 checks listed in it, inserted into your checkbook another check register, and at that point, which was in about February of 1989 --

A. The first one I found, yes. Now, that's not to say that that's the only one. That's the first one I could find.

Q. But that was the oldest one you could find?

A. Yes.

9504367 1156

Q. Have you talked to anybody about how to comply with the Commission's subpoenas?

A. I talked to Mr. Pelkey.

Q. Anyone else?

A. Not that I recall.

Q. Did you talk to anybody at work about how to comply with the subpoenas?

A. How to reply to it? No. Not that I recall.

Q. Do you do your own income taxes?

A. No.

Q. Who does them?

A. H&R Block.

Q. And did they do them for you in 1988?

A. '88, '89, '87.

Q. And '88?

A. And '88.

Q. And is that H&R Block here in Phoenix?

A. Yes.

Q. Would they have any records that you don't have?

A. They got exactly the same copies that I have.

Q. Do you recall the particular branch of H&R Block here in Phoenix that prepared your 1988 taxes?

9504367 1157

A. The central location on Central.

Q. Do you know its address?

A. I don't, I'm sorry, not right now.

Q. Do you know its approximate cross street?

A. No, I don't, I'm sorry.

Q. How many bank accounts did you have in 1988?

A. One.

Q. And that was your checking account for which you produced the statement for us; is that right?

A. Exactly.

Q. All right, let's take a five-minute break here. Off the record.

(Recess taken from 11:36 a.m. to 11:46 a.m.)

MR. RAICH: Back on the record.

Q. BY MR. RAICH: What were all of your sources of income in 1988?

A. 1988, all of them from the Association.

Q. So you didn't receive any money in 1988 except from the Association; is that correct?

A. As far as I recall, yes. I don't remember any other.

(Exhibit 6 was marked for identification by the

9504367 1158

Court Reporter.)

Q. BY MR. RAICH: I hand you what has been marked as Exhibit 6. Have you seen that before?

A. Oh, I don't recall it, no.

Q. Have you seen it in connection with this investigation?

A. No.

Q. Do you recognize this as a letter that was sent out by the Association's computers?

A. Yeah, it could have been done by any computer in the office, yes.

MR. PELKEY: But does that answer his question? His question was whether it was done by any of the Association's computers. Can you tell that from the letter?

A. No, no; you can't tell it. It could have been done on any computer. I'm not familiar with the letter itself.

Q. BY MR. RAICH: When the associations send out letters, do you ever read them?

A. Very -- unless I compose it or am asked to proof it, but that's very rarely. Most of the time we have electronic spell checkers that check it for spelling, and

9504367 1159

all that stuff is supposedly done before it comes to my attention. Basically what I do is I just take the file name, merge it to the printer, that sort of thing. If I read every letter that came through, I would be blind.

Q. Do you recall ever seeing any letter on the Association's letterhead that requested support for a political candidate?

A. I don't recall. No.

Q. When letters were sent out, you said a while ago that one thing you might do is prepare the mailing labels. Is that right?

A. That's correct.

Q. Another thing you might do is have the computers print the letters themselves if they are personalized?

A. Correct.

Q. You mentioned that other people would do things like stuff the letters and things along those lines; is that correct?

A. Outside, yes. Yes.

Q. Was there any central list kept of how far each of these various letters was along in the process of being done by the outside contractors?

9504367-1160

A. I'm not understanding the question.

Q. It sounds as if there were various letters in various stages of production that were going on simultaneously. Is that right?

A. Um-hum, yes.

Q. Now, what I wonder is if there was ever any list kept of how far along in the process each letter was.

A. No. You mean as far as going from one department to a stuffer, for instance?

Q. Sure.

A. No, that was all done -- this job had been given to me or one of my constituents, it would be ran, they would receive the whole job as it is. They would not be done in partial, if that's what you mean. There was no need to -- it was brought in, it was ran; that was it, end of job. I might have kept some notes that I wrote on top and put on the stack of the letters saying how many there were, you know, and that was given to the stuffer, which they need that number in order to determine their costs that they will charge the association. But as far as -- you mean like a checkoff list.

Q. Sure, a checkoff list or any other kind of list

9504367 11161

explaining where things were from one person to another person.

A. Oh, no. No. A routing list, no. There was never anything like that.

Q. Did you maintain a list of what letters had been run with regard to how they were chargeable to each of the associations?

A. No.

Q. Did you keep track of the computer time that each of the various associations used?

A. No.

Q. Do you know the method that is used to determine what costs each association bears?

A. Not anything that I'm aware of. They might use the amount of paper, the amount of stationary that each association uses in determining, you know, when it comes in how much was bought, how long it lasted before I had to order more. That would -- I don't keep a checkoff list any -- I mean, I ran this many pieces for this organization and this amount of time, no.

Q. So you would do things like keep a tally while a job is being run with regard to how many letters are in that

9504367 11162

particular job; is that right?

A. I would have wrote it on a piece of paper which I tape on the terminal while it's running so nobody tries to use that terminal, at which time I take that off that terminal, the tape, slap it on the top of the job so that basically the stuffer knows how many are in that particular stack.

Q. I see. And you wouldn't write anyplace else how many there were in the stack or job?

A. No. I tried it once, it was too massive of an undertaking.

Q. Off the record.

(There was a telephone interruption.)

MR. RAICH: Back on the record.

Q. BY MR. RAICH: You mentioned that one job that you would do would be to keep track of file names and running off projects for each file.

A. Um-hum.

Q. What kind of names did these files have?

A. Whoever created the document, whatever they called it unique to -- some of them kept a numbering system, like if their name was Jill it would be Jill 1, Jill 2, Jill

9504367 1163

3, Jill 4. And they would just -- when they handed me a piece of paper to run the job a certain amount of people it would have the name of the document on their system and who it was going to.

Q. All right. You mentioned a while ago that you hadn't seen any political solicitations by the Association.

A. I don't recall seeing any, no.

Q. Have you heard anything about the Association soliciting political support?

A. Not -- not that I remember.

Q. Would that have been something unusual enough for you to remember if that had happened?

A. Not necessarily at the time. If it was to happen now, yes, obviously, because I'm more aware of that. The computer room at that point -- and still is -- is an isolated area. We don't deal that much with outside personnel other than if they have a problem. For them to give me the name of a file is, you know, irrevelant (sic) to me; I just run the job, you know.

Q. And you didn't really pay much attention to the content of those jobs?

A. Very, very rarely.

9504367 11164

Q. Now, in addition to the letters that the computer room prepared, did the computer room prepare things like invoices?

A. For billings, yes.

Q. Yes.

A. Um-hum.

Q. That was something that you were in charge of?

A. For the most part. If it was, you know, individual bills or a few bills, they could be done on any -- like I said, any terminal. When we do billing for membership it's a large enough undertaking that obviously you don't want a secretary out there punching out on an individual basis bills.

Q. Do the associations have specific forms they use for sending out invoices?

A. Yes.

Q. Please mark 7.

(Exhibit 7 was marked for identification by the Court Reporter.)

Q. BY MR. RAICH: I show you what has been marked as Exhibit 7. Have you ever seen that before?

A. No.

9504367 1165

Q. Is this something that would have been prepared by the computer room?

A. No. This was done on an individual system or a typewriter.

Q. How can you tell?

A. I just know that that's not the format that we would use. I know that because my computer will not do this.

Q. What do you mean? I'm sorry.

A. Well, I would have had to write the program to do that if that was not manually keyed in like that, which means that I know that it isn't my program that would do that.

This is done on either a typewriter or a system out -- an individual system. It was purged out as an individual form, it looks like. Not in a mass continuous form which I would use.

Q. Is this the same form that the associations would use for their invoices?

A. Yes.

Q. Can you tell looking at it whether it was done on the computer or on a specific typewriter?

9504367-1168

A. No, I can't.

Q. Can you recognize the initials down here that are written on that form?

A. No. I can see a J, that's about the only thing I can make out.

Q. Do you recognize it?

A. (No audible response.)

MR. PELKEY: You need to answer verbally.

A. Oh, yes. No, I'm sorry.

Q. BY MR. RAICH: Now, a minute ago you mentioned that you would do things like take care of file names and work with them to try to produce lists. Is there any list of these file names anyplace?

A. No, because the file names you need to file. That's not just a listing of just file names by themselves. The word processor we use, you get a listing of all the files, which means there is a file there called that. If there isn't a file there called that, then there is no file name.

Q. And would it be correct to say that once a file is deleted, the file name is also deleted?

A. Yes.

9504367 1167

Q. Do you know if Robert Johnson has ever had any loans from the Association?

A. No idea.

Q. Do you know if Robert Johnson has ever received any rent payments from the Association?

A. No idea. None of the accounting or anything is done on the computer.

Q. Do you know if the Association has any shareholders?

A. No idea.

Q. Are you aware that a few months ago I was in your offices looking at documents?

A. Um-hum; yes, I am.

Q. Tell me what you know about the documents I had requested when I was in your office.

MR. PELKEY: Objection; vague, overbroad. Could you narrow the question?

Or can you answer it the way that he asked it?

A. Yeah.

No. No, I don't have any idea what documents you were looking at. All I saw of you was when I was going through the hall basically.

9504367 1168

Q. BY MR. RAICH: Had there been any instructions issued to employees before my arrival there?

A. No. I didn't even know that was you, to tell you the truth. Until I saw you at the last deposition.

Q. Had you been asked to produce any documents in response to our document request at --

A. I was asked -- I'm sorry -- I was asked by Mr. Johnson to search for any documents that might pertain; and I explained to him what I explained to you about the auto-deletion thing and the manual thing I do every six months to clear up space for the file system.

Q. Did he ask you to come up with any other documents?

A. No.

Q. Did he show you a subpoena?

A. For him?

Q. For him or the Association.

A. No.

Q. How had he asked you then to look through the computer for files?

A. It was just a normal request. He was like asking me to look for the letter I sent last week, just asking me

9504367 11169

to do it. Look for anything that might pertain to the -- the election or Bush or -- anything.

Q. And did you even try to look for those?

A. Sure. I also told him that I'd look through them for my own personal deposition.

Q. And what did he say?

A. He said go ahead and try it again.

Q. Do you know of what any other people there at the Association did in efforts to comply with the subpoenas?

A. No, I don't.

Q. Had you known at the time I was there that I was looking at records of the Association --

A. No.

I'm sorry, maybe I don't understand the question.

Q. When I was there at the offices of the Association --

A. Um-hum.

Q. -- did you know that my purpose there was looking at records of the Association?

A. In connection with the FEC? Or just looking at records?

Q. Well, take them one at a time. First of all, did

9504367 1170

you know I was looking at records of the Association?

A. No. No. I saw a person or two people sitting in there looking at paperwork, you know, boxes of paperwork.

Q. But did you have any idea what that paperwork was?

A. No.

Q. And did you know where we were from?

A. No.

Q. At what point did Robert Johnson ask you to try to find the letters?

A. Oh, I have no idea. Earlier in the year, if not even '89 at that. I don't remember exactly. It was just a simple request, one that he makes every day, five or six hundred times a day probably.

Q. At the time that I was there in your offices had there been any request made of you to supply any records?

A. I don't recall any, no.

Q. Specifically, had there been any communication with you about the feasibility of producing a membership list?

A. No. Not that I recall. I mean, I don't remember. I really don't. I don't even know if I ran one

9504362 1171

or not. I mean, that's not unusual either. I run them out all the time, certain areas. So to be honest, completely honest, I don't remember if that request was made, if I followed it, or if it was made at all. I was pretty busy at the time.

Q. Is running a membership list something that would be relatively easy for you to do?

A. Oh, yes; we have several chapters around the mailings (sic), they are always asking for members in their location.

Q. About how long would it take to run off an entire membership list for NAREA?

A. NAREA would take 24 hours. It would take overnight. It's a rather long list, with all the membership information on it.

Q. How about a list with nothing but the members' names and the membership numbers? How long would something like that take to print out?

A. Four hours, five hours.

Q. Is that something that could be done relatively easily?

A. Just the name and the number?

9504362 1172

Q. Yes.

A. Yes.

Q. And would it be hard to have those organized by membership number?

A. No.

Q. Is that something you could do just by punching up a few buttons?

A. That's right. Depending on what my work load was at that time. If I had all my printers running, it would be something that would obviously take more time involved in it. But if the printers were available and a request was made, it would take four hours from that point. Four to five hours, I don't really know; I've never really timed it.

Q. And to make sure I understand you correctly, at the time I was there nobody had asked you to help find any documents, locate any documents, or produce any documents; is that correct?

A. I don't recall. Like I said, I was pretty busy. If they came in and said I need a copy of this document, I wouldn't relate that to why you were there, because obviously I didn't know why you were there to begin with.

You understand what I am saying? I mean,

9504367173

somebody might have came in and asked for something and I said okay, or no, that's been deleted, or whatever. But it wasn't relevant at the time, so it's not registering in my mind as being an important fact to retain, I guess.

Q. Was there ever a paper with the file names that was kept?

A. On the whole system?

Q. Yes.

A. Or on individual terminals?

Q. Well, on either one.

A. On individual terminals, yes. On the whole system, impossible. Not impossible, but unfeasible. Non feasible.

Q. So on an individual terminal or individual user of the system there were paper files kept of their files; correct?

A. No, there weren't actually -- what we would do if somebody was terminated, quit, whatever, in order to save space we would -- each person had their own work station allocated on the file server. Each station, each secretary, each whatever. Everybody that had a terminal. If they quit or was gone, we would print out just that terminal's

9504367 1174

documents on there in order to determine which were good, which were bad; we could delete to save space on the file server.

That was the only time I have ever kept a master file. And that's not even kept very long, because we delete them; they keep what they want, and then for, you know, future use if it's a letter that's pertinent that goes out on a weekly, daily, monthly basis, they would obviously want to keep that. And that's not determined by me. My main concern is to run out and delete what they don't want.

Q. Have there ever been political candidates who visited the Association's headquarters?

A. Not that I recall. Nobody I knew.

Q. Had there ever been requests from Association employees to contribute to political candidates?

MR. PELKEY: By the employees?

MR. RAICH: That the employees make contributions to candidates.

MR. PELKEY: In other words, a request made to the employees. I'm not sure I understood your question. Maybe I shouldn't interrupt.

A. No, I was going to ask the same thing.

9504367 1175

MR. RAICH: Let me rephrase the question.

Q. BY MR. RAICH: Do you recall any requests that were made of Association employees that those employees contribute to candidates?

A. No. Not as far as I ever heard, let's put it that way.

Q. Is one of the Association's purposes to lobby elected officials?

A. Not that I know of, no.

Q. Is that something you are aware of the Association is ever doing or any individual employees of the Association is ever doing?

A. That's not a department that I deal with. If that was, that would be somebody that was higher, obviously they wouldn't be in the office because they would be at the location lobbying. Basically I don't deal with that end of it. It wouldn't -- nothing that they would do would pertain to myself.

Q. Turning your attention again to Exhibit number 3. Please tell me why you wrote this check.

A. As the Presidential Trust contribution.

Q. And why did you make that contribution?

9504367 1176

A. Because I wanted to make it.

Q. Why did you want to make it?

A. Well, several reasons. One, I knew that through hearing around the office that Bob was involved with that, he's obviously out of the office a lot during that time. And number two, I'd -- that was done for some contract work over the previous three or four months when we moved into a newer and larger building for computer work that needed to be done, wiring, installing, problem shooting, making sure the system stayed up and running for all the associations.

And it was something I had previously decided to do; and when I received it, or when I wrote that, I wrote -- I did it, one, to -- brownie points I guess; you know, it was something to tell Bob Johnson, hey, I believe in what you're doing, and this is something that I want to do.

And two, at the time that was during the time of tax law changes, and I was looking for a tax write-off, which I didn't investigate previously because that was the year they changed. And that was it.

Q. Let me see if I understand this. You were looking for a tax write-off on a $10,000 contribution to the Republican National Committee?

9504367 1177

A. That wasn't one of my main concerns, no. My main concern was ensuring my future that showing Bob Johnson that I had confidence in what was going on and that I wanted to do this on my -- to relay that to him.

Q. Where did you learn that the Presidential Trust was an entity that you could contribute to?

A. Not -- it's not a secret or anything. I asked Bob who I would make it out to if I wanted to make out a check, a contribution. It's not something that is not acceptable by just, you know, Mr. Joe Blow, Mr. Public or anything.

Q. So Bob Johnson told you that you should write a check to Presidential Trust?

A. To make a contribution, I asked him who I would make it to, yes.

Q. And then what did you do with that check?

A. It was sent to -- it was Fed Ex'd to -- I gave to it Bob Johnson to Fed Ex to the Presidential Trust.

Q. And did you give this check to Bob Johnson on the same day it was written?

A. Yes.

Q. Have you ever made a political contribution

9504367 1178

before?

A. No.

Q. Have you made any political contributions since 1988?

A. No.

Q. So it would be accurate to say that this $10,000 contribution is the only political contribution you have ever made in your life; isn't it?

A. Yes. It is.

Q. At what point had you asked Bob Johnson who you could make a check out to?

A. Right before I wrote it out.

Q. Was that on the same day?

A. Um-hum.

Q. July 19th, 1988?

A. Yeah. Yes.

Q. Turning your attention now to Exhibit number 2. Tell me the reason you received that $10,000 check.

A. That was the contract thing, the verbal contract. It was not a -- the dollar amount was not predetermined. We had built a new building, started building a new building; and part of the obvious thing to do was that we was gonna

9504367 11179

have to move the computer system, upgrade the computer system, make sure while it's being built that all of the considerations for the computer room are taken into consideration during the building and the designing of the building. And there were several different factors that had to be dealt with.

At which time I confronted Bob Johnson during the early part of the construction, before the construction was actually done, and told him that we had two choices, we could either -- I could either contract out to other people to do the wiring and a different company to do this, different company to do that, or I would try to take it on myself. At which time he had confidence in myself and he said do it. And I helped with implementing of the wiring, setting up the network, troubleshooting for two months afterwards while we had several different problems that arose because of the length of the network and different things like that.

Q. You said that the amount had not been predetermined?

A. Hum-um.

Q. How did it turn out to be $10,000?

9504362 11 80

A. It was just -- it was -- that's what Mr. Johnson came up with.

Q. You said this had been an oral contract you entered into with regard to that work?

A. Well, oral in the sense that I confronted him, told him that we needed to take this into consideration, this into consideration, here's our options, we can contract out or you can let me do it and pay me a fund, you know; there's no way for me to determine what problems, what costs I was gonna accumulate over the next three or four months after that. And so there was no way I could say pay me X amount of dollars here.

It was just something that we determined that it was left best unsaid at that point because I didn't know what we -- I had no clue, I had never done it before other than doing it on my own personal level and doing it for other companies. I'd never actually contracted to install a computer system in a new building.

Q. So the $10,000 amount was determined by Bob Johnson?

A. Um-hum.

MR. PELKEY: You need to answer verbally.

9504362 11 81

A. Yes. I'm sorry.

Q. BY MR. RAICH: Was that an amount that he decided on his own or did he consult with you about it, too?

A. No, that was the amount he came up his own -- on his own. But that would have been something that I'd researched later, and to contract out it would have cost a similar amount if not more to do. It was rather expensive as long term, it's not something that you can do in a week's time. It would have been consultation fees, a hundred dollars an hour for that person, for a person just to even set it up. Then you have the wiring, the problem be -- the troubleshooting, the searching out and buying additional equipment needed to run a system that went from being size A to size B, which was considerably larger.

Q. How many hours did you put into that project?

A. Oh, it -- well, it's like I said, three or four months. I put in a lot of time, overtime as far as my own personal hours, long hours once we moved into the building, the day we moved in till it was actually running. Obviously I can't be having the system down during the day when we are dealing with members from all over the world and we need that information, so to bring down the system I would have

9504367 1182

to do it after hours when access time was minimal.

Q. So you were doing your regular work during this same three or four-month period?

A. That's right, yes, during the day.

Q. And then on your own time you were doing the other work?

A. That's right.

Q. For your computer room.

Were you working another eight hours every day?

A. No, not every day. I was working a lot of weekends, I was working a lot of late hours, five, six hours sometimes. Sometimes two or three. But it was over a period of time.

Q. So it was over about a three or four-month period; right?

A. Give or take, maybe more than that. In actual -- we moved in in July, and the system was up and running as well as could be expected by mid July, end of August -- or end of July and probably started February. So it was several -- several months, six months even almost, I guess.

Q. So at the time you got this check the system wasn't even running; was it?

9504367 11 83

A. The system was up and running very efficiently at that point.

Q. Didn't you just say it was running by the end of July?

A. Yes. Well, by the mid to end of July, I don't know the exact date. It was running to -- it was probably not running a hundred percent, it was running in the 90's, 95 percent. There was still bugs, there's still bugs to this day. It's part of computer life. It's something to deal with as they arise.

Q. So would it be accurate to say you were working a couple hours each night, a few hours each night and on weekends on this project?

A. Um-hum.

MR. PELKEY: You need to answer verbally.

A. Yes. I'm sorry.

Q. BY MR. RAICH: It would have been about 20 hours a week or something; is that about right?

A. Sometimes more than that.

Q. Sometimes less than that?

A. I would say 20 hours would be a minimal.

Q. Well, let's think. If you were working two or

9504367-1184

three hours a night, what, five nights a week?

A. Yes.

Q. And then some time on weekends?

A. A lot of time on weekends.

Q. So you were working what, 20, 25 hours a week on average?

MR. PELKEY: Objection, asked and answered.

Go ahead and answer again if you can.

A. It could be -- it was more than that on certain occasions. To say 25 hours a week would -- we're talking two years' time here. I don't remember how many hours I put in, I didn't keep a log, you know. So I did what had to be done at that given point.

Q. BY MR. RAICH: You previously testified that your total salary in 1988 had been about $16,000. Is that right?

A. I don't remember right off the top of my head, 16, 18.

Q. So this work you did for three or four months part-time yielded $10,000 to you, yet your entire full time job for the whole year yielded 16 or $18,000 to you. Is that right?

A. I don't know what the amount was, but it might

9504367 11 85

have been more than that. I don't remember.

Well, it could have been -- the dollar amount that was received was at a point where I was getting raises or had just received a raise previous to getting the bonus. A substantial raise. Of course, that won't reflect on my whole '88 year as far as, you know, payment received as far as my annual salary.

You know what I -- understand what I am saying? We are talking seven months in, I get a raise after we move into the new building, a substantial raise that obviously there was enough to better my standard of living at that point.

Q. Are you telling me that you received a raise after this $10,000 check?

A. No, I'm telling you I received a raise after we moved into the new building, which was the first -- or last week of June -- last week of June or first week of July, I can't remember the exact date.

Q. You moved into the building approximately last week of June or first week of July?

A. Exactly.

Q. And when did you receive a raise?

9504367 11 86

A. I was told about the raise at that time.

Q. When did you receive the raise?

A. The next paycheck period. Went into effect.

Q. And then on July 19th you received a $10,000 check from Robert Johnson; is that right?

A. Correct.

Q. Now, why did you decide to take all of that $10,000 for all of your work during the previous months and give it away to the Presidential Trust?

MR. PELKEY: Objection, asked and answered.

A. It was -- it was just a decision I made. I had thought about it previously. I wasn't sure on the dollar amount that I was gonna receive, I never set down and figured it out. It was just something I wanted to do. Bob was bringing me into an inner circle, as it is. He was family-type of situation. I was invited to more social functions on his own.

This is not anything to do after I made the donation or -- this is all starting to come around, he liked what I did, I was obviously a good worker, he was paying me well, I received bonuses, smaller bonuses for my long hours involved; and to me it was a way for me to show Bob that

9504367 1187

hey, I believe in you, I'm not gonna be flaking out and leaving you six months down the road, I like working here, I like working for you, you have been very good to me, you are being, you know, there was promises beforehand when I got my raise that there would be more raises down the line; and I liked what I was doing, there would be more responsibility, you know, bigger computers and, you know, and everything was just growing at that point.

To me it was an investment in my future to do. I never -- the dollar amount, I didn't make the decision to actually do it until I wrote the check. To me at that time I was overwhelmed at the dollar amount, it seemed like this was the thing I wanted to do at that time.

Q. What was it that he said that indicated to you that he would look favorably on a contribution?

A. He said nothing as to that. There was nothing said like that. I walked in his office -- he called me in his office, he gave me the check, said here, I appreciate what you're doing for me, this is for what you've been doing on the putting the new system in and implemented and all the work you put into it, here's this. And that's when I decided to do that. Made the actual decision. I had

9504367 1188

forethought of doing that previously to do that.

Q. What was it that had made you think about doing it previously to that?

A. I was -- it was just something I thought would look -- it would -- brownie points. It was something that I thought Bob was into this, he was into this very -- he's spending a lot of time with this, he was very hip on this, he was -- this was his baby, so to speak. He liked it. You could see it in his eyes. It was something that --

Q. And by that you mean raising money for the Republican party?

A. No, being involved with the Republican party. Being actually involved in whatever areas that he was involved. I knew that it was something he was very hot on at the time.

Q. How did you know that?

A. It was a small office. You know, he comes back from Washington, he's obviously beaming about something, he's gonna say I've been with the Bushes or whatever, you know, whatever. I don't remember any instances. I just remember him coming back from trips and, you know, it was obvious that it wasn't anything verbal that was said. It

9504362 1189

was just obviously he was involved with it.

Q. How did you know that he had been out working on behalf of the Republican party if he didn't say anything?

A. It's a small office. You just know what's going -- I need to talk to Bob, where is he at. Oh, he's in Washington. Put two and two together at that point.

Q. And had you known he was fund raising on behalf of the Republican party?

A. I didn't know to what extent he was involved, no. I mean, it wasn't my business to pry into every little thing he was doing.

Q. You said a minute ago that once you received your $10,000 check you decided to make a contribution with that money.

A. Exactly.

Q. Was that in Bob Johnson's office when you decided that?

A. Exactly.

Q. And was there anything he said that made you decide to apply all of that $10,000?

A. No, not whatsoever. It was all my doing. He was very appreciative, he thanked me on behalf of the

950436711190

Presidential Trust, obviously. He was -- he was impressed. He liked -- he liked the idea.

Q. Do you know what the Presidential Trust is?

A. It was regarding election of the President of the United States.

Q. Do you know specifically --

A. No, that didn't matter to me. All I was wanting to know was who to make the donation to. This is what I was told that this is where I would send the check, send the actual contribution, as it was.

Q. And in his office Bob Johnson told you the name to make the check out to; is that correct?

A. That's correct; I asked him and he told me, yes.

Q. How did you decide on that $10,000 amount?

A. How did I decide on it?

Q. Yes.

A. I didn't decide on it. The check was made out when I walked in there.

Q. And Bob Johnson handed it to you?

A. Exactly.

Q. Was anybody else present at that time?

A. No.

9504362 1191

Q. And what did Bob Johnson say when he handed you the check?

A. I think I have already stated this. He said here is for the work you have been doing in implementing the new system and getting the -- I mean, I can't remember exactly, it's two years; but basically he was thanking me for the job, here is some money, keep it up, there's more to come, that kind of thing. Basic -- that's how Bob Johnson handles every bonus or whatever.

Q. Did he make good on that promise that there would be more money to come later on?

A. Sure. He's been very good to me, before this happened and after this.

Q. Well, I mean, what did you say after he gave you the check?

A. I told him I would -- I appreciate it and no problem, no big deal, I appreciate him having trust in me enough to do it and that I'd like to reciprocate and make a donation to the -- well, I said the Republican party; and I said who would I make a check out to.

Q. And what did he say?

A. And he told me the Presidential Trust. I mean,

9504367 1192

these aren't my exact words, I don't remember exactly how I said it; but basically this is the gist of what went on.

Q. You decided you would make a contribution before you received the money for your computer work?

A. Sure. I'd more or less decided, yes, I did want to do that. On my own personal basis. Nobody else knew anything about it. It was just something that I knew he was involved with, it was something to give back a little bit of what I received.

Q. Did you know when you walked into his office that he was going to be giving you a check?

A. No.

Q. Were you surprised to see a $10,000 check waiting for you when you walked into the office?

A. Oh, sure. Wouldn't you?

Q. So did you write out that check for $10,000 in Bob Johnson's office?

A. Yes.

Q. Did you have your checkbook with you when you went into the office?

A. No, I went and got it.

Q. I see. He had given you the check?

9504362-1193

A. Um-hum.

Q. And then you told him that you wanted to make a contribution?

A. Exactly.

Q. And then you went into your office and got your checkbook; is that right?

A. I went into my car and got my checkbook, yes.

Q. And then what did you do, go back to Bob Johnson's office?

A. Yes.

Q. And you wrote out a $10,000 check?

A. Um-hum.

Q. And you gave it to him?

A. Exactly.

Q. Now, you said it was Fed Ex'd someplace?

A. I'm assuming that is how it was sent, yes.

Q. Why do you assume that?

A. Because we Fed Ex everything. I mean, he might have mailed it, I don't know. I'm assuming it was Fed Ex'd. Everything important that went between the Presidential Trust or to our President association is all done through Fed Ex. Obviously it's a lot quicker than the U.S. Mail.

9504361194

Q. Now, what made you decide to make a contribution in the amount of $10,000?

A. It was a spur of the moment decision. I didn't know how much I was getting. When I walked in there I had no idea what I was even going in there for. It was just something I did. Maybe with a little more forethought if I had done it, maybe I wouldn't have done the same amount. But that's what I did.

Q. Just on the spur of the moment you decided to write a check?

A. I'm a spur-of-the-moment kind of guy. I was surprised that the amount was that great, that he thought that much of my work that he would give me that, number one. Number two, like I said, I just got a raise, a substantial raise two weeks prior to this happening. I mean I was -- I was a happy camper at that time. $10,000 seemed like a small amount to invest in one's future.

Q. Looking now at Exhibit 2 with the deposit slip on the top of that page, do you see in the lower right-hand corner of that document where somebody has written in balance 23.76, average 205?

A. Sure.

9504367195

Q. Whose handwriting is that?

A. No idea.

Q. Is that your handwriting?

A. Not at all.

Q. That's something that the bank teller wrote in there?

A. I have no idea.

Q. When you make deposits in your bank, is it your bank's custom to write your balance --

A. No.

Q. -- on the deposit slip?

A. Not that I've ever noticed, no.

Q. On July 19th, 1988, did you have a balance in your checking account of $23.76?

A. I'm assuming that's what it says.

Q. So only that date that you received a $10,000 contribution, you had $23.76 in your checking account; is that right?

A. That's what it says.

Q. Yet you said you were also a happy camper then because you had received a raise two weeks prior; is that correct?

9504362 11 96

A. Exactly.

Q. Would you have also been a happy camper if you had had a few thousand dollars to spend?

A. That was a decision I made at the time. I thought of -- believe me, I thought about it afterwards; but it was something I did at the time, spur of the moment.

You also gotta keep in mind that this was prior -- this was -- at that point that's whenever I started actually reaping the benefits before, because I just got a raise two weeks prior. Okay. So, I mean, I didn't have a car payment, my car was paid off, my living expenses were low, I didn't -- I foolishly spent a lot of money, I'm sure. I didn't have a wife or children or anything like that. And to me, you know, money was not a big issue. Can't take it with you kind of attitude. That was the way I felt at that time. I was very spontaneous in my -- in my finances. And I still am to a certain extent today, be it right or wrong. That's the way I am.

Q. When did you deposit this $10,000 in your bank?

A. I'm assuming that day sometime.

Q. After you had written the $10,000 check?

A. Yes.

9504360 11197

Q. Did you write checks in July of 1989 for which there were not sufficient funds in your account to cover those checks?

A. In what month?

Q. July, 1988.

A. Oh, I don't remember. I probably did. That probably wouldn't surprise me.

I don't recall.

(Exhibit 8 was marked for identification by the Court Reporter.)

Q. BY MR. RAICH: I'm handing you what has been marked as Exhibit number 8. I draw your attention specifically to the statement for the period of July, 1988. Do you recognize this document?

A. Um-hum.

Q. Do you see how, according to this document, you had written a check during that period for which there were not sufficient funds in your account?

A. Um-hum. Yes.

Q. Now, why is it that that happened? Did you want to buy something that you didn't have the money to pay for?

A. I don't remember, tell you the truth.

9504367 11 98

Q. And in any case, it's true that you didn't have the money to pay for something that you wanted to; is that correct?

A. Obviously, yes.

Q. And it's also true that during that same period you let $10,000 go right out of your life. Is that true?

A. That's true.

Q. Now, do you remember talking to me on the telephone back about November of last year; we were talking about this $10,000, and you said it was for a bonus. Do you remember that?

A. Yes. I -- vaguely, yes.

Q. Was that part of the bonus?

A. Well, no, it wasn't actually a bonus. It was a bonus in the sense that it was not my usual salary at that time. Yes. I guess the word that I used was not exactly as it is; but to me it was to let you know it was an additional amount of money, it was not something that I normally got, I guess.

Q. And do you remember in that same conversation telling me that you really shouldn't be saying anything about that?

9504367 11199

A. Well, yeah. That's just common sense. Why should I be giving the information for something that I don't have any idea what's going on? I mean, would you if somebody out of the blue you never heard from or talked to before in your life offer information over the phone to somebody? You know, it's just something you don't know, it's just common sense.

Q. Do you recall specifically that we were talking about this $10,000 at the time?

A. No, I don't recall what the conversation pertained to.

Q. Do you recall that you discussed a whole lot of other issues with me on the telephone back in November?

A. I don't recall. Maybe you should tell me what you're referring to, because I don't remember speaking to much of anything other than you asked me about the money; and I don't remember what else, it's not flashing in my mind anywhere.

Q. Did you mention to anybody that you had made a $10,000 contribution?

A. Could have in passing, I don't remember any specific instances. To speak of.

9504367 12200

Q. Did you tell anybody at work that you had made a $10,000 contribution?

A. Not -- I don't remember any particular instances where I might have said anything like that. It's not -- I'm not ruling it out; but it's a long time ago, I don't remember. You know, to me at the time it was not a big deal, you know. It was not something that -- that I ever thought anything would come of obviously or I would never have done it, or I would have done it differently, or I would of -- I don't know.

Q. Do you remember making a copy of the $10,000 check you received before depositing it?

A. I don't recall.

Q. Do you remember being concerned as to you should make a copy of it because people would wonder where you got $10,000 on your salary?

A. I don't recall. I don't recall making a copy of it, tell you the truth.

Q. Do you recall making a statement to anybody that this was a concern you had?

A. Not off the top of my head, no. I don't recall.

Q. So did you have to pay a large amount in taxes to

9504362201

the IRS --

A. Sure.

Q. -- in April of 1989?

A. Sure.

Q. And is that the result of this extra $10,000 you received?

A. Yeah, some of it, yes.

Q. Where did you get the money to pay all that large extra tax burden?

A. Obviously I'd gotten more bonuses over the period of time, plus my increased salary, which I had put away.

Q. Was it your understanding that the $10,000 check you wrote was to be on behalf of George Bush's election?

A. No. I told -- it was to the Republican party. That's -- I asked who I should make a contribution out to the Republican party. Obviously George Bush was a candidate at that time. As far as I know. I'm not real big in politics.

My motives for doing it were totally other than -- well, I've already told you that.

Q. Your motives were to gather favor with Bob Johnson; is that right?

9504360202

A. Exactly.

Q. And it worked, too; didn't it?

A. Sure.

Q. He was very pleased with what you did; wasn't he?

A. Yes; he was very surprised, yes.

Q. He gave you extra bonuses later on in the year; didn't he?

A. Sure. I don't remember if it was in the year or the following year or whenever.

Q. And you said he's treated you well since that time; hasn't he?

A. He's treated me well, and prior to.

Q. Have you ever been involved on behalf of any candidate?

A. Not that I can recall, no.

Q. Are you registered to vote?

A. Not in this state, no.

Oh, yes, I am; excuse me, I am.

Q. Did you vote in 1988?

A. Yes.

Q. And you voted in the 1988 general election; is that correct?

9504367/203

A. The Presidential one?

Q. Yes.

A. Yes.

Q. You mentioned a minute ago that you had saved up money to pay your taxes in April of 1989?

A. Well, I put bonuses towards that. My bonus periods are every six months. I get a set bonus. So I knew when my bonus was coming into effect, yes.

Q. And was that bonus coming in April of 1989?

A. Actually, no, because I didn't pay '88 taxes until November of eighty -- whatever the following November was. Due to the fact that I knew I was going to be getting my bonus, plus I could accumulate enough money to pay off my taxes.

I filed late, is what I'm saying.

Q. Oh, I see. Did you actually file in the summer of 1989?

A. No. Wait a minute. Are we talking about '88 or '89?

Q. Well, did you file your 1988 taxes in the summer of 1989?

A. No, in November of '89.

Q. I see.

So you previously stated, did you not, that the $10,000 you received was the only money you received from the associations other than your regular salary and bonuses; is that correct?

A. That's correct.

Q. Do you recall receiving a $10,000 check from the National Association of Real Estate Appraisers on July 1st, 1988?

A. No, sir.

Q. You didn't receive a $1,000 --

A. $1,000? Or $10,000?

Q. Okay. Let me rephrase the question. Did you receive a $1,000?

A. I don't remember. That wouldn't be unusual.

I mean I don't -- that was -- when I say bonus, when you say is that all the income you received including your paycheck and bonus; that's what I consider a bonus. That's not unusual for Bob to give me a thousand dollar bonus if I'm putting in a lot of time and effort getting a super large project out. That's not unusual. Never has been.

9504 367 1205

Q. So would it be correct to say that he paid you twice for the project, once for --

A. No, that was a bonus. The bonus was separate and -- on my 1099 or whatever you referred to it as, there is only a $10,000. Everything else is on my W-2 form as a -- you know, income in through -- I don't know. It was a bonus, is what it was. I guess is what I'm saying.

You understand what I'm saying?

Q. Your $1,000 contribution on July 1st of 1988 --

A. I never made a $1,000 contribution on July 1st, 1988.

Q. All right.

A. I would like to see any information you got concerning that.

Q. Let me ask you this way. Was the $1,000 check that you received from NAREA on July 1st, 1988, was that a bonus?

A. That was a bonus.

Q. And it was not for any services you rendered; was it?

A. It was his way -- it was bonus. A bonus is something you get for doing an excellent job or good job or,

9504367 1206

you know, that's a bonus. That wasn't part of the -- the work agreement between the verbal contract for the -- that was just something Bob did. I got them all the time. In different denominations. If I had a particularly hard week where I had a bunch to get out, it was not unusual to get a check for $500 or whatever.

Q. How many such bonuses did you receive in 1988?

A. I can't -- I have no idea.

Q. Would it have been more than two?

A. Oh, '88? I would -- I would think so. I don't know. I can't remember that far back.

Q. Would you be surprised if it ended up being just two?

A. For '88? I don't -- I would be surprised if it was just two, because that was a very busy year for myself.

I really don't know, I guess is what I'm saying.

MR. RAICH: Okay, off the record.

(Discussion off the record.)

(Recess taken from 1:00 p.m. to 2:00 p.m.)

MR. RAICH: Back on the record.

Q. BY MR. RAICH: There are a couple little things that we discussed earlier this morning that I'd just like to

9504367207

clear up a little bit right now, if we can.

One is, can you please describe to me the jobs that were carried out by people with supervisory responsibility for the Association in 1988?

A. Jobs that were carried out --

Q. By the individuals with supervisory responsibility in 1988?

MR. PELKEY: Going to object, because that's compound. You are asking him to identify the persons and their responsibility?

Q. BY MR. RAICH: Sure. Can you just identify the people who had supervisory responsibility in 1988?

A. Couple of them. There was only a smaller group at that time, of course. I was Computer Operations Manager in the later part of '88. Ken Twichell was the Office Manager, as well as dealing with NAREA, and Bob Johnson more or less overlooked the whole operation, Executive Director of the Association, or Executive Director of NAREA and IREI. As far as I know. Does that answer your question?

Q. Were you three the only administrative persons?

A. That I remember. There might have been, I think, in '88, Patricia Davidson, I believe she was in charge of

9504367 2208

the PWAA thing. And the best I can remember that's it. Could be more, could be less. I don't -- that's the ones I remember.

Q. Can you describe to me what the difference was between Twichell as office manager and Johnson, who was overseeing all of it?

A. I don't know if office manager would be the -- he was the one -- Ken was the one that did all the interviewing for the positions at that time in '88. Like I said, it was a smaller office, smaller building and smaller staff obviously. And he did what -- I guess that's the term I used, office manager; it means that he did the hiring, he did -- basically supervised the whole office.

Q. That's what Ken Twichell did?

A. Um-hum.

Q. And Robert Johnson was not working on the day-to-day operation of the office?

A. Not as much, no. Ken dealt with most of that.

Q. Did Steven Schneck have a supervisory capacity in 1988?

A. I don't think it was a supervisory -- not that I -- not that I ever noticed anyway.

9504367 209

Q. And did Todd Johnson have a supervisory responsibility?

A. He worked for IREI at that time. He was Associate Director, I believe was his title. So I guess that would have been. By supervisor you mean people underneath them. People that worked for them. As far as I knew they didn't have anybody working underneath them.

Q. Is Patricia Davidson still at the organization?

A. No.

Q. Who took over her job?

A. I don't remember the girl's name. Cindy somebody.

Q. Is she still there?

A. No.

Q. Who handles that job now?

A. Jill Morris, I believe her name is.

Q. Is Jill also Mr. Johnson's personal secretary?

A. Yes.

I don't think she's the managing director or anything like that. She handles the day-to-day operations of it.

Q. Is Jill also Mr. Twichell's personal secretary?

5043671210

A. No.

Q. Does Mr. Twichell have a personal secretary?

A. Not a secretary. He's got an assistant. I don't know her name. She's new.

Q. Is Jill still with the organization?

A. Um-hum. Yes.

Q. How does she spell her last name?

A. Morris, I believe. And that could be wrong. M-O-R-R-I-S.

Q. We discussed earlier this morning also some of the people who worked with you in the computer room --

A. Um-hum.

Q. -- at that period.

Have you been able to recall any additional names of the people who worked for you in 1988?

A. During that time? No. Basically they were -- they were -- like I said, there were several that went and came in a week's time or even less than that. So names I'm not very good with. So I couldn't help you out there. I'm sure somebody has the names of them somewhere in personnel files, I'm assuming; I don't know.

Q. During this period when you were doing the

9504367211

computer work in 1988 involving moving the computer operations --

A. Right.

Q. -- who else was working with you on that project?

A. From the office?

Q. Yes.

A. Nobody. That was totally my responsibility.

Q. And you were the only person who did any work on that?

A. As far as implementing, setting up, wiring, all that stuff, nobody else from the office was involved.

Q. Were people from outside the office involved?

A. I did have a -- I contracted a small company, two guys, to help with the wiring, actually climbing up in the -- and laying the wiring. But I was present when that was done. I don't have the name of the company at this time, I would have to research that. But that was about it, yeah.

Q. So most of those weekends you were there working and these hours after work you were there alone doing that work; is that correct?

A. Yes, um-hum.

9504367212

Q. You mentioned that you paid your 1988 taxes in November of 1989. Is that right?

A. Correct.

Q. Did you get a bonus from the associations in order for you to pay those taxes in 1989?

A. In -- in November, you mean?

Q. Yes, November of '89.

A. I don't recall that right off the top of my head.

MR. PELKEY: Did you understand his question?

A. I don't know, maybe that was it. You didn't make -- I'm sorry, go ahead.

Q. BY MR. RAICH: Did you get any money from the associations in 1989 for the purpose of paying your 1988 taxes?

A. No. I received a bonus in November; yes, I did receive a bonus. But that was not for paying my taxes, that was -- that's a pre-assigned. I was told that when I get my bonuses in June and November.

That was -- it didn't pay all my taxes, don't get me wrong. It paid a partial part of my taxes with my bonus at that time.

Q. Was Mr. Johnson aware that you had a large tax

9504367 1213

bill that was due in November of 1989?

A. Not that I know of, no.

Q. Was anybody at the associations aware that you had a large tax bill due, due to this $10,000 you had received in 1988?

A. No.

Q. Did you get invited to a Republican fund-raising event in 1988?

A. Through the Republican party?

Q. Yes.

A. Yes. I received written notice through the mail, yes.

Q. And where was that fund-raising event to be held?

A. Oh, I don't know, but the -- you get several different things from the Republican party during the year when you make a contribution, I found out. So I don't remember, I never attended any of 'em. There were some things going on in L.A. and some things going on in Houston, Texas, couple things going on -- I don't remember specifically about the fund-raising thing, no.

Q. But you do remember receiving contributions to other fund-raising events in other cities after you had made

9504367 2214

your $10,000 contribution; is that correct?

A. Notice, you mean? Notice of a fund-raising thing or a -- I'm not understanding what you're saying here. I received letters stating that yes, there will be a party or something going on in Washington, D.C., Houston, L.A., whatever, and I was invited, blah, blah, blah. That type of thing. But no contributions were made or anything like that. Is that what you're asking?

Q. Right. I was asking if you had received invitations.

A. Invitations, okay. Yes.

Q. And just to make sure I heard you right earlier this morning, you said that you made your 10,000 contribution to the Republican party because it was a small amount to invest in your future. Is that correct?

A. That's correct. Not the Republican party, but the Presidential Trust, yes.

Q. You made a contribution to an entity that Robert Johnson supported because it was a small amount to invest in your future. Is that correct?

A. In a matter of words, yes, I guess you could put it that way. Yeah, I made a contribution, yes. In

9504367 1215

investing in my future. But it wasn't -- okay. Never mind.

Q. Well, go ahead, what were you going --

A. No, just the way it was worded; I didn't really like the way it was worded, but it was accurate.

Q. It's accurate that you were wanting to invest in your future; is that correct?

A. That's correct.

Q. Like to draw your attention, please, to Exhibit number 8, that's the bank statements.

All right, on the first page of the bank statements it says for the period of December, 1987, and part of January, 1988.

A. Um-hum.

Q. Like to draw your attention to a few things on the page. Do you see how it lists near the bottom of that page that you wrote a check for which there were not sufficient funds and it's listed as an NSF transaction on 12-21, and they charged you $12 for that? Do you see where that's listed?

A. Um-hum, yes.

Q. Do you see that same place on the page there is another check for nonsufficient funds which was written on

9504367 2216

January 6th. See that?

A. Um-hum.

Q. Now, turning the page over to the January, 1988 statement, like to draw your attention to a deposit you made on January 8th for $555.20. See that?

A. Yes.

Q. Was that your salary, minus $40, that you deposited at that time?

A. No, I think that was my -- I don't know. I couldn't tell you.

Q. Looking down right below that to January 22nd, do you see a deposit for $555.20?

A. Um-hum.

Q. Is that correct?

A. Um-hum.

Q. Could you answer verbally?

A. Yes, I'm sorry.

Q. Is that the deposit you made for your salary, minus $50?

A. I don't think so. No. I don't think my salary was that much. I think it was 555 at that time or 575. I don't -- I guess what I am saying is I don't recall.

9504367 2217

Q. All right. Do you see --

A. I had a roommate at the time, you know; I could have been -- it might have been grocery check that was added on with that. I don't know. I don't know how this is done. I'm saying I just don't know what my exact salary was at this given time.

Q. But that was by and large a salary check; wasn't it?

A. Yes.

Q. As the January 8th deposit was; wasn't it?

A. Yes.

Q. Did you generally cash part of your salary check each time?

A. I might have received cash out when I did it, yes.

Q. Was that a common thing you did?

A. That was a common thing.

Q. All right. Do you see on February 1st there was a $100 deposit?

A. Yes.

Q. Do you remember what that was from?

A. No.

9504367 2218

Q. And you see on February 5th there is another deposit. Do you think that was your salary or close to your salary?

A. It was around that, yes.

Q. Perhaps your salary minus $20?

A. No, probably my salary plus a grocery check or something. I don't know.

Q. All right. Looking down near the bottom of the page. Do you see how on January 20th you wrote a check for which there were not sufficient funds in your account?

A. Yes.

Q. And you see how on January 25th you bounced another check?

A. Yes.

Q. Turning the page over to the February statement. Do you see how there is a deposit there on February 19th for $555.20?

A. Um-hum, yes.

Q. Do you think that was pretty much your salary?

A. That was probably my whole salary, yes.

Q. And on March 4th there was a deposit for the same amount.

9504367 2219

A. Yes.

Q. Think that was your salary?

A. Yes.

Q. Drawing your attention to the bottom of the page, you see how on what is apparently February 18th you bounced another check?

A. Yes.

Q. And you see how on March 1st you also bounced a check and were charged for that?

A. Yes.

Q. Moving on --

MR. PELKEY: Let me just interrupt and ask a question I think may clarify. If you do a day or night transaction teller and you -- is it possible to overdraw your account?

A. Yes.

MR. PELKEY: And would they also charge you an NSF check charge?

A. Yes.

Q. BY MR. RAICH: Let me see if I understand that. If you --

MR. PELKEY: If you want to go off the record, I

9504362 1220

can explain to you, I think, what's been happening.

MR. RAICH: I think I understand; but if this isn't what you think might be going on, let me know.

Q. BY MR. RAICH: What you would do would be to deposit your paycheck and withdraw some money from an automatic teller machine?

A. Yes.

Q. But when you do that it would cause your --

A. A nonsufficient.

Q. It would cause -- yes, you would be charged for a nonsufficient funds transaction?

A. Right. I'm not saying that's what happened; but it can be done that way, yes.

Q. Because of the float that your bank requires to be left on the check?

A. Yes.

Q. Well, I notice here, still looking at the February statement, looks like you made a deposit on March 4th but you had a nonsufficient fund transaction on March 1st. So apparently you may have actually written a check for which there were not sufficient funds. I think that the scenario we just discussed with the automatic teller machine

9504361221

might be the case with the February 19th deposit and the February 18th nonsufficient funds transaction. I think that that probably was not the case with the other one though.

Do you follow what I'm saying?

A. Um-hum. Yes.

Q. All right. Now, moving over to the next month. On March -- for March of 1988, looks like on March 30th you were charged $12 for nonsufficient funds in your account. Do you see where I am looking?

A. Yes.

Q. Do you also see that it doesn't look like there were any deductions from automatic teller machines on March 30th? There were three of them that month, appears there were two of them on March 21st and one of them on April 4th. See where I am looking?

A. Yes.

Q. All right. Then we go over to the next month, that is the April, 1988 period.

Oh, by the way, if I can have you turn back just briefly to March of 1988, like you to note the difference in the deposit amounts in one deposit on March 18th, and that was for $575.20.

9504367 1222

A. Um-hum.

Q. And April 1st it was for $542.65.

A. Um-hum.

Q. Do you think that a reason for that might well have been because of the way that your FICA deductions were being computed?

A. Possible.

Q. All right. Do you see then noticing on the next month's statement, both for deposits for $572.65, again they ended in the same amounts as the new perhaps check that was computed with a new FICA deduction for it.

Finally at the bottom of this page I want you to see if you see how apparently on April 27th you had another bounced check.

A. Yes.

Q. All right. Moving over to the May statement, I just want to draw your attention near the bottom of the page it appears that you were again charged on June 3rd for a bounced check. Do you see that?

A. Yes.

Q. Turning over to the June statement, it appears that on June 9th there were two rubber checks that were

9504367 1223

written and you were charged for. Do you see that?

A. Yes.

Noting also that I had a deposit on 6-10. That might explain that.

Q. You had one deposit on 6-10, but two bounced checks on 6-9.

A. Correct.

MR. PELKEY: For overdrawn day and night teller transactions.

Q. BY MR. RAICH: Yes, or at least -- yes. Both of them appear to be on that same day. I note also though that there were no apparent ATM transactions listed right above the NSF transaction section of this statement.

A. Um-hum.

There were only four ATM transactions listed, none of which are on June 9th.

A. Okay.

Q. Okay, would like to also on this statement here mostly for June note that how on July 5th you deposited $1,000 into your account. Do you see that?

A. Yes.

Q. Do you know if that was for services rendered on

9504367 1224

behalf of the associations?

A. It's probably bonus.

Q. Okay, turning over to the July statement, we've looked at this some already. Do you see how on August 3rd you were charged for an NSF transaction?

A. Yes.

Q. And you see the $10,000 receipt and the $10,000 check both listed on your statement there.

A. Yes.

Q. Now, moving over to the August statement. Do you see how in that month you apparently were charged for four overdrawn checks. Do you see that?

A. Um-hum. Yes.

Q. All right. Going over to the next month, mostly for September, note that your deposits --

(Conference between Mr. Pelkey and Mr. Cloud out of the hearing of the Court Reporter.)

Q. BY MR. RAICH: I noticed that this is the first month in 1988 that there are no bounced checks. Do you see that?

A. Yes, I do.

MR. PELKEY: Must have been when Shonn moved in?

9504367 1225

A. I don't remember.

Q. BY MR. RAICH: All right, moving over to the next month, for October, do you see how October 7th and October 13th you were charged for bounced checks?

A. Yes.

Q. I'd also like to point out that you made two deposits in that month, for different amounts. And the amounts apparently reflecting a raise that you received. Correct?

Does that accurately reflect a raise that you received?

A. Speculating, yes, it looks that way.

Q. All right. Moving over now to November, like to note that you didn't get any bounced checks again that month.

A. Thank you.

Q. Apparently after you got this raise you didn't have any bounced checks that month. Do you see that?

A. I see that.

Q. All right, and then finally looking on the December, 1988, bank statement, you apparently at that point had gone back and had two nonsufficient funds transactions

9504367 1226

listed there after getting used to your new salary.

A. You can tell.

Q. You note also having listed a bonus there, or you appear to have received some extra money here?

A. Yeah, that could have been Christmas gifts from my parents or a bonus, I do receive a Christmas bonus.

Q. And we are talking about the $500 on the 21st and $100 on the 27th; is that what we are talking about?

A. Correct.

Q. Now, it's true during this period that you were living on about $18,000 a year. Correct?

A. Correct.

Q. And it's true that you were bouncing checks just about every month of that year; weren't you?

A. It looks that way.

Q. It's true, isn't it, that you were never active in any political campaign in your entire life?

A. Correct.

Q. And it's true that you have never made a contribution to a political campaign outside one $10,000 contribution; is that correct?

A. Correct.

9504367 2227

Q. Yet you're also telling me today that you made a $10,000 contribution, the entire amount that you had received, to invest in your future; is that correct?

A. Correct.

MR. PELKEY: Objection, asked and answered.

Go ahead and answer it if you can.

A. Correct.

Q. BY MR. RAICH: Showing you a copy of the statute. Let the record reflect this is 18 U.S.C. Section 1001. I'd like you to read that carefully, please.

A. Where at? I'm sorry.

MR. PELKEY: Read this paragraph.

(Pause.)

A. Okay.

Q. BY MR. RAICH: And have you read that?

A. Yes, I have.

Q. Let the record reflect that I am now handing you a copy of another statute, this is 18 U.S.C. Section 1621. Would you please read that carefully.

(Pause.)

Have you finished reading that?

A. Yes.

9504367 2228

Q. Would you like to clarify any statements you've previously made today?

A. I don't think so, no.

Q. Are you aware of any situation in which any person had given somebody money for the purpose of using that money to contribute to a political campaign?

A. No.

MR. PELKEY: You mean -- I am going to object on the basis of vague. Are you talking about the parties involved here or just in general?

Q. BY MR. RAICH: I am asking you if you are aware of any situation in where any person has given somebody money for the purpose of using that money to contribute to a political campaign?

A. Not that I recall, no.

Q. Are you aware of any situation in which any company or any entity has given a person money for the purpose of contributing to a political campaign?

A. Not that I recall.

Q. Not aware of any situation like that ever happening that you are aware?

A. Not that I recall.

9504367 2229

Q. Now, has anybody at work ever made any comments that you overheard about the Federal Election Commission?

A. Not that I recall, no.

Q. Has anybody at work at the associations ever made any comments about the federal election laws?

A. Not that I recall.

Q. I don't mean did they actually comment specifically to you, I wondered if you ever overheard any such conversation.

A. Not that I can recall, no.

Q. All right, there are a few more questions I want to ask, and perhaps I might want to apologize for asking some of these; but just in the interest of thoroughness and carefulness I think I may need to ask some of them, so like to ask your apology in advance.

Would you please tell me what your date of birth is?

A. 3-4; March 4th, '58.

Q. And are you married?

A. No.

Q. [redacted]

A. [redacted]

9504367.2230

Q. [redacted]

A. [redacted]

Q. [redacted]

A. [redacted]

Q. [redacted]

A. [redacted]

Q. [redacted]

A. [redacted]

[redacted]

Q. [redacted]

A. [redacted]

Q. What period did she work there?

A. Late, oh, probably early '88. Till August '88. Something like that. I don't really know.

Q. Who was she a secretary for?

A. Pat, Patricia Davidson.

Q. You mentioned Patricia Davidson no longer works there?

A. Correct.

Q. Did Shonn Fitzgerald and Patricia Davidson leave at the same time?

A. It was a short period difference, couple days.

9504367 2231

Q. I see. But except for a couple days' difference they left at virtually the same time; is that right?

A. Yes.

Q. Do you have any children?

A. No.

Q. Have you ever testified in court?

A. No.

Q. Have you ever been under oath before?

A. No.

Q. Have you ever been convicted?

A. No.

Q. Have you ever been arrested?

A. No.

Q. In what states have you ever lived?

A. Illinois and Arizona.

Q. That's it?

A. That's it.

Q. Have you ever had any other names?

A. My mom remarried and my name I was born with was Timothy Mark Sweet, S-W-E-E-T. She remarried and I was adopted Timothy Mark Cloud.

Q. About when did you change your name?

9504367 2232

A. Oh, I was about eight.

Q. So approximately 1966?

A. Yes.

Q. Are you under any medication that would affect the answers you've given today?

A. Some medication for my neck. I got a stiff neck today. But nothing major. Just aspirin or something like that. Tylenol.

Q. And is that the only medication you are under --

A. Yes.

Q. -- at this moment?

Who's paying for your attorney?

MR. PELKEY: Objection. Irrelevant.

Q. BY MR. RAICH: Go ahead and answer.

MR. PELKEY: Going to instruct him not to answer.

Q. BY MR. RAICH: Are you going to answer the question?

A. No.

Q. Is that on the advice of your attorney?

A. Yes.

Q. And would you like to change any of the statements at all that you've made today?

9504367 2233

A. I would like to change one concerning the earlier -- earlier statement when you asked me if I had talked to anybody else after I got the deposition, and I had talked to Randy King. That was it. That was the only one.

Q. When did you talk to him?

A. Right after I received the deposition. Because I had not any legal counsel at that time.

Q. I see. When you say you received the deposition, you mean when you received the subpoena for the deposition?

A. I'm sorry, yes, the subpoena.

Q. And was this late last year?

A. Yes, November.

Q. November, 1989; correct?

A. Correct.

Q. And how many times did you talk to him?

A. Once that I remember. Basically I wanted him to just look over the deposition -- I mean the subpoena, excuse me.

Q. Did you have any other conversations with him other than that one time?

A. Not that I remember, no.

Q. Is there any statement that you would like to

9504336 2234

make right now?

A. No.

MR. RAICH: Okay, I'd like to break for about five minutes.

MR. PELKEY: Okay. Let me just, if I can, go back to the objection that I made with respect to the attorney's fees. I believe it is irrelevant, but also I believe it's covered by the attorney-client privilege. I just wanted to add that to the objection.

MR. RAICH: Off the record.

(Recess taken from 2:38 p.m. to 2:44 p.m.)

Q. BY MR. RAICH: When we were going over your bank statements a while ago you mentioned some other sources of income that you had, money from a roommate, Christmas gifts, things like that.

A. I did live alone during a period of time there. Probably where -- during the time -- I'm trying to remember what months I did live alone.

During June -- June, July, August, September, and October I was living by myself. Basically. Then in November of '88 I picked up a roommate, and previously in May I dumped a roommate. So there was that period in

9504367 12335

between that I was living by myself; so that would -- pretty much what you saw during those months were income from the office.

Q. Now, were there any other sources of income that you received other than from the associations, roommates, or like a Christmas gift from your parents?

A. Oh. No.

Q. None at all that you can think of?

A. No. No outside businesses or drug deals or anything weird like that. No.

Q. Drawing your attention to Exhibit 8, which is the bank statements. I wonder if you can describe for me what those deposits are that are listed there?

MR. PELKEY: Which page?

A. On which page?

MR. RAICH: I'm sorry, this is for the November and part of December period.

A. November. Well, the two seven fifty-two's are, I would presume, payroll checks. This is during November. This is when Shonn moved in, so there might have -- it looks like, I don't know. The 200 looks like it might be a bonus. Bob deals in round numbers there. The 350 I'm not so sure

9504367 2236

about. 165 is probably a rent check from -- or partial payment for rent from Shonn, because of the date. The 430, I don't have a clue to that.

Q. BY MR. RAICH: Other than salary and bonuses, did you receive other kinds of reimbursements from the corporation, from the associations?

A. If I traveled, which I didn't do in '88, if I had to pay anything out of my own, you know, expense money. But that rarely happened.

I'm sorry, I've lost the question.

Q. I wondered if you ever received reimbursements from the association.

A. No. Basically everything was handled up front or through the company credit card.

That I can remember.

Q. You had a company credit card in 1988?

A. No, not in '88.

Q. Did you have an expense account?

A. I never really traveled. Everything I bought for like supplies or new computers was all predetermined, preapproved, that type of stuff.

Q. So you didn't have an expense account?

9504367 2237

A. No.

Q. When did you get the company credit card?

A. Can I look?

Q. Sure.

MR. PELKEY: Should be an expiration date, but that doesn't tell you when you got it.

A. 11-89.

MR. RAICH: Let the record reflect that the witness has looked at an American Express credit card in his wallet.

Q. BY MR. RAICH: How frequently in 1988 did you interact with Ken Twichell?

A. Interact, you mean on work?

Q. Yes.

A. On a daily basis. He being the office manager at that time, me being fairly new into their organization, he was more or less played -- you know, he checked in on the computer room from time to time. Obviously the center hub of the organization, everything is done on computers, membership files; and if there's a problem there, obviously he's gotta be -- he'll be stepping in if the system goes down. He doesn't know anything about the system, but you

9504367 2238

understand he would be there to find out what is wrong. On a daily basis.

Q. Did he mention to you that Bob Johnson was interested in Republican party politics?

A. No, I can't remember him saying -- I just knew that there was huttle-scuttle around the office that Bob was -- or I'd ask where Bob was at at a particular time, and he was at Washington or whatever.

Q. Did Ken Twichell know that you had received $10,000 for --

A. I don't know.

Q. Did you never mention that to him?

A. No, I don't remember -- not until all this came about in late November. I don't remember ever -- ever having a conversation with him about that.

Q. Did you mention to him that you had made a $10,000 contribution?

A. Not that I remember.

Q. Did he ever mention to you that he had made contributions?

A. No, I didn't know anything about that till last November.

9504367 2239

Q. Tell me about that conversation with Twichell last November.

A. Oh, it was no conversation. I just knew -- that's whenever you contacted me and I went to the office and I wanted to talk to Randy King, I asked for Randy King's phone number.

Q. And you asked Ken Twichell for Randy King's phone number?

A. No, I asked -- I think I asked Bob for it. I don't remember, tell you the truth; I just asked whoever was Bob's secretary or whoever. I don't remember exactly what transpired, it was a long time ago.

Q. Do you remember how you found out about a contribution Ken Twichell made?

A. Just sometime after that, it just -- I just found out or I just heard that he had, he was involved. And, well, I knew that Bob and him were -- they were the -- might even have been on the deposition itself, who the defendants were. I don't know. I'm not -- I don't remember how that transpired. All that's kind of a fog, just kind of rolled out.

Q. Had you been informed that anybody else in the

9504367 2240

office also made a contribution to the Republican National Committee?

A. No, I -- no, I wasn't.

Q. Nobody told you that anyone else in the office made a contribution to the Republican National Committee; is that correct?

A. Before I was contacted by you. That's when I was told, maybe by yourself. I don't remember.

Q. All right. As you probably know, this investigation is being conducted pursuant to the Federal Election Campaign Act. That Act provides that all Commission investigations are conducted in strict confidentiality.

Do you understand that?

A. Yes, I do.

Q. That means that it would be illegal to discuss this investigation or the specifics regarding this investigation with anybody, other than your lawyer.

Do you understand that?

A. Yes, I do.

Q. You understand that would include discussing with anybody the substance of this deposition or any answers you

9504367 2241

have given in this deposition or any questions I have asked in this deposition.

A. Yes, I do.

Q. You understand that?

A. Yes.

Q. You will have an opportunity to review and sign the transcript of this deposition. If you do not sign the transcript of this deposition within 30 days, it will be deemed read and signed.

Do you understand that?

A. Yes.

Q. The Commission's regulations provide that you are entitled to a witness fee check for your appearance at this deposition today. And let the record reflect that I have just handed that check to you.

A. Thank you.

Q. Now, Mr. Pelkey, we had asked for two categories of documents earlier in this deposition. That was 1988 W-2 forms and 1988 1099's or other documents that would indicate other sources of income.

I would ask you to produce those, I believe they are within the scope of the Commission's subpoena.

9504367 2242

MR. PELKEY: I'm not sure that I would disagree with that. I just -- this is the first time that the subject has come up, was here at the deposition. The reason why I objected at the time was that I want a chance to go back and review the subpoenas and satisfy myself that they are within the scope.

Like I say, I don't necessarily disagree with that. If for some reason I do, I will certainly inform you of that fact and the reasons why I feel that they are not covered by the scope; otherwise, we will produce them.

MR. RAICH: All right. Can you tell me when you will either produce them or let me know that you won't produce them?

MR. PELKEY: How soon would you be able to get them?

THE WITNESS: I can have them tomorrow.

MR. PELKEY: Okay. Well, tomorrow I am going to be out of town on another --

THE WITNESS: I can mail them to your office so you can have them by the end of the week.

MR. PELKEY: Say mid next week, I would say.

MR. RAICH: Okay. So today is June the 20th. So

9504367 2243

by June 27th you will be contacting me; is that correct?

MR. PELKEY: Yes.

THE WITNESS: A photocopy is fine?

MR. RAICH: Yes, a photocopy will be fine. But it would be all such documents. Do you understand that?

THE WITNESS: Anything that was filed. Is that what you're saying?

MR. RAICH: Anything indicating sources of income you had in 1988.

THE WITNESS: Okay.

MR. RAICH: From the specified persons.

MR. PELKEY: Now that we are on that subject, are you requiring him to produce tax returns?

MR. RAICH: Wouldn't hurt.

MR. PELKEY: I might object again on confidentiality grounds there. I just want to make sure that we don't run into this problem again after I have produced the W-2's and the 1099's and then you later say well, we'd like a copy of the tax returns as well.

In other words, if we are going to address the idea of another production of documents, I'd like to find out what all you want now and either produce them all or

9504367 2244

object to them all or object to them in part.

MR. RAICH: Do you have any objection to producing a copy of your tax returns?

THE WITNESS: Not at all.

MR. PELKEY: Okay. Well, again, we'll work that out. The only reason I bring that up is because in theory that also reflects what his income is; but it should also, it should match what the W-2 and the 1099 is.

MR. RAICH: So I think it would be a good idea to have that to make sure it does.

Okay, this deposition will recess.

(Concluded at 2:58 p.m.)

* * * * *

9504367 2245

I, the undersigned, say that I have read the foregoing deposition taken June 20, 1990, and I declare, under penalty of perjury, that the foregoing is a true and correct transcript of my testimony contained therein.

EXECUTED this _____day of _____, 1990.

_____
TIMOTHY M. CLOUD

Subscribed and sworn to before me this _____ day of _____, 1990.

_____
Notary Public

My Commission Expires:

_____

9504367 2246

STATE OF ARIZONA)
) ss:
COUNTY OF MARICOPA)

I HEREBY CERTIFY that the foregoing deposition was taken before me, Kent L. Carter, RPR, CM, a Notary Public in and for the County of Maricopa, State of Arizona; that the witness before testifying was duly sworn by me to testify to the whole truth; that the questions propounded to the witness and the answers of the witness thereto were taken down by me in shorthand and thereafter reduced to writing by me; and that the foregoing 158 pages are a full, true, and correct transcript of all proceedings had upon the taking of said deposition, all done to the best of my skill and ability.

I FURTHER CERTIFY that I am in no way related to any of the parties hereto, nor am I in any way interested in the outcome hereof.

DATED at Phoenix, Arizona, this 30th day of June, 1990.

KENT L. CARTER, RPR, CM
Notary Public

My Commission Expires:
September 30, 1992

9504367 2247

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
) MUR 2984

SUBPOENA

TO: Mr. Timothy Cloud
1720 East Thunderbird
Phoenix, Arizona 85022

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 certain activities of National Association of Real Estate Appraisers and related organizations. Notice is hereby given that the deposition is to be taken on December 13 , 1989 in Room 3449 of the Federal Building, 230 North First Avenue, Phoenix, Arizona, beginning at 10:00 a.m. and continuing each day thereafter as necessary.

Further, pursuant to 2 U.S.C. § 437d(a)(3), you are hereby subpoenaed to produce legible copies of all checks you received from any source, and all checks you wrote, in 1988 for the purpose of benefitting any candidate for federal office or any political party. The documents must be submitted to the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, by November 30, 1989.

9504367012248

EXHIBIT
Cloud 1
6-20-90 RL

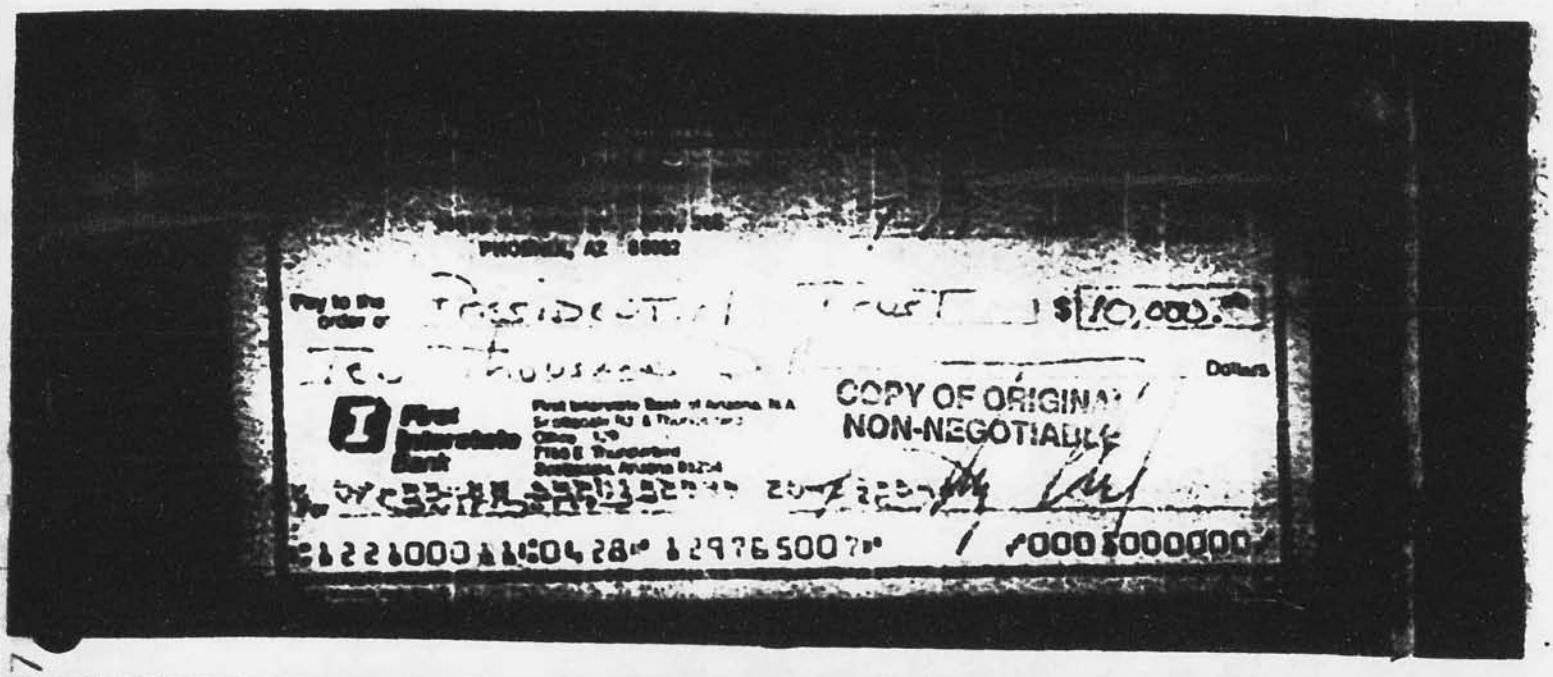
WHEREFORE, the Chairman of the Federal Election Commission has hereunto set his hand at Washington, D.C., this 15th day of November, 1989.

Danny L. McDonald, Chairman
Federal Election Commission

ATTEST:

Marjorie W. Emmons
Secretary to the Commission

9504367612249



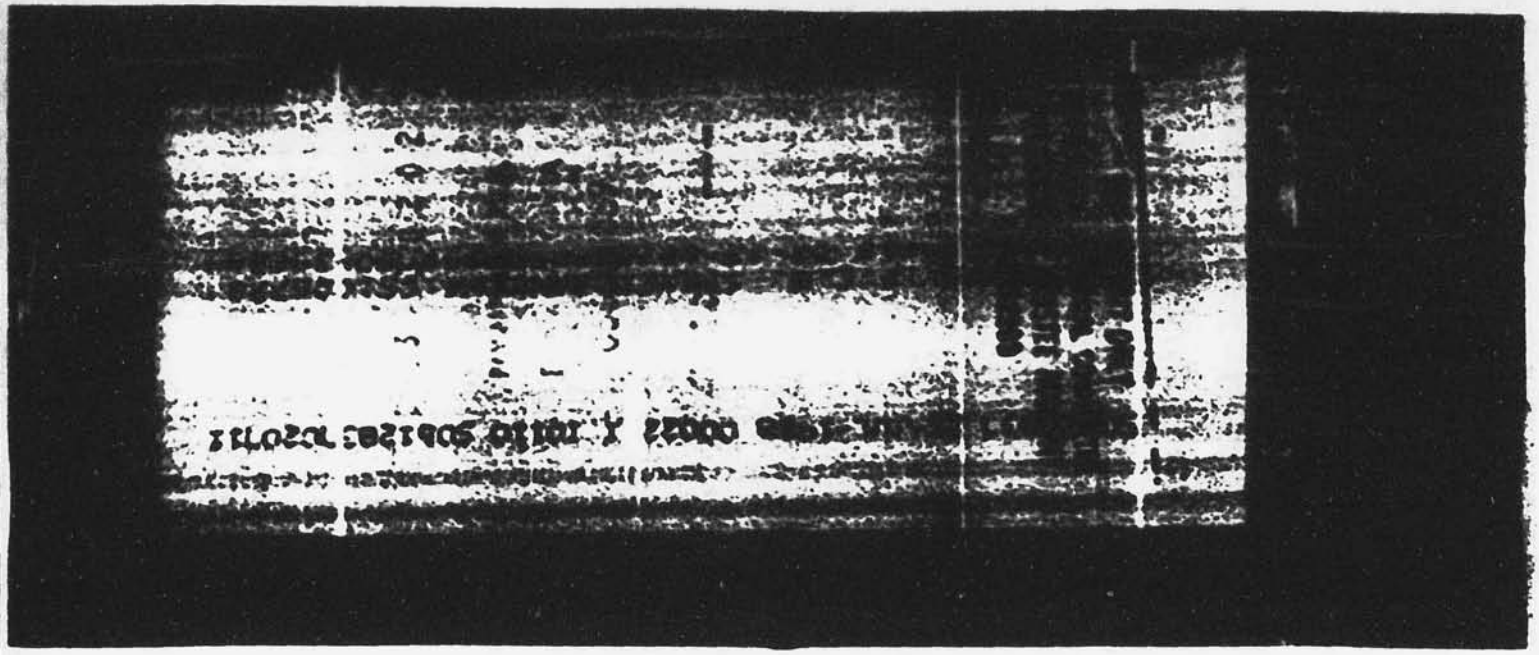


EXHIBIT
Cloud 3
6-20-90 ER

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 2984

SUBPOENA TO PRODUCE DOCUMENTS

TO: Timothy Cloud

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 the documents listed on the attachment to this subpoena.

Notice is given that these documents must be presented for inspection and copying on December 11, 1989, at 9:00 a.m., in Room 3449 of the Federal Building, 230 North First Avenue, Phoenix, Arizona, or such other location as may be agreed upon. Legible copies which, where applicable, show both sides of the documents may be substituted for originals.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set his hand in Washington, D.C. on this 29th day of November, 1989.

Danny L. McDonald, Chairman
Federal Election Commission

ATTEST:

Marjorie W. Emmons
Marjorie W. Emmons
Secretary to the Commission

EXHIBIT
Cloud 4
6-20-90KBL

9504367 2251

INSTRUCTIONS

In responding to this document request, furnish all documents and other information, however obtained, that are in possession of, known by, or otherwise available to you, including documents and information appearing in your records.

Should you claim a privilege with respect to any documents requested by this document request, 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.

This document request is continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

DEFINITIONS

For the purpose of this document request, including the instructions thereto, the terms listed below are defined as follows:

"You" shall mean Timothy Cloud, including all employees, agents, or attorneys thereof.

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

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of this document request any documents and materials which may otherwise be construed to be out of its scope.

9504367 2552

"Specified Persons" shall mean any candidate for federal office; any federal political committee; any political party; National Association of Real Estate Appraisers, Inc.; National Association of Review Appraisers and Mortgage Underwriters, Inc.; International Association Managers, Inc.; International Real Estate Institute; Professional Womens Appraisal Association; Robert Johnson and Associates; Todd Publishing; Robert Johnson; E. Kenneth Twichell; Timothy Cloud; Stephen Schneck; and Todd Johnson.

DOCUMENT REQUEST

1. Produce all of your statements from banks, brokerage houses, and all other financial institutions, and all of your check registers, for the period of January 1 through June 30, 1988.

2. Produce all documents that in any way reflect, constitute, relate, or refer to financial activity, or the transfer of any asset either directly or indirectly through a third party, between you and any of the Specified Persons during the period of January 1 through June 30, 1988. Such documents include, but are not limited to, all of the following: checks written to you; check stubs; deposit slips; cancelled checks; records of electronic transfers; confirmations of the purchase or sale of stocks, bonds, mutual funds, commodities, and real estate; and all other financial transactions.

9504367d253

3. Using all computer records at your disposal, produce all communications in which Robert Johnson, E. Kenneth Twichell, National Association of Real Estate Appraisers, Inc., National Association of Review Appraisers and Mortgage Underwriters, Inc., International Association Managers, Inc., International Real Estate Institute, or Professional Womens Appraisal Association requested support for any political candidate. Produce all letters, statements, invoices, vouchers, receipts, checks, and any other documents which in any way relate, pertain, or refer to such communications requesting support for a political candidate.

9504367 2 3 4

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 2984

SUBPOENA TO PRODUCE DOCUMENTS

TO: Timothy Cloud

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 the documents listed on the attachment to this subpoena.

Notice is given that these documents must be presented for inspection and copying on March 2 , 1990 at 10:00 a.m., at the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463. Legible copies which, where applicable, show both sides of the documents may be substituted for originals.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set his hand in Washington, D.C. on this 6th day of February, 1990.

Lee Ann Elliott, Chairman
Federal Election Commission

ATTEST:

Marjorie W. Emmons
Secretary to the Commission

EXHIBIT
Cloud 5
6-20-90KH

9504367 2255

INSTRUCTIONS

In responding to this document request, furnish all documents and other information, however obtained, that are in possession of, known by, or otherwise available to you, including documents and information appearing in your records.

Should you claim a privilege with respect to any documents requested by this document request, 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.

This document request is continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

DEFINITIONS

For the purpose of this document request, including the instructions thereto, the terms listed below are defined as follows:

"You" shall mean Timothy Cloud, including all employees, agents, or attorneys thereof.

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

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of this document request any documents and materials which may otherwise be construed to be out of its scope.

9504367 2256

"Specified Persons" shall mean any candidate for federal office; any federal political committee; any political party; National Association of Real Estate Appraisers, Inc.; National Association of Review Appraisers and Mortgage Underwriters, Inc.; International Association Managers, Inc.; International Real Estate Institute; Professional Womens Appraisal Association; Robert Johnson and Associates; Todd Publishing; Robert Johnson; E. Kenneth Twichell; Timothy Cloud; Stephen Schneck; and Todd John[illegible]

DOCUMENT REQUEST

1. Produce all of your statements from banks, brokerage houses, and all other financial institutions, and all of your check registers, for the period of July 1 through December 31, 1988.

2. Produce all documents that in any way reflect, constitute, relate, or refer to financial activity, or the transfer of any asset either directly or indirectly through a third party, between you and any of the Specified Persons during the period of July 1 through December 31, 1988. Such documents include, but are not limited to, all of the following: checks written to you; check stubs; deposit slips; cancelled checks; records of electronic transfers; confirmations of the purchase or sale of stocks, bonds, mutual funds, commodities, and real estate; and records of all other financial transactions.

9504367 2257

NATIONAL ASSOCIATION OF REAL ESTATE APPRAISERS

8715 Via De Commercio Scottsdale, Arizona 85258 U.S.A.

E. Kenneth Twichell
Managing Director

(602) 948-8000

February 4, 1988

Rec'd 2/18/88 JRL

Mr. John R. Lair, CREA
Appraiser
The Jokala, Inc.
P.o. Box 306
Atkins, Arkansas 72823

Dear John:

This is the most important letter I may ever write. It concerns a unique opportunity that you and I have to help the National Association of Real Estate Appraisers obtain a great deal of influence with the person who will most probably be the next President of the United States.

Vice President George Bush is a close friend of one of our Directors. Through him, I have personally gotten to know the Vice President. Most political forecasters agree he will be the next President. We need to show the Vice President and his staff that we can muster large and immediate support and nothing will be more visible or have more impact right now than financial support. Your contribution, added together with every member's contribution will create the impact that we have the power required to influence important political (Real Estate) decisions.

I have personally paid for this stationery, all the mailing costs, etc., so as not to violate any Federal Election laws or place any financial burdens on the Association.

You only vote for a President a few times during your life, and only once will you have this unique opportunity to support someone who will support us. Your contribution of $100.00 is needed right now. Yours, together with a united membership effort could create the biggest financial support of his entire campaign. Please join me, today, by making your contribution. If not for $100.00, send something. The total impact of this effort will be very meaningful to the Association.

A special card and envelope for your use are enclosed. Your contribution will be officially registered. This <u>one time</u> effort is all that is needed to put us on the map. Don't hesitate, please respond today.

Sincerely,

E. Kenneth Twichell
Managing Director

P.S. For those who give $500.00 or more, the Vice President will write you personally. I will be provided with a list of all contributors from the Vice President's Campaign Director so I can also respond and have this most important document.

EXHIBIT
Cloud 6
6-20-90 KR

9504367 2 5 8

STATEMENT

NATIONAL ASSOCIATION OF REAL ESTATE APPRAISERS

National Office • 8715 Via De Commercio • Scottsdale, Arizona 85258 USA

E. Kenneth Twichell
3867 East Everett
Phoenix, AZ 85032

CREA - Certified Real Estate Appraiser

DATE	DESCRIPTION	TOTAL
March 3, 1988	Services/Products furnished to E. Kenneth Twichell	
	Mailing List Rental Charge 2500 Names (NAREA Members) @ $50.00 per 1000	$125.00
	Letter Processing Charge 2500 Letters and Envelopes	$ 60.00
	Mailing Charge 2500 Pieces @ .22 each	$550.00
	Machine Time	$ 25.00
	Total Due	$760.00

Paid

NATIONAL ASSOCIATION OF REAL ESTATE APPRAISERS

PLEASE RETURN WHITE COPY WITH REMITTANCE

9504367 12-59

EXHIBIT
Cloud 7
6-20-90 ker

OGC 8650

TRANSCRIPT OF PROCEEDINGS

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 NOV 16 PM 2:26

UNITED STATES OF AMERICA

BEFORE THE

FEDERAL ELECTION COMMISSION

- -x

IN THE MATTER OF:

M U R 2984

- -x

9504367 2260

DEPOSITION OF JEAN JOHNSON

Scottsdale, Arizona

Wednesday, October 31, 1990

ACE-FEDERAL REPORTERS, INC.
Stenotype Reporters
444 North Capitol Street
Washington, D.C. 20001
(202) 347-3700
Nationwide Coverage
800-336-6646

4768.0

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of:)
)
) MUR 2984
)
)
)

DEPOSITION OF JEAN JOHNSON

Scottsdale, Arizona
October 31, 1990
9:00 a.m.

COPY

KENT L. CARTER, RPR, CM
Court Reporter

9504367 2261

I N D E X

WITNESS		PAGE
JEAN JOHNSON		
Examination by Mr. Bernstein		4

EXHIBITS	DESCRIPTION	IDENTIFIED
No. 1	List of Printers	38
No. 2	REA Newsletter, Issue 24	47
No. 3	Letter, Malaysia to Johnson	54
No. 4	Letter, Twichell to Lair, 2-4-88	63
No. 5	Letter, Johnson to FEC, 4-6-88	92
No. 6	Letter, Johnson to FEC, 4-4-88	92

9504367 2662

The deposition of JEAN JOHNSON was taken before Kent L. Carter, RPR, CM, a Notary Public in and for the County of Maricopa, State of Arizona, at the Clarion Hotel, 7353 East Indian School Road, Scottsdale, Arizona, on the 31st day of October, 1990, beginning at the hour of 10:35 a.m.

APPEARANCES:

For the Federal Election Commission:

JONATHAN A. BERNSTEIN, ESQ.
Assistant General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

9504367 2663

JEAN JOHNSON,

after being first duly sworn by the Notary,

was examined and testified as follows:

EXAMINATION

BY MR. BERNSTEIN:

Q. My name is Jonathan Bernstein, and I'm an attorney for the Federal Election Commission. I'm here this morning for a deposition of Jean Johnson as a witness in a commission investigation authorized by Section 437g of Title II of the United States Code.

Mrs. Johnson, could you state your full name, please?

A. Jean Berlin Johnson.

Q. And your address?

A. 2849 East North Lane, Phoenix 85028.

Q. And where are you currently employed?

A. Meetings And More, Incorporated. My husband and I own the business.

Q. And the address of that business?

A. 13832 North 32nd Street, Suite C1-7, Phoenix 85032.

9504367 2264

Q. Mrs. Johnson, have you ever had your deposition taken before?

A. No. Never.

Q. Let me explain briefly that I'm going to be asking you a series of questions, and the questions and your responses will be recorded by the court reporter. And a written transcript will be prepared, and you will have the opportunity to review that transcript and to sign it. If at any point my questions are not clear, please say so. If you have any question, please voice it. And if at any time you would like to go off the record, please just ask and we can go off the record.

Mrs. Johnson, are you aware that you have the right to have an attorney represent you today?

A. Yes.

Q. And do you have an attorney representing you?

A. No.

Q. Could you tell me something about your educational background?

A. I have a bachelor's degree from American University in Washington, D.C. in the area of public relations and journalism.

9504367 2265

Q. And do you have any further education?

A. No.

Q. How long have you been in your current job?

A. Since March '89, I believe.

Q. And where were you employed before that?

A. I was employed by an association management firm whose name is International Association Managers. Part of that was the National Association of Real Estate Appraisers, National Association of Review Appraisers, Professional Women's Appraisal Association. They also had a firm called National-International Relocation Directory, and International Real Estate Institute. It was a multi-association management firm.

Q. How long were you employed there?

A. From August '87 to March '89.

Q. And where were you employed before that?

A. Can we go off the record?

(Discussion off the record.)

Q. Where were you employed before that?

A. I was employed at the College of Agricultural Sciences, I was Associate to the Dean there, Dean McDaniel.

Q. Where was that?

9504367 2266

A. North Delaware.

Q. And what sort of work did you do there?

A. Administrator, with a little writing for him. At the time the Governor had appointed him Secretary of Agriculture; so he was split, and I helped him with his administrative duties on the college area because he was involved in Dover a lot.

Q. And what job, if any, did you have before that?

A. I worked for Dow Chemical, the information center. I analyzed federal legislation and wrote -- wrote information about who was sponsoring the legislation, the impact on Dow, and any news clippings that related to it for people back in Midland, Michigan to know.

Q. And what job did you have before that?

A. I worked for the hearing aid association, I can't remember the name of it. Can we go off the record?

(Discussion off the record.)

Q. Back on the record.

So it was a trade association but you're not sure of the name?

A. I was an editor, the newsletter.

Q. And did you have a full time job before that?

9504367 2267

A. No, I was a college student.

Q. Mrs. Johnson, have you brought any documents with you to the deposition today?

A. Yes, I have.

Q. And can you tell me what they are?

A. This is a 1988 Directory of Members for the National Association of Real Estate Appraisers.

Q. And what else?

A. This is a listing of suppliers or repair-type people should -- at the time that I worked for NAREA, et cetera, if a machine broke down we called, and our account number and that type of thing.

Q. And what else?

A. I have a copy of the Scottsdale Air Park News dated September, 1988.

Q. And what's the relevance of that?

A. Inside are two articles, one specifically indicating the move of International Association Managers to the Scottsdale Air Park and the other one was an article on how to hire a real estate appraiser.

Q. And what else?

A. A listing of documents that are on a computer

9504367 2268

disk, documents that I wrote during my time at NAREA, et cetera.

A letter to Randy King indicating my responsibilities and duties at NAREA, et cetera. In terms of legislation.

Q. During the period of your employment?

A. Yes. It changed throughout, you know; but yes, having to do with legislation.

A copy of issue 24 of the Real Estate Appraisal, page 7 a photograph of Randy King and John Steensland with Senator Durenburger.

Q. So this is an NAREA newsletter?

A. Yes.

Q. And what else?

A. Copy of a PWAA newsletter, Volume II, Issue 1.

Q. Is there a date on that newsletter?

A. They never dated their newsletters. A bone of contention between someone who has a journalism degree and the way they operated.

Q. I see. And what else?

A. A press release indicating the formation of Appraisers Common Cause.

9504367 2269

Before we go further, shouldn't I indicate that I would like this intention not -- it is my intention that I don't wish this information to be made public for possible reprisal by the firms being interviewed or investigated.

Q. Mrs. Johnson, if there are areas that we are inquiring today that you feel are sensitive, please do write a letter to the Commission explaining the materials that you think or that you would like to be withheld from the public record even after the closing of this matter, if that's what you would like. And explaining as best you can the reasons for that. And that will be considered by the Commission.

Are there any other documents you've brought with you today?

A. I brought a listing of the printers; it was a list distributed to the staff so when they got bids for items such as newsletters, et cetera, and stuffing projects we could get our bids and who would give the best price for a particular project.

Q. And what else?

A. And a press release from -- I guess a letter from the Housing Developers' Association in Malaysia. Attached to it is a newspaper article as a result of the press

9504367 1270

release the International Real Estate Institute sent to this Association.

Q. And is that the entirety of the documents that you have brought with you to give to us?

A. Yes.

Q. Thank you.

Mrs. Johnson, you said that you were hired by International Association Managers, IAM; is that right?

A. No. IAM was not in existence that I know about when I was hired.

Q. I see. What organization employed you when you started?

A. I guess Appraisers Common Cause when I started.

Q. And did that change?

A. Yes.

Q. And when did it change?

A. I don't recollect the date that it went out of business, but I then worked for NAREA. My main responsibility was to monitor legislation both on the federal and State level, and in doing that it obviously applied to the other associations; and the information I received or monitored was then distributed to the other

9504367 2271

information -- to the other associations as well.

Q. Do you know, Mrs. Johnson, what the precise relationship was among these different organizations?

A. They were all professional trade associations, they all had to do with real estate appraising. The International Real Estate did not, that had to do with real estate. But the prime common link was real estate.

Q. Were they all incorporated entities, do you know?

A. I have no idea.

Q. Was there overlapping ownership of these entities?

When I asked what the relationship was I was referring less to the subject areas they were involved in and more to the relationship as far as who controlled them.

A. Okay. Yes, there was one person, Robert Johnson, who basically made the decisions. There were other people who were given titles for the various associations, but all things had to be approved through Bob and most of the major decisions were from Bob Johnson.

Q. You are not sure who actually owned the corporations?

A. No, I have no idea.

9504367 2272

Q. Roughly how many employees of the associations were there in 1988?

A. Okay, NAREA, 1988?

Q. Yes.

A. I would guess between eight to 12,000.

Q. Mrs. Johnson, employees rather than members.

A. I'm sorry, I thought you said members.

Q. We'll get to that in a moment.

A. Okay, employees?

Q. Yes.

A. In '88.

There were about 15 when we were in the old office, it might have expanded when we went to the new office.

Q. Does that include the clerical staff?

A. Yeah. And, of course, I believe in one year there was a turnover of 88 employees.

Q. There was quite high turnover?

A. Very.

Q. Can you tell me who the titled folks were at the organizations in 1988?

A. Ken Twichell was Manager of the National

9504367 2273

Association of Real Estate Appraisers. Patty Davidson was Executive Director of the Professional Women's Appraisal Association. Bob Johnson, I believe, was Executive Director for National Association of Review Appraisers and Mortgage Underwriters. Todd Johnson was Managing Director for the International Real Estate Institute.

Q. How about IAM?

A. I honestly don't know that. I have a card that said I was Director of Public Relations. But I really don't know.

Q. Were you familiar with an organization called Todd Publishing?

A. Yes.

Q. And who was the titled person or persons for that entity?

A. Todd Johnson was part of it, I don't remember his title; I don't know where Bob Johnson came into this at all either. I don't remember. He obviously controlled it and made the major decisions for that. That was the publishing arm for the other associations.

Q. I see. Are you familiar with a Steven Schneck?

A. Yes.

9504367 2274

Q. Did he have a title?

A. Yes.

Q. What was his title and/or his job responsibilities?

A. In '88?

Q. In '88.

A. I believe he worked with the National Association of Review Appraisers and Mortgage Underwriters. He did a few newsletters. he did the magazine or -- that's not the right word -- magazine that came out quarterly. He researched the articles and coordinated authors to write on that, the various subjects concerning review appraising. He also helped with the national conference. Think that's it.

Q. Are you familiar with a Marie McCabe?

A. No. I never heard that name. I don't think. Marie. It might be maybe one of Bob's secretaries was Marie, but otherwise.

Q. Can you describe the housing of the associations in early 1988?

A. Before the move?

Q. Yes.

A. What do you mean the housing?

9504367275

Q. Were the offices big or small or cramped or spacious?

A. No, we were cramped and we didn't have individual offices. Bob was the only one that had an individual office. One rest room.

Q. Of everyone Bob Johnson was the only one with an individual office in the old building. Is that right?

A. Yes. The mail room upstairs was an individual room. There was a closet upstairs and then there was the lunchroom upstairs. Downstairs Bob's office; and the reception area was in front that was not enclosed, there was a desk there and the dividers that are very common in offices. Yes, it was very distracting because you constantly heard other people's conversations. Good and bad.

Q. Where was the computer room?

A. Actually my desk butted up to it, so if you walked in, turned right and then turned another right, that's where the computer room was. So that sort -- yeah, this was kind of an enclosed area. It wasn't out in the open. I wouldn't call it an office because it was computer room. But I guess if you had to say yes, there was a

9504367 1276

separate doorway to it; so I guess you could call it an office. But it was the computer room.

Q. Was there a door to the computer room?

A. Yes.

Q. And was the door usually kept open or closed?

A. Open.

Q. Was there a regular flow of people to and from the computer room?

A. Um-hum. If you wanted to get anything done.

Q. Who was in charge of the computer room in 1988?

A. Tim Cloud actually handled the machinery, the paper, whatever. But in terms of any decisions of what was to be printed on that computer, Bob Johnson or Ken Twichell, depending on what it was. No one could be back there and say to Tim I have this letter, I want this mailed out, without any of their approval. He did not have the authority to run anything.

Q. But it was his job to run the jobs that were approved?

A. Yes.

Q. And would the other employees interact with Mr. Cloud frequently?

9504367277

A. Yes.

Q. Was it a close-knit office?

A. It was an us versus them situation.

Q. What do you mean by that?

A. Let's go off the record.

Q. Okay.

(Discussion off the record.)

Q. On the record.

A. There was a situation in which there was a lot of firings of personnel. So those that were on the lower end of the spectrum generally were more close-knit, kept to each other, tried to help each other out so they wouldn't be the next one out the door. Yes, there was a lot of conversation that way. Most of the time -- you know, it was personal as well as professional.

There was also antagonism against -- because of the manner in which employee relations were handled. I'd say there was antagonism against Ken Twichell and Bob Johnson; but Bob never did it, it was always Ken who would either, you know, axe people or whatever.

Q. Did Ken Twichell do things on his own authority?

A. I doubt it.

9504367 1278

Q. Why do you doubt it?

A. I don't think he's smart enough. I think he was trained by Bob, that there was a question you ask Bob first. I don't think he ever had an original thought. He's the perfect yes man and hatchet man.

Q. Did Ken Twichell interact closely with the other employees?

A. He might have tried, but no.

Q. Did he interact closely with Tim Cloud?

A. More so than anyone else, yes.

Q. To complete the circle, did Tim Cloud interact closely with other employees?

A. Yes.

Q. Tim Cloud was the middleman?

A. No, I guess we were naive enough to know that -- or to think that Tim wouldn't go running and tell Ken. I believe at least from conversations I've had with Tim that he didn't hold Ken in too high respect either. And he certainly indicated that he would play the game as far as necessary, you know, for his own gain.

But I know of one instance where Ken invited him up to his cabin and we looked at Tim in aghast thinking are

9504367 2279

you gonna go? Says well, maybe. I don't think he ever went though.

Q. So there were frequent conversations among the employees, including Tim Cloud, about activities going on in the office?

A. Sure. There was a lunch room upstairs; and, you know, we were only given an hour, if that, for lunch; and we ate on the run and we were always -- we were in the office whether it was a lunch hour or anywhere else, and we were responsible for picking up the phone and answering it. So yes.

Q. Could you describe briefly for me what activities the associations engaged in?

A. Public relations for the, you know, members. It was a professional trade association. Educational seminars, national conference, membership drives, newsletter, the publishing of educational materials. The normal things that a trade association would do for its members.

Q. Was there a lot of travel involved by any of the employees?

A. Probably Bob traveled the most. There was a national conference that a few employees got to go to.

9504367 2280

Q. Did each association have a separate national conference once a year?

A. Yes. PWAA never had a national conference. They were too small. They did it with NAREA.

Q. And apart from national conferences did Mr. Twichell -- was he a frequent traveler?

A. He might have been. I'm not too familiar with that. I know they offered educational courses to get the CREA designation throughout the nation. I don't remember how much he traveled.

Q. During 1988 is when I'm interested in.

A. Yeah, I'm really not -- I don't think too much. I don't remember. It seems he was always there.

Bob traveled a lot.

Q. And Mr. Twichell was in charge when Bob was away?

A. Yes.

Q. Do you know how travel expenses were handled?

A. No. I never traveled.

Q. Do you know who had authority to sign checks at the Association?

A. Well, I can look at my paycheck and I will see Deborah Johnson. So I think she had the authority to sign

9504367 2281

the paychecks.

Q. Who is Deborah Johnson?

A. Bob Johnson's wife.

Q. What was her job?

A. She did the accounting in the very beginning when I was first there.

We each had individual checkbooks for certain associations -- I literally had to account for Appraisers Common Cause. I would sign -- I can't remember. I don't know if I signed or Bob signed those checks. For postage. It wasn't for anything major that I can remember for Appraisers Common Cause. And for the other associations, I really don't know how they worked; I assume they had their own account.

I do remember other people probably signing Bob's name for a postage or something like that.

Q. Were there any forms that had to be completed for a check to be authorized?

A. I don't believe so.

Q. Do you know what documentation for expenses like you've described would have been in front of the person who was filling out the check, who was writing the check?

9504367 2282

A. I really was not involved in that area. You know, I don't know what to do and I really didn't get involved in that.

Q. Do you know what, if any, other payments were made to employees besides travel expenses, however they were handled, and ordinary salary payments?

A. Christmas time we got a Christmas bonus. And I remember personally getting one, you know, quote, being a good employee-type bonus.

Q. And when was that? You mean other than at Christmas time?

A. Um-hum.

Q. Do you remember when that was?

A. July '88.

Q. In July of 1988?

A. (No audible response.)

Q. Do you know if the bonuses were given in a regular pattern?

A. No, I don't know.

Well, I know that if one person got a bonus, usually most of the other people in the office got a bonus at the time.

9504367 2283

Q. Was it twice a year regularly, do you know?

A. I don't know that, and I probably wasn't there long enough either from August '87 to March '89, you know; I got my Christmas one and then I got one in July.

Probably it was, because I do remember hearsay in the office like oh, I hope this is -- hope I get my bonus this year, or something like that.

And I remember. It was always like after the directory was printed or after the membership drive or something like that. It was always something. I remember it was a lot of fun, come in, it was always gee, I hope we did enough that I get bonus or something.

Q. What time of the year was that membership drive usually?

A. Well, that's a little ambiguous, because as I said, each person becomes a member and that's their anniversary date. So I can't remember what it would be that the funds would be coming in for. It must be for the directory or for something. I can't remember what it was.

Q. Do you mean for the sale of some publication maybe?

A. No, I don't think it was that.

9504367 2284

Maybe the majority of the members, you know, renewed on January or whatever it was. I really don't remember.

Q. Do you think that the July '88 bonus that you remember was part of the regular pattern coming after an inflow of money?

A. Could be. Could be.

Q. Do you know about any other payments the associations made to employees other than the ones we've discussed?

A. Based on hearsay, there was a situation where Tim Cloud received some funds having to do with the Bush campaign and he deposited in his account; and then he in turn wrote a check on those funds. But that's based on hearsay. I never actually saw the check, you know, in the office.

Q. Well, to try to plumb your memory, what was the first awareness you had of any of the employees making political contributions?

A. When Steve Schneck rounded the corner, patted his pocket on his shirt, saying it with a big smile, indicating that he had made some sort of a contribution to the Bush

9504367 2235

campaign. I don't remember the time frame, I'm very confused on that.

And then I do remember Todd Johnson indicating he had received whatever memo it was that after you make the contribution you get back from the Bush campaign saying thank you for your support and whatever it was. I'm not sure if it was a tie or a pin or something, but Todd walked around wearing that, too.

Q. Do you remember if the instance where you remember Todd Johnson walking around with a memo from his contribution was in any proximity to when Steve Schneck walked around patting his --

A. Oh, yes. Same time period. Still in the old office.

Q. And was that the same time period or a different time period from the recollection you have of Tim Cloud and his contribution?

A. It's a different time period that Tim talked about it, because I remember Tim saying he would do what he needed to do, you know, in order to, you know, keep his job or whatever. And that was in the kitchen in the new office.

Q. Tell me more about that, if you can.

9504367 2286

A. That was just a discussion we had and just in which Tim indicated that, you know, he basically had no morals. And he was -- and he contributed to the campaign or did it and, you know, hopefully there was something in it for him.

But I do remember again earlier back in the old office Tim receiving an invitation as well as others, and I'm not sure who, to a California function. Because I don't know whether it was a December party, a New Year's Eve party, a January, some kind of function, because they had contributed so much that they were on the list to be invited to this California event. And we joked and we said like Tim, are you gonna go, you know, you might have to wear a suit, which was very unusual for Tim.

Q. But you think that was in the old building?

A. I do.

Q. And when did the associations move from the old building to the new building?

A. June '88.

Q. And do you think that Tim Cloud was invited at the same time to the same fund raiser --

A. That Bob Johnson was, yes.

9504367 2287

Q. And also Steve Schneck and Todd Johnson?

A. I don't know about them. I'm assuming, I don't know.

Q. Is it possible that that happened at a different time though, the fund raisers that they were invited to?

A. I don't think so. I don't think so.

And somewhere in the back of my mind I remember a trip Bob took to Anaheim, and I don't know, because they took Julie to Disneyland; and I don't remember if that was all part of it, too.

Q. Who's Julie?

A. Bob's daughter.

Q. Well, do you remember how close in time the discussion that you had with Tim Cloud in the kitchen of the new building --

A. Um-hum. That was toward the very end of when I was there, and that was more of a philosophical discussion.

Q. Oh, you think this was sometime after the fact?

A. Oh, yes, definitely.

Q. Was the entire context of that discussion relating to the campaign contribution that he had made?

A. No. But it was probably relating to type of

9504387 2288

people that worked in the office.

Q. Please try to tell me again how in the course of that conversation the subject of the contribution that he'd made came up.

A. Well, I don't know if it was in that particular conversation; but I do remember him remarking that he made a copy of the check because he was sure that in his financial circumstances IRS would obviously know that $10,000 -- a chunk of $10,000 being deposited in his checkbook all of a sudden and then, you know, either whatever, just all of a sudden it would be there. And in case he ever needed to protect himself he was going to make a copy of that check. And that's basically all I remember.

Q. What check are you referring to? Copy of what check?

A. Well, based on hearsay again, this was supposedly a check he received from either Bob Johnson or the Association or somewhere that was to be used for a Bush contribution.

Q. Yes. I very much would like you to the extent that you can to continue distinguishing between the instances where you really have personal knowledge or

9504367 2289

recollection of something and one where you have knowledge that's resulted from, you know, from after the fact from other discussions or other sources.

Did you have a discussion with Tim Cloud where he told you that he was keeping a copy of the check? Is that what you said? Or is that information that you think you got elsewhere?

A. No. I know he told us -- me that. I don't remember when the conversation took place. But I think it was because I was generally surprised that he was one of the people who was involved in this, and he indicated that in order to protect himself he was going to keep a copy of the check. But Tim was not really on the same professional level as Ken Twichell, maybe Steve Schneck, whatever. So that's why I was a little surprised.

Q. How did you first become aware of Tim Cloud's involvement?

A. Probably office gossip. I don't think he ever came directly to me and said I was one of the ones who received a check. Probably office gossip.

Q. So he never told you that he had written a contribution check, a political contribution check? He

9504367 2290

never told you that explicitly?

A. No, he explicitly told me he made a copy of the check that he received, and I don't know from where, as I said, either Bob Johnson or the Association, whatever, that he explicitly told me that he made a copy of that because in case he was ever questioned by IRS that's what he was gonna do.

Q. And did you infer that there was a connection between a contribution check that Tim Cloud had written and this check he had received that you are talking about?

A. Well, it's a check that he received for $10,000 came from Bob Johnson or the Association, it certainly wasn't a gift. They didn't do that. They don't give employees $10,000. I'm assuming, yes, that he would have had to turn around, write a campaign check. Therefore, receiving the invitation to attend this California special event. $10,000 is not just dumped in Tim Cloud's account for him to go spend it on a car or whatever.

Q. But he never told you that he had got the $10,000 from somewhere in order to make the check, you inferred that from something he said?

A. Can we go off the record?

9504362291

Q. Okay.

(Discussion off the record.)

(The previous portion of the record was read by the Court Reporter.)

Q. Please just explain to me what we have talked about off the record, you know, what you know from what Tim Cloud explicitly said and the balance that you infer.

A. Things that I heard around the office indicate that Tim Cloud received a $10,000 check. Things that Tim -- what Tim said directly to me was that he made a copy of the check in case IRS ever questioned him. From again then what I heard around the office, Tim was invited to the California special event which had to do with the Bush campaign. Because of the amount of money he made the list so he could attend this event.

Q. You mean he had written a check and therefore made the list?

A. One would assume that. He never told me that directly; but yes, in order for A, B, and C to continue to D, you would have to assume that.

Q. Okay. You never saw a contribution check that Tim Cloud wrote; is that right?

9504367 1292

A. Right.

Q. Okay. If Tim Cloud received $10,000 from one of the associations or Bob Johnson, in your mind is it possible that it was for some other -- it was for some other purpose?

A. Not that amount. That's far too much for a bonus. Tim never traveled anywhere, it couldn't be travel expenses.

Unless he, you know, handled Tim differently than anybody else, your overtime was compensated by your bonus or whatever. That's how Bob said thank you. But $10,000, that is a lot of money. So no, I don't think it was for anything.

Q. Do you know what Tim Cloud's financial circumstances were at the time?

A. He always indicated to us that he didn't have much money. He was renting, he didn't own a house. He had been sharing an apartment with someone, then was on his own, then eventually shared another apartment with someone.

I would say he was your typical, you know, he was in his twenties or thirties; but he would indicate that, you know, he didn't have that much money. He never talked about investing in stocks and bonds or what he would do with or

9504367 12293

what do you do with any extra money. For vacation he went home to his folks, didn't do the trip to Europe. Didn't have a sailboat. So I'm assuming he was your regular guy.

Q. Is there anything else that you can tell me about your knowledge of the circumstances of the contribution by Steve Schneck?

A. No, I really don't know too much about that. Other than I remember him coming around the corner thinking oh, what if he asks me for a contribution to the Bush campaign. But I remember him indicating when he patted his chest pocket that there was his check. I don't know whether that was the one that was going to the -- I'm assuming that was the one that was on its way to the Bush campaign. But that's the only thing I ever remember.

Q. I'm sorry, can you explain again, he patted his shirt pocket?

A. Yes, shirt pocket. And there was a check in there folded. And he indicated that he had done his duty, contribution, whatever. And I was wondering if at the time he was going to then solicit the rest of the employees to have to cough up their funds for it. Which he did not. And it was not the practice, they did not do that.

9504367 12294

Q. Do you know where he was coming from when he came around the corner?

A. No. No.

Q. So again, the check that he had folded you assumed was what?

A. Could have been his check. I don't know. See, I really -- I don't know anything about Steve Schneck's part in this; so it could have been just a personal check, it could have been, you know, what is alleged to be the Association check. I don't know.

Q. So it could have been either, he might have had the contribution check that he'd written folded in his pocket or it could have been another check from the Association that might be related to it; but you're not sure?

A. No, I have no idea. Just the fact that, you know, he was doing his part. That's what we elaborated on.

Q. Well, do you have an impression based on him saying he was doing his part that he was contributing his own money to the Bush campaign?

A. Not one way or the other. I have no idea where the funds came from. Other than he -- you know, I don't

9504367 2295

think he's in the same financial category as Bob Johnson. And this is just based on hearsay, but I would think a $10,000 chunk to a financial campaign at the time when he has two little ones, a mortgage, and a few other things, would not be appropriate.

Q. Do you know how much Steve Schneck contributed?

A. No. He never said. We never talked about it. Hum-um.

Q. So you don't know that it was 10,000, it could have been anything?

A. I have no idea.

Q. Do you know if Steve Schneck was involved in the seminars that the associations put on?

A. Yes. He was, for NARA/MU. NARA/MU. Um-hum.

Q. Do you know of any expenses he might have incurred?

A. Travel expenses.

Q. Did he travel then for these seminars?

A. Yes. Somewhere in California. Patty Davidson would know more about that. She really was involved in that more than I was. But yeah, he traveled and there were travel expenses.

9504367 2296

Q. Do you remember when in 1988?

A. No.

Although, a copy of NARA/MU's newsletter would list the schedule of seminars throughout the United States. Just as this one lists seminars throughout the United States for NAREA.

Q. You are referring to one of the documents that you produced today?

A. Yes, um-hum.

In fact -- well, there's '89; but '88 would have it. I don't have a copy of '88.

Q. You've just showed me a NARA/MU newsletter?

A. Previews.

Q. A 1989 newsletter that shows the conference schedule for 1989.

I think at this point we've exhausted Mr. Cloud and Mr. Schneck. Maybe next we can go on to Mr. Twichell.

What, if anything, do you know about his campaign contribution activity?

A. I don't know about any of his checks. I do remember though when we were in the old office he again received something from the Bush campaign, whatever it was,

9504367 12297

a letter or a memo, tie pin; and I don't know.

And that was visible where he would make a comment about that, he received this from George.

And as far as any checks, I have no idea; but I do remember an atmosphere whereby I thought our suppliers or vendors were being called in and asked to contribute to the Bush campaign. I was never there during the discussions, but when Ken would walk the vendor back to the reception room he would report his either victory or loss in terms of getting the person to contribute to Bob. And I remember one instance where we were told not to use a supplier, because I don't think he contributed. I remember asking one typesetter, Steve Long of S & W Typesetting, if they did that to him. And I can't remember Steve's answer.

Q. I have handed you as an exhibit, Mrs. Johnson, a one-page sheet that is entitled MUR 2984, List of Printers; and this is a list of printers the associations used during this period, and I'd ask you to look down the list and to see if you can exhaust your recollection about the solicitation activity you were describing with reference to any of these firms.

A. Well, the person that I mentioned that I was told

9504367 2298

not to submit a bid to -- or get a bid to for the newsletter was with Creative Litho, his name is Al, and it was because he had not contributed.

Q. Do you know what Al's last name was?

A. I understand Wysocki or Winsocki (phonetic) or something; Al, I'm not sure.

No, that was Jerry. Jerry Wysocki. I really can't remember. It's been too long.

Q. Who would know that?

A. Just call up the company and ask.

Q. Call up Creative Litho?

A. Yes.

Q. Okay. So to just exhaust that, you remember a time -- when was it that you or someone else wanted to send a job to them or were thinking of sending a job to them?

A. Yes, a newsletter; it would be myself.

Q. And was that something that you would have submitted to Mr. Twichell for approval?

A. No, I could get bids from the people who were on the list.

Q. So how did the discussion arise then?

A. I think Al was our regular for doing a certain

9504367 1299

newsletter, and I just assumed that he would continue to do this; and it was a point made to me not to call Al this time.

Q. And that was Ken Twichell who made that point?

A. Probably.

Q. Who else could it have been?

A. Bob Johnson could have made that remark. I really don't remember who made that remark.

Q. Is there anyone else it could have been other than those two?

A. No. I wouldn't have listened to anyone else other than those two.

Q. Fair enough.

And what is your best recollection of the rough time frame in which that might have happened?

A. When we were in the old office. That's all I remember.

Q. So it's sometime prior to June of 1988?

A. Yes, um-hum.

Q. Do you remember if it preceded the instance that you can recall of Steve Schneck walking around patting his shirt pocket?

9504367 1300

A. It's the same time. I seem to think it was at the same time.

Q. Roughly the same time period?

A. Um-hum.

Q. So these were regular visits that the vendors would make to the Association's offices in the course of business?

A. Yes. Usually to see if we had any jobs that needed bidding on, or what was coming up, or just to, you know, stop in and keep their name fresh, you know, give out business cards to the new employees. There were always new employees that needed to be reminded of who they were.

Q. Okay, so that was Creative Litho. Do you know, by the way, was Creative Litho ever restored to the good graces?

A. Yes.

Q. Do you know how long afterwards?

A. No.

But I gave them a job when we were in the new office, so sometime after June of '88 they were back doing things for us.

Q. And you also said you recalled asking an

9504367301

individual who worked for Southwest Typesetting?

A. Yes, Steve Long.

Q. What was Mr. Long's position?

A. He's a typesetter.

Q. He wasn't the manager of the business? Or was he?

A. I think he was a partner of Jones.

Q. Think he was one of the bosses anyway?

A. It was just two of them.

Q. A small outfit?

A. Um-hum.

Q. And again, can you tell me as best you can remember the interaction that relates to the contribution issue?

A. I was probably more familiar with Steve than any of the other vendors, so I was -- I asked him. I said, are they doing that to you, too? And I can't remember what he said.

Q. By doing it to you, you meant what?

A. Bringing them back, sitting them in front of Ken's desk while Ken gives his little dissertation about won't you like to be on the team to help with Bush, you

9504367 1302

know, and make a campaign contribution. And I don't remember what he said.

Q. And the last point on the Creative Litho, there was never an explicit connection made to you between a failure to contribute and the associations cutting them off, but was it the time frame in which it occurred that led you to infer that there was a connection?

A. Um-hum.

Q. Was that something that people in the office talked about at all?

A. The fact the people were going back there and being asked to contribute?

Q. Yes.

A. I don't think too many people were aware of it. Patty maybe because her office butted up to Ken's, was on the other side of the divider. So she had to listen to all that.

Q. That's Patty Davidson?

A. Um-hum. So she had to listen to all that. I was further in the back; but as far as the other people in between, I think they didn't know what was going on, I don't think.

9504367 1303

Q. This was in the old building?

A. Um-hum.

Q. So that Ken Twichell was not in a separate office but just had a divider?

A. Right.

Q. Is there anything else at all that you can remember about solicitations of vendors of the associations?

A. Vendors? No.

Q. Do you know anything at all about contributions that Twichells themselves may have made?

A. No. I'm sure he did though. Anything Bob wanted him to do, he would do.

Q. But you don't have any firsthand knowledge on that subject?

A. No. No.

Q. Do you remember what the first political involvement was of Robert Johnson that you were aware of?

A. Can we go off the record?

Q. Yes.

(Discussion off the record.)

Q. Back on the record.

I was asking you, Mrs. Johnson, before we went

9504367 1304

off the record, if you could describe for me Robert Johnson's political involvement in its earliest stages, to the best of your knowledge.

A. Okay. Think he told me he worked for the State of Minnesota, something to do with appraising. He had a State job, a government job then. I had heard through hearsay that his father had run for Governor of Minnesota, unsuccessfully. Again, I can't remember where I heard this, and it might be from Bob; but he said he did a stint in Washington under Nixon, and it might be with Ehrlichman and Haldeman. H-A-L -- Haldeman.

And I think if you're involved in the real estate industry you're ingrained. They must teach you that, that real estate and politics go hand in hand. If you ever look at your State Legislature, so many of them are real estate people. Real estate trade associations have fantastic lobbying efforts and whatever. So think it was ingrained, and he did that.

The time that I was brought on board there was possible federal regulations for the real estate appraiser. He would go -- he made a trip with Ken Twichell to Washington, D.C. to speak to the sponsor of the bill, Doug

9504367 305

Barnard, to see if he could dissuade him from having such federal regulations. It was some common area that Bob and I could talk about, because having been from D.C., that was something that he would talk about, government and politics.

Q. Are you aware of any federal political campaigns that Robert Johnson had been involved in before you came to the associations?

A. No. But I'm sure he was.

Q. Once you came to the associations what was the first campaign involvement by Robert Johnson and the associations that you can remember?

A. Campaign or political involvement? Campaign means for a person running for office or political office, against an issue having to go to D.C. What do you mean?

Q. I mean actually other than legislative. Campaigns.

A. Probably Senator Durenburger. I think.

Q. And what do you remember about that?

A. The Association sent out invitations indicating that here is a chance for Minnesota members to meet or do whatever you do at those type of functions for Senator Durenburger.

9504367 1306

Q. Do you know if this happened in 1987 or 1988?

A. No, but I know it was in the old office.

Q. Well, that helps.

A. Well, and it's also in here. Well -- but this isn't dated.

Q. You are referring now to one of the documents that you brought with you.

A. Yes.

Doesn't have a date.

(Exhibit 2 was marked for identification by the Court Reporter.)

Q. I am handing you, Mrs. Johnson, now that the Court Reporter has marked it as an exhibit, the document that you were just discussing; and it's a newsletter of the National Association of Real Estate Appraisers called The Appraisal Newsletter. And it looks like it's Issue 24, and I wonder if you can examine it and tell me if there is anything in this that would give us a hint of when it was put out?

A. Probably put out in July through October, '88. Because no matter how hard I tried to make this current, this always sat on Bob's desk and my dates were always late.

9504367 1307

I mean, this had always passed.

Q. What are you referring to, please?

A. The seminars that were held.

Q. You are looking at the last page of the exhibit?

A. Yes.

Q. Which is a list of upcoming seminars?

A. Yes. And no matter how hard I tried to keep that information current, the rough draft of this newsletter would sit and sit and sit on Bob's desk, and October 20th, which is the first one listed, would have come and gone. It was very frustrating to me as a journalist.

Q. So the first seminar on the back there scheduled is October 20th?

A. '88. So that probably already came and went when this was published.

Will that be -- can I go off the record?

Q. Yes.

(Discussion off the record.)

Q. On the record.

A. So on page 7 is a picture of Randy King, John Steensland, and Senator Durenburger. At the event held to promote -- I'm assuming promote the re-election for Senator

9504367 1308

Durenburger. And what I remember most about this -- I did not handle this event, Lynn Harden did -- but what I remember most about this is that they wanted to get a limo for Senator Durenburger and he said no. He'd drive himself to his own function. Which if you know Bob Johnson, Bob Johnson used a lot of limos; and I thought it was funny.

Q. So if the newsletter came out, you think, in the fall of 1988, and the caption by the picture -- I'm reading now on page 7 of the newsletter -- reads. "At a recent gathering, Minnesota's Senator David F. Durenburger, D. Randall King, NAREA's Legal Counsel and John E. Steensland, CREA and President of NAREA discuss legislation affecting the Minnesota real estate appraiser. On the Federal level, Senator Durenburger has offered his support to NAREA in monitoring this issue."

If this is a recent gathering and the newsletter came out in October, is it likely that this meeting took place in the preceding several months?

A. You could go back preceding six months, yes. Many times we did use photos that were old, as far as I thought, for the newsletter. But yes, you could -- for the last six months you could presume that.

9504367 1309

Obviously when Durenburger was up for re-election.

Q. Well, he was up for re-election for the entirety of this period, the election year in October of '88; but it could have been any time between May of '88 and September or October?

A. Yes.

Q. Fair enough. What else can you remember about it?

A. The mailing was made just to Minnesota members. Don't think there was a tremendous response considering the number of members we had.

Q. This was a mailing --

A. To NAREA members saying here's an opportunity to meet Senator Durenburger, or whatever the invitation said. As I said, I really didn't work on that project, Lynn Harden did. She did all the invitations, she mailed them and whatever.

Q. Was it a fund raiser or some other kind of meeting?

A. By process of elimination I would have to assume it was a fund raiser or a chance for members to meet Senator

9504367 3110

Durenburger. I don't know if any invitations -- since I don't remember, I don't know if they were solicited for funds. But it certainly was not to let Durenburger know about federal legislation. I know, I wrote the copy; and that really was not the case.

Q. You're saying that the caption to the picture doesn't accurately describe what went on at the meeting?

A. I am saying that the caption for the picture was written in public relations, trade association-ese language so it looks like the Association was doing something for its members; but, you know, that sounds good. Senator Durenburger offered his support to. That might have happened. He might have agreed with that. But that was not the purpose of the meeting, to go up there and talk about federal legislation. I would assume, as I said, by a process of elimination that it was some type of fund raiser event.

Q. And who from the associations attended?

A. I think Bob did, and I think Ken did.

There are other photos.

Q. Anybody else?

A. Of the employees at the associations?

9504367 3111

Q. Yes.

A. Not that I'm aware of. I didn't.

Q. Are you aware of any other Association business that Bob Johnson and Ken Twichell, if he went, might be involved in in Minnesota at the same time as this meeting?

A. Maybe. Maybe there was a seminar, you know. I don't -- maybe that -- I think the Association somehow has ties to Minnesota, because Steve was always responsible for the -- what do you call that -- the proxy, whatever the legal -- whatever it is for an association or corporation or -- the voting, you know, like a shareholder or stockholder, whatever type it is; I'm not real sure what I am telling you.

But the meeting was always held in Minnesota every year, whatever type of business legal-type meeting that had to be conducted. So I don't know, maybe it was at that time. There were very strong ties. Bob is originally from Minnesota, so there could -- I'm sure that, you know, whatever he did this was just a small part of that once you're there, you know.

Q. You were positive that the Association is a Minnesota corporation maybe?

9504367 3112

A. Maybe. I don't know.

Randy is in Minnesota.

Q. You are referring to Randy King, the attorney?

A. Yes.

Q. Do you know who paid for the solicitation, if it was a solicitation -- why don't I step back.

Who paid for the mailing to the Minnesota members of NAREA?

A. No. I have no idea how payment. Hum-um.

Q. Do you think it was done in the ordinary course of NAREA's business?

A. Probably.

Q. Off the record.

(Discussion off the record.)

(Recess taken from 11:57 a.m. to 12:01 p.m.)

Q. Back on the record.

We had discussed your knowledge of contribution activity by employees of the associations and also the Durenburger event that might have been a fund raiser. Were employees other than Tim Cloud and Steve Schneck and Ken Twichell ever solicited for political contributions at the Association?

9504367 3313

A. I really wouldn't know that. I never was.

I never heard anyone say to them, oh, Bob came to me and just asked me to give so much money. I never heard that. So I would say no.

Q. Okay. I'd like to have the Court Reporter mark this as an exhibit.

(Exhibit 3 was marked for identification by the Court Reporter.)

Q. What I am now handing you is a three-page document that has been marked Exhibit 3, and that again is one of the documents that you brought with you; and it is a cover letter addressed to you from the Housing Developers' Association of Malaysia. And it encloses a two-page reproduction of a publication of theirs. And I wonder if you can look at it and tell me what you remember about it.

A. I remember receiving this in the mail. It was a copy of an article that appeared in the Housing Developers' Association of Malaysia as a direct result of a press release the International Real Estate Institute sent to not only this Association but other publications on the list that would be interested in international real estate.

Q. Did you have any personal involvement in the

9504367 3314

preparation of the press release?

A. Yes. I would originate the writing; bob, of course, would edit it the way he wanted to edit it.

Q. So you wrote this press release?

A. Yes, the initial writing. It's not great journalism due to Bob's editing.

I really want to emphasize that.

And there are quite a few exaggerations. The first line, International Real Estate Institute members from 96 nations. We didn't have members from 96 nations. It was just a PR slogan or phrase that we always used.

Q. When did Mr. Johnson ask you to write this press release, do you remember?

A. I don't know if he actually asked me. It might have been an original idea. Because if this was the association that was going to endorse Bush, and that's how Bob was known as, the Director of IREI throughout the Bush group of people that he was working with or whatever, I might have suggested it as a great PR thing for the IREA. I don't know if he asked me to do it or if I came up with the idea myself.

I do know that it was published in another London

9504367 1315

magazine, tongue in cheek. The great IREI has instituted, you know, has endorsed Bush. Meaning big deal. IREI consists of, you know, just those few people. Big deal, who cares whether or not they endorse Bush or not. Needless to say, I did not keep that for my portfolio.

Q. This was in what publication in London?

A. Some English publication that they received, something to do with real estate and marketing, too. It was in the back, it was -- you know how like Newsweek has its blurbs at the back, it was like the blurb of the week.

Q. So you worked on this press release during your work hours as part of your job?

A. Yes.

Q. And then Mr. Johnson edited it?

A. Um-hum.

Q. And then what happened?

A. Then it got sent to the computer room, and the computer room matched the names and addresses to whoever we wanted it sent to, and the stuffers took it. I don't know how many there were. Might not be that many. It might not be that many. If it was under 20, then I stuffed it; if it was over 20, it went to the stuffers and they stuffed it and

9504362 3116

it was sent out.

Q. And who was it sent to again?

A. International Publications, which published real estate information.

Q. Was it sent exclusively to addresses outside the US?

A. No. I don't think so.

Q. Some of them were located in the US?

A. Yeah. I think -- I might have gotten a call from someone in California about it. And, of course, the phone call went automatically to Bob. I didn't handle it.

Q. It wasn't inserted as a paid advertisement in any publication; was it?

A. No.

Q. Was it sent to any general circulation newspapers?

A. That's what I'm thinking this California thing, I can't remember if it was in relation to -- I don't know. I honestly don't know.

We had on our list real estate editors of like the L.A. Times or whatever. So he might have gotten a copy.

Q. The list might have been real estate --

9504367317

A. Editors.

Q. Specialists or editors?

A. Um-hum.

Q. In general circulation papers?

A. Um-hum.

Q. Is there anyone who would know any more about that? Other than Mr. Johnson?

A. Tim might, but I don't think he would recall because he had so many lists.

Q. Tim Cloud?

A. Um-hum, but I don't think he would know. He just really pushed buttons, he never analyzed lists. I don't know. I don't think there's anybody else.

Q. Did Tim Cloud read the letters that he generated?

A. Rarely. That who, Tim -- Tim never generated letters. The machines gen -- Tim never wrote letters. Tim pushed the buttons on the computer.

Q. He presided over the production of letters?

A. Yes.

Q. Do you have an impression about whether or not he read any of the letters that the computers produced?

A. If he did, he might have just done it because he

9504367 3 1 8

was bored; but he certainly did not do it in terms of A, being his job; B, he had an interest in what we were saying; C, you know, it would have been strictly for boredom.

Q. Do you remember any political activity in connection with a Christmas party in December of 1987 that involved Association employees?

A. Yes, we were all called into Bob Johnson's office, told that Bob was going to be taking an active role in the Bush campaign. We were having an upcoming reception at the Marriott Mountain Shadows for our Arizona members. This had already been planned, a Christmas party. But now in light of his more active participation, we should discuss with the members that Bob might possibly be having a reception at Bob's house. Couldn't have been for Bush. Maybe just a fund raiser for Bush. And did these people want to go.

Yeah, it was definitely a fund raiser, you had to pay to go. People I spoke to I remember distinctly because they turned out to be in my neighborhood. One lady's name was Karen Crouse (phonetic), and she's with the Better Business Bureau; another one is Dean Crouse, her husband, and he's with the school of real estate, which obviously had

9504367 3119

ties to NAREA.

Karen at that time also remarked that she intercepted some phone calls to the Better Business Bureau that were often about NAREA and the NAREA designation.

Q. There were complaints about what?

A. The fact that the Association did not have a strict educational requirement in order to become a CREA.

Q. Did you attend the Christmas party?

A. Yes.

Q. And were there any election-related comments or campaign solicitations made at the party?

A. I don't know if it was campaign solicitations. I know that we were supposed to indicate that Bob was taking a very active role in the Bush campaign. And I did that myself, too, as a wonderful good employee. I did that.

Q. Were there any speeches at this party?

A. I don't think so.

Q. Just a party?

A. Pretty dead. Pretty boring.

Q. You don't know that anyone was actively trying to solicit contributions from people at that party?

A. Well, if I was a betting person, I would say that

Ken Twichell probably hobnobbed with a few people that he knew and was familiar enough to yes, actively solicit them. But I don't know. I never heard him say that. But I imagine that if I was trying to follow the, you know, guidelines, he probably might be doing it, too.

Q. Now, was this an instruction that Johnson had given?

A. Yes. And he also indicated when he took us into the office that if anybody had problems with this, that we could leave immediately.

Q. Did anyone leave?

A. No. A few people looked at each other in the eye and, you know, we knew who the Democrats were and who the Republicans were. But we also knew that we needed our jobs.

Q. Did this Christmas party take place during ordinary working hours?

A. I doubt that. I mean ordinary working hours were for working hours. We would never allow. No, I would tend to think it was after.

Q. So the meeting, the meeting in Johnson's office might have taken place --

A. That was during work hours, yes.

9504367 1320

Q. At the end of the workday before the party? Does that make more sense?

A. No, it wasn't the day of the party, I don't think. I think it might be beforehand. I'm not real clear.

Q. Do you know if an event took place at Mr. Johnson's home for the Arizona members?

A. I honestly don't. I don't know whatever came of that. I think it fizzled, but I really don't know.

Q. Can you describe to me what you know about mail solicitations the associations made soliciting contributions to the Bush campaign?

A. When we were in the old office letters were sent to every member in every association except for IREI, because they were international people, indicating that it would be nice if they sent a contribution to the Bush campaign, because Bush would probably have the real estate appraisers' interests at heart.

Q. And did you have any personal involvement in that activity?

A. Think I corrected a misspelling. That's about it.

Q. Like to ask the Court Reporter to mark this

9504367 13321

exhibit.

(Exhibit 4 was marked for identification by the Court Reporter.)

Q. I am now handing you Exhibit number 4, a three-page document, on the face of which is a letter on letterhead of NAREA, and over the signature of E. Kenneth Twichell as Managing Director.

Is this the letter that you remember?

A. Um-hum. Yes.

Q. And did you proofread this letter?

A. No, I think I caught it or another one with another association on the machine in one of my walks back into the computer room, read it, being the nosy person I was, and saw a misspelling. But no, this was not written, given to me to say Jean, please proofread, then handed back to the computer room for mass mailing. I did not have an active part in this.

Q. So you came upon it in the production?

A. Yes.

Q. And saw a mistake and had it corrected?

A. Yes. And I was never involved in the actual idea of soliciting members.

9504367 1322

ties to NAREA.

Karen at that time also remarked that she intercepted some phone calls to the Better Business Bureau that were often about NAREA and the NAREA designation.

Q. There were complaints about what?

A. The fact that the Association did not have a strict educational requirement in order to become a CREA.

Q. Did you attend the Christmas party?

A. Yes.

Q. And were there any election-related comments or campaign solicitations made at the party?

A. I don't know if it was campaign solicitations. I know that we were supposed to indicate that Bob was taking a very active role in the Bush campaign. And I did that myself, too, as a wonderful good employee. I did that.

Q. Were there any speeches at this party?

A. I don't think so.

Q. Just a party?

A. Pretty dead. Pretty boring.

Q. You don't know that anyone was actively trying to solicit contributions from people at that party?

A. Well, if I was a betting person, I would say that

GSOY 3671320

Ken Twichell probably hobnobbed with a few people that he knew and was familiar enough to yes, actively solicit them. But I don't know. I never heard him say that. But I imagine that if I was trying to follow the, you know, guidelines, he probably might be doing it, too.

Q. Now, was this an instruction that Johnson had given?

A. Yes. And he also indicated when he took us into the office that if anybody had problems with this, that we could leave immediately.

Q. Did anyone leave?

A. No. A few people looked at each other in the eye and, you know, we knew who the Democrats were and who the Republicans were. But we also knew that we needed our jobs.

Q. Did this Christmas party take place during ordinary working hours?

A. I doubt that. I mean ordinary working hours were for working hours. We would never allow. No, I would tend to think it was after.

Q. So the meeting, the meeting in Johnson's office might have taken place --

A. That was during work hours, yes.

9504367 1320

Q. At the end of the workday before the party? Does that make more sense?

A. No, it wasn't the day of the party, I don't think. I think it might be beforehand. I'm not real clear.

Q. Do you know if an event took place at Mr. Johnson's home for the Arizona members?

A. I honestly don't. I don't know whatever came of that. I think it fizzled, but I really don't know.

Q. Can you describe to me what you know about mail solicitations the associations made soliciting contributions to the Bush campaign?

A. When we were in the old office letters were sent to every member in every association except for IREI, because they were international people, indicating that it would be nice if they sent a contribution to the Bush campaign, because Bush would probably have the real estate appraisers' interests at heart.

Q. And did you have any personal involvement in that activity?

A. Think I corrected a misspelling. That's about it.

Q. Like to ask the Court Reporter to mark this

9504367 1322

exhibit.

(Exhibit 4 was marked for identification by the Court Reporter.)

Q. I am now handing you Exhibit number 4, a three-page document, on the face of which is a letter on letterhead of NAREA, and over the signature of E. Kenneth Twichell as Managing Director.

Is this the letter that you remember?

A. Um-hum. Yes.

Q. And did you proofread this letter?

A. No, I think I caught it or another one with another association on the machine in one of my walks back into the computer room, read it, being the nosy person I was, and saw a misspelling. But no, this was not written, given to me to say Jean, please proofread, then handed back to the computer room for mass mailing. I did not have an active part in this.

Q. So you came upon it in the production?

A. Yes.

Q. And saw a mistake and had it corrected?

A. Yes. And I was never involved in the actual idea of soliciting members.

9504367 1323

9504367 1206

9504367 1323

Q. Do you know who authored this letter?

A. Bob.

Q. Do you know that or just assume that?

A. I assume it, because I don't think Ken could write anything. And everything required Bob's approval. So yeah, I'm sure Bob dictated it or wrote it on that yellow legal pad that he always had, his secretary typed it; Ken might have read it, and then it was -- yes, I'm sure. Or else they both sat there together over lunch or something and made it up; but yes, Bob did it.

Q. Now, I think you said that there were mailings to several of the associations, not just NAREA; is that correct?

A. I believe so, yes.

Q. And I think you also said that the letter that you fixed you're not certain it was an NAREA letter, it might have been a letter from one of the other associations?

A. Right.

Q. Do you know if the text of these letters that went out to the different associations were identical?

A. I don't know, but I would say 99 percent, yes. That was the whole key to the multi-association management

9504367 1324

idea of Bob's, that one fed on the other. If you notice in his most current endeavor the promotional brochure for one association is the identical as his other new one, only the name of the association has changed.

Q. So he basically translates, takes an idea from one association and with small modification uses it for another?

A. Um-hum.

Q. And that's the basis for your assumption that unless there is something in the text of the letter unique to one of the organizations, that the same letter would have been sent to all of them.

A. Um-hum.

Q. So you think that Bob Johnson authored the letter with possibly some involvement from Ken Twichell. And the computer room generated all the letters?

A. Yes. Because at the time I was trying to generate letters for my own projects and often would be put on the back burner because the computer was being taken up by this stuff.

Q. Do you know if this solicitation was sent to all the members of each association?

9504367 3325

A. I would think so. I don't know why for a national campaign they would have separated the mailing, so I would say yes. And also the amount of time that the computers were tied up doing this, I would assume yes, it was sent to every single member.

Q. How much time was the computer tied up?

A. I don't know exact time. I just know that the feelings I had were of frustration because I had a project that needed to go out and couldn't get it out because it was being -- but I don't know the time.

Q. Well, do you have a general sense of how long the computer room is occupied when there is something that was being sent to all the members?

A. Computer room ran 24 hours a day. If that's what you're asking. Tim just set the machines so he could go home and, you know, whatever; so they were constantly being in use.

Q. Right. What I am trying to do is to get a sense from you about how the political association compared in size to other projects. If the computer room was in motion all the time.

A. Well, it was a massive project, yes. But in

9504367 3326

terms of other projects, I'd say other projects that involved every single member of the association it would be equal, because if it went to --

Q. That's what I am trying to get at. What I am trying to get at is from the time that the computer room was tied up doing this so you couldn't do your work, was it the equivalent time to when the computer room was sending a mailing to every member?

A. Sometimes.

Q. Did it seem more or less?

A. Yeah, it seemed more because the other associations were involved. Usually things could be staggered.

Q. So it's your impression --

A. But this mass mailing to all three associations took place at the same, you know, during the same continued time.

Q. Do you have then a direct recollection that the computer room was generating the letters for these mailings all in one period of time and not staggered?

A. Right.

Q. You have a memory of that?

9504367 3327

A. Yeah, I would think so. I guess it can be validated by stuffers' checks, you know, and whatever, their, you know, actual time period that they spent on it. But yes.

Q. Well, I think that conveniently brings us to the next subject.

So after the letters were generated by the computer room, do you know who was responsible for mailing them?

A. They were sent to stuffers who were -- who signed Ken's name, obviously that's not his signature.

Q. That's not Mr. Twichell's signature on the letter?

A. No. Our stuffers were allowed to sign Bob and Ken's and anybody else's signature.

So that was sent to the stuffers, they stuffed it, then it came back.

Q. Can I interrupt for a minute? How do you know that the letter was sent to stuffers to do work?

A. Because Kelly Rossi used this solicitation job as extra money that she needed for her family income.

Q. Who is Kelly Rossi?

9504367 3328

A. She was secretary to Ken Twichell. And one of the stuffers. We had regular stuffers, moms who stayed at home or whatever, who came in and we used them; but because of the urgency or the amount, whatever it was, they included Kelly in this, and she was able to make some extra bucks doing it that way.

Q. Do you know if any other stuffers were involved in the political solicitation?

A. Yeah, I think Laura Ashbaugh was, and I'm not sure if there was a girl named Kathy. I don't think Molly was involved. But I don't know.

Q. Molly? Who's that?

A. One of the stuffers that we used.

Q. Do you know if all the mailings were mailed on the same date?

A. They couldn't have been. There's too much to do. But probably near the same time, yes. Bob never liked to string out a job.

Q. Do you know if all the solicitations had the same date on them? You will notice that this exhibit is dated February 4th, 1988.

A. No, I don't know the dates.

9504367 3329

Q. Now, to touch a minute on the question of who the solicitation could have been sent to. Could you discuss for me the instances in your experience when mailings would have been sent to something less than the entire membership of an association?

A. If, for instance, there was legislation that was being introduced on a State level for regulation of appraisers, then we would just target even the zip codes, just those members in a particular State, for example, Pennsylvania, send it to Pennsylvania members saying by the way, bill number so and so is in this committee and you need to write to representative so and so and this for the bill. And obviously because it only had to do with a State bill, only those in Pennsylvania would receive that mailing.

Other mailings were when membership -- membership renewals took place. They were done on the date that the person -- this I'm really fuzzy on now. I think they were due on the date of when the person joined. I had originally thought -- but now I'm really confused. Maybe that was the big membership renewal in June. Maybe membership was in June.

Q. So you're not certain, it's possible the

9504367 330

membership renewals were based on when people joined; but it's possible that maybe there was a single annual date renewal?

A. Yes, I can't remember now.

Q. Are there any other reasons in your experience or instances where mailings would have been sent to less than the entire membership of an organization?

A. Yes, if there was an educational seminar in California, obviously we wouldn't send it to members in New Jersey. So we would do by geographical area. I wasn't involved in that. But, you know, that type of thing, too.

Q. So clearly in any instance where a subject, whether it was an educational seminar or a legislative topic, were for only one State, you would only send it to the people in that State or that region?

A. Right.

Q. And the computer sorted the membership?

A. Yes.

Q. By region or state?

A. Yes, or zip code. It would have to look up the zip code.

Q. Are there any other bases or instances where

9504367 3331

mailings would have been sent to less than the entire membership?

A. I don't recall now, no.

Q. Are there any different classes of membership in NAREA?

A. No, there's only the CREA designation.

Q. And that stands for?

A. Certified Real Estate Appraiser.

Q. Is that a designation that comes along with membership in the association?

A. Yes.

Q. So there is no premium class of members who might get some services --

A. Not in '88 there isn't. It might have changed, but not in '88, no.

Q. Did you see more than one of these letters?

A. Probably.

Q. And do you have a recollection of the letters containing letterhead of more than one of the associations?

A. Yes, because specifically I remember a discussion with Patty Davidson indicating whether or not she was going to allow her name on the PWAA letter. And I am not sure how

9504367 3332

it was resolved. Either Billie Charity, who was the President of the Association, or Patty's, I don't know whose name finally got on there; but I do remember a discussion with her, and she had qualms about having her name on there.

Q. So from that it's clear to you that a solicitation was sent out to members of PWAA?

A. Um-hum.

Q. As well as NAREA?

A. Um-hum. And probably NARA/MU.

Q. Well, do you have any specific recollection about a letter to NARA/MU?

A. Not specific recollection, but certainly if PWAA was ever -- they were always the last on the totem pole. They had the smallest amount of members and whatever, so if something was sent you can be sure that NARA was involved in it, too.

Q. Did you have any other involvement in this project other than what you've described?

A. No.

Q. Do you know what involvement in the project outside vendors of the associations had?

A. Well, obviously a printer had to print the

9504367 1333

envelopes and the card.

Q. What are you referring to?

A. This -- what is it called -- collection card.

Q. Are you referring to the exhibit?

A. Yes.

Q. What page of the exhibit?

A. Page 3.

Q. And what appears at the top of page 3 is a reproduction of a return envelope?

A. Okay, that I know that --

Q. And at the bottom of page 3 it looks like it's two sides of a contributor card.

A. Um-hum. And for the business reply envelope I know that it was printed here in Arizona, there was quite a bit of discussion because the type set that said George Bush for President, the typesetter that we used did not have that and was going to substitute something different, which obviously when the envelope went back to the Bush headquarters everybody would notice that. So I don't know whether we found it somehow or this is the right -- I don't know the end of that. But I remember that discussion.

I also remember saying specifically to Steve

9504367 3334

Schneck, because I had called the FCC -- FEC, excuse me -- FEC to try to get a handle on what was limited and what wasn't, that we should not be reproducing this material. This material should be gotten from George Bush's campaign. And Steve basically shrugged his shoulders indicating, you know, he did not -- he couldn't talk to Bob, he didn't have a relationship there; and, you know, Bob just does whatever he does. So.

Q. Did you have an impression about whether Mr. Johnson would have felt circumscribed by what was illegal and what wasn't?

A. Can you clarify that? What are you asking me?

Q. Were you suggesting that Mr. Johnson wanted to go ahead with this whether or not it was proper?

A. Yes. Along with many other things he does. He doesn't -- yes.

Q. Well, let's back up for a minute then. I think you started to say that actually the initiation of this project involved you making a phone call to the FEC. Tell me about that.

A. I don't think it was the initiation of the project. I think once the project was under way he decided

9504367 1335

that maybe we should find out the rules about this. And he called and the FEC sent me a book, and I remember several conversations but especially one indicating that the material, any solicitation material and especially this envelope had to come from the Bush people. We, the Association, could not reproduce that. Whether a person paid for it, whether the Association paid for it or whatever, it was my understanding from the person that I spoke with at the FEC that that material had to come from the Bush campaign.

Q. Well, did you ever report to anyone the consequence of the communications that you had had with the FEC?

A. Of course, I talked to Bob all the time about that.

Q. Well, as best you can recall, what conversations did you have with Bob about --

A. Whether or not things could be on Association letterhead, in what manner they should be presented, et cetera, et cetera. And it was all very confusing; and what information I did get I think he kind of digested and viewed according to what he wanted to do. But I know I brought to

9504367 1336

his attention prior to or maybe after I talked to Steve about it.

I did tell Bob this envelope cannot be printed. You have to get that from the Bush campaign. And I don't remember his response, but it was basically I'm not gonna worry about it. You know, he wasn't going to change everything all of a sudden.

Q. What was Steve Schneck's involvement in the process?

A. I don't think he had any. I don't know. I don't know. I don't.

Q. How did it come that you had this conversation with him?

A. Steve is Bob's brother-in-law, and prior to the time -- I was still relatively new there; I didn't know that the relationship between Bob and Steve had deteriorated such that, you know, they're lucky if they got together at Christmas time. And I didn't know that. Thinking that, oh, Steve was going over there to watch a football game, maybe he can mention it, by the way, what you are doing is not right. But there was no relationship there for that to be.

Q. Okay. Now back to the business reply envelope,

9504367 3337

the thing reproduced at the top of page 3 of the exhibit.

What vendors were approached about reproducing that?

A. I'm really not sure. I think Steve Long might have been the one who did the layout for that, but I can't remember. And then, of course, the business of him not having -- because it being such a small company, not having that particular style. So I have no idea how that ended up.

Q. And who is Steve Long?

A. He works for Southwest Typesetting.

Q. Did you say you thought that Southwest Typesetting had laid that out?

A. They had some involvement with this, I think, because I saw him there at the time. Now, maybe, you know, there were other projects that he was doing that had nothing to do with this. But if I was in your position, I would call Steve Long and question him about this. I don't remember any other vendor.

Q. Now, Southwest Typesetting was a print shop?

A. No. Typesetting.

Q. Typesetting. And do you have the same recollection about the contributor card part of it, that

9504367 1338

Southwest Typesetting might have been involved in that?

A. Yes. You don't split up a project like that. That's all part of one typesetting. If a person had did the reply probably did this, yes. Or this might have been gotten.

This might be gotten from Bush. It was just this part. I really don't know about the card.

Q. Well, who was it you heard all this from? Who would have been dealing with the vendors on this project?

A. Probably Ken and his secretary. It might have been Kelly at the time. I don't know if Lynn was the receptionist at the time who dealt with this.

Q. Lynn is --

A. She was the receptionist.

Q. What is her last name?

A. Harden.

I don't know who Bob's secretary was at the time. Maybe who worked with us.

Q. Do you know where the letterhead and stationary came from for the envelope, which is page 2 of the exhibit? Where those came from?

A. No. I would assume the stock, but they could

9504367 3339

have been printed specifically for this event. I have no idea.

Q. Do you know what vendor printed the stationary for the Association?

A. We have a list, don't we, as one of the exhibits, of vendors?

Dean Duchene did something.

Q. You are now referring to Exhibit 1.

A. Okay, Dean Duchene did some. The Complete Print Shop I think did some letterhead. I recognize Adobe Litho, but I don't know what they did. I don't recognize some of these other names on here. I don't know what their relevance is. So those are the -- International Minute Press usually didn't do our letterhead, they did quick-type jobs for us.

So I would say I would research Dean Duchene or The Complete Print Shop or Adobe Litho.

Q. Fair enough.

A. Arcata did the directory. They only did directories, they didn't do anything else.

Q. Okay.

Is there anyone other than Kelly Rossi and Ken

9504367 3340

Twichell who could have been responsible for overseeing the production of these mailings?

A. Probably, but I don't know. Could be. I mean, you never know what Bob had up his sleeve. I don't know if he had someone, you know, Deb could have been involved, his wife. I never know.

Q. On page 3 of the exhibit do you notice on the return envelope to the left of the address on an angle is "Attention Lucy Cole"? Do you see that?

A. Um-hum. You have it.

Q. Do you also see that on the contributor card in the upper right-hand corner reads AZ 04?

A. Yeah, that was Bob's special number so they knew that this contribution was a result of Bob's efforts.

Q. Do you know how those two things, the lettering on the return envelope and the AZ 04 on the contributor card came to be there?

A. They had to be stamped. By hand. On each card. I think.

Q. Did someone tell you that?

A. No, I have this vague recollection that I might be the one that ordered that stamp.

9504367 3341

Q. You might have ordered the stamp.
A. But I can't remember. So long ago.
Q. Who might you have ordered the stamp from?
A. Some quickie stamp place. Who knows where.
Q. Do you think it's one on this list that is Exhibit 1?
A. No. Hum-um.
Q. Do you think you would recognize the name of it or not?
A. No.
Q. Was it not a place that the associations used regularly?
A. Right.
Q. Did you order that at the request of Bob Johnson?
A. I think, but I can't remember if I ordered it -- you know, I ordered a lot of stamps for a lot of different reasons; and I don't know if that was one of them. So I really don't want to commit to that. I don't remember.
Q. Is there anything that you could look at that might refresh your recollection about it?
A. No, I don't think so.
Q. Well, is it possible that these contributor cards

9504367 1342

came from George Bush campaign with AZ 04 already there?

A. They could have, but I doubt it.

Again, I would -- you know, Kelly Rossi, since she did this, or Laura, they would know because they had to sit there for hours stamping this number on this card; and whatever they said I would go with it, because they were there.

Q. Do you know roughly how many members of NAREA there were in 1988?

A. Yeah, that's what I was trying to figure out before. Well, the directory which I gave you, someone could easily count.

I would estimate between eight to 12,000.

Q. Off the record.

(Discussion off the record.)

Q. Did the NAREA have Canadian members as well?

A. Yes.

Q. And do you know approximately a ballpark of what proportion of the total membership?

A. Very small. Very small. Again, it could be indicated by looking at the 1988 directory, and I'm sure that the Canadian and the other international members were

9504367 3343

probably zip coded out and didn't receive the mailing. Wouldn't make sense.

Q. Why are you sure of that?

A. Because it wouldn't make sense. They are not electing the President.

Q. Well, this was a request for funds.

A. That's a good point, but I really don't know too many Canadian -- well, maybe.

Q. Do you have any personal knowledge that the mailing was sent to --

A. No.

Q. -- to only domestic members?

A. No, no.

Q. So the ballpark of total members you think is eight to 12,000, perhaps a little bit more?

A. Yes, you multiply 42, which is on each page, times the number of pages in the regular continental United States, you would come up between 12 to 15,000 or whatever.

Q. Is it possible, do you think, that these solicitations were sent to no more than 2,500 members?

A. Total for all the associations? No. Absolutely not.

9504367 3344

Q. Do you think it's possible that no more than 2,500 members of NAREA got these solicitations?

A. I don't think that's possible. I think the entire membership got it.

Q. Were there any other activities you had relating to solicitations?

A. No, I don't believe so. But in connection with this campaign though, I do know that there was another post office box instituted at the Scottsdale Post Office for some purpose relating to this. I have no idea why. And I do know through hearsay that I thought there was another office set up in Scottsdale. I don't know whether it was just a mailing address or whether there was actually a phone and a desk there or whatever, but relating to this mailing, too. I thought there might -- there was something else.

Q. Now, the business reply envelope that went out with the mailing went back to Washington.

A. Right. Right.

Q. But you think there was a post office box that was set up?

A. Yes. Kelly would know more about that.

Q. Kelly Rossi?

9504367345

A. Um-hum.

Q. Do you have any recollection about when that might have happened?

A. The other post office box?

Q. Yes.

A. Well, we were in the old office then, so about the same time as this stuffing project was going on.

Q. And are you aware of any mailings that were sent to other than members of the Association?

A. No. But not being involved in the project, there could have been and I just don't know that.

Q. Did you have any role in procuring mailing lists of individuals other than members?

A. You're right. See, I forget all this stuff.

Yes, I had to call the Republican Party in Arizona to get labels for Arizona Republicans.

Q. And when was that?

A. Probably when this was going on. Might be later. We were still in the old office, I remember that.

I called for a lot of labels for a lot of different things though.

Q. You did?

9504367 3346

A. Yeah. I used to have to call the Real Estate Commission for labels of real estate people who were licensed, and then we would solicit them or tell them about a course coming up. Yes. So I, you know, did a lot of label requests with the Real Estate Commission. But yeah, now I remember that I guess I did call the Republican Party.

Q. Well, did someone ask you to do that?

A. Sure. Bob Johnson.

Q. Do you have a specific memory of him asking you to do that, or not?

A. No, but I wouldn't have initiated the action on my own. And, you know, Bob, which was another bone of contention in the office, I received my instructions from Bob, not from Ken. So the only person that ever told me to do certain things would be Bob.

Q. Did he tell you who to call?

A. 'Course not. I had to figure that out. Never. No. 'Course not.

Q. Well --

A. He would say -- it would be a situation, I don't know if this -- I can't remember. But it would be a situation whereby gee, wouldn't it be nice if we could get

9504367 3347

all the -- find out who all the Republicans are in Arizona; and then Jean went click and say gee, Bob, why don't we call the Republican Party.

He was not one in terms of finding out information, if I can relate an anecdote. He was going to Washington, D.C. to meet with the sponsor of this bill for federal regulation. Did not think that he ought to contact or do some research about Doug Barnard. I mean, I did that on my own. I said by the way, Bob, you know, you ought to read this about Doug Barnard; he's got a wife and two kids, and this is how he voted before. He never, ever prepared for anything that way.

Q. So it was up to you to find a way to do something.

A. Yes.

Q. So you called the Republican Party of Arizona?

A. Um-hum.

Q. Was that in Phoenix or somewhere else?

A. Um-hum, Phoenix.

Q. And what did you --

A. We paid for the labels, I believe. 'Cause I had to write a letter requesting them. And I might have done it

9504367 3348

more than once, or twice. I can't remember.

Q. You wrote a letter to the Arizona Republican Party requesting address labels?

A. Yes.

Q. Or mailing list?

A. Yes.

Q. Of Arizona Republicans?

A. Probably. Yes.

Q. And then what happened?

A. Eventually they came, but that was another condition of the environment in that office. Bob was the first one to get the mail, you never knew if what you ordered came. You never saw the results. So I assume they came. I assume they used them. I don't know. He never told me.

Q. Do you know how many names were bought?

A. No. You know, if this had been like two months from when I did it, I could recollect the letter, because it would say in the letter. I would always specifically have to say we are getting this many labels for this amount. I would always, you know, put that in the letter.

Q. Do you remember how much it cost?

9504367 1349

A. No. No.

Q. How about what organization paid for it?

A. No.

I would assume one of the associations did, because that check had to be enclosed with the letter. So.

Q. Is it possible that someone other than the associations could have paid for it?

A. Possible. But I don't know. Bob had, you know, his own account, I believe, at the office, too. So I just remember I did need it.

Q. As best you can, can you give me the approximate time frame, like a period of, you know, several months when you think this took place?

A. It was closer to the primary, I would say. So I'd say more in '88, maybe in March or April or May. I don't know.

Q. Do you remember if it was in any proximity to the office move?

A. The office moved in June.

It was before that. Because the labels arrived before that. I don't remember getting those labels or anything in the new office. I was involved in other stuff.

9504367 1350

Q. Was it a long time before that?

A. No.

Q. Or a short time before that?

A. Probably a medium time before that.

Q. So if the move was in June --

A. That's what I said, sometime between February and June it took place probably.

Q. So you never saw the mailing list itself from the Arizona Republican Party?

A. I don't recall that.

Q. And do you remember hearing anything about what use was made, if any, of that mailing list?

A. No. At the time I'm sure it was for the ultimate purpose of fund raising or something with the Bush campaign. But I do -- I think I remember knowing that they came in because nobody knew what to do with them. And they were either sitting at the receptionist's desk or whatever; but, oh, yeah, guys, you know, why don't you ask me about this. This has to do with my project, or that type of thing. But I don't remember seeing them or handing them to Tim, you know, saying this goes with this letter, let's do this or whatever.

9504367 3351

(Discussion off the record.)

(Exhibits 5 and 6 were marked for identification by the Court Reporter.)

Q. Back on the record.

I am now handing you Exhibits numbers 5 and 6, and the first is a letter signed by Bob Johnson in connection with this matter dated April 6, 1988; and the second is a five-page document, the cover page of which also is a letter from Robert Johnson, dated April 4th, 1988. And I'd like to just hand these to you and I will let you take a minute to look at them.

(Pause.)

Have you had a chance to look at it?

A. Yes.

Q. Referring particularly to page 2 of Exhibit 6, have you looked at those statements?

A. Yes.

Q. Can you shed any light on the paragraph 4 which talks about a call to Janet Hess at the Federal Election Commission office? This is all over Ken Twichell's signature.

A. Um-hum. I don't know whether he called and

9504367 1352

talked to her or not. I have no idea.

I know that I made several calls to the Federal Election Commission trying to figure out what was right and what was wrong in terms of what the Association could do and what they couldn't do. It's very confusing.

Perhaps in the future instead of a 425-page book you could mail a sheet to us so they could --

Q. What book did you receive?

A. A paperback book. Think it was red and white.

Q. Was it an orange book?

A. No.

Q. Was it a pamphlet?

A. No. It was a thick book. About an inch thick.

Q. Maybe they sent you the wrong book. There are FEC publications that advise corporations and labor unions what activities they can permissibly engage in, and ordinarily our information division mails those to people who have questions.

In any event, you don't remember ever talking with Ken Twichell about this subject; do you?

A. No. I just spoke to Bob directly. I don't believe Ken was involved. Now, when I left Bob could have

9504367 1353

discussed it with Ken or something; but no. I spoke directly to Bob and only to Bob.

Ken and I did not have a great relationship, as I indicated before, because he could not tell me what to do, certain things to do. I was to report to Bob and only to Bob, and Bob was to give me instructions and only Bob was to give me my instructions; and that created a bad feeling on Ken's part. So no, I did not talk to Ken about this.

Q. And in paragraph 3 do you see where it says in my conversation with the complainant I tried to tell him I was aware of the election laws and that I only mailed to a select few. It says he was selected because in addition to his real estate activities he was on the Board of the Association of Pork Producers.

What do you make of that?

A. I don't quite see the tie-in other than the fact that I guess pork producers must need a lot of land, so therefore real estate, so therefore he was -- and because he had a prominent position in the Association. I have no idea why he wrote that sentence.

Q. Do you think it's a true statement that it was only mailed to a quote, select few, unquote?

9504367 1354

A. No. Because judging from what I said before, the amount of time that that computer room was tied up generating those letters, plus there's something else that could be researched. I was looking at this printer charge. Now, Dean always give us really cheap price.

Q. You are referring to page 5 of the exhibit?

A. Yes. And I'm not familiar enough about this despite being in the business. But I know my husband could look at that and tell you right away. That $90 charge for letterhead, $90 for 2,400 pieces of letterhead? I think $90 might be for more. I think you can get more letterhead for $90. And $96 for envelopes? I think you can get quite a bit more than 2,400 pieces.

But that could be very easily researched by asking other people or just calling up another printer and saying what's your bid on so many letterhead.

Q. It's possible, you think, this statement itself is for more stationary and envelopes than --

A. Could be. It's just a thought that there's one area that should be looked at.

Q. Do you know whether Dean Duchene printed the stationary and envelopes for this project?

9504367 0355

A. No.

I know he was in and out of the office a lot at that time.

Q. You don't know who actually paid for the stationary that was used for this; do you?

A. No. No. I was in my own little corner doing my own thing. No.

Q. Do you know anything about -- I'm referring now to page 3 -- what charge the Association levied for the use of Association members' names? Did it sell mailing lists?

A. Yes, it did sell mailing lists. Rarely, but we did sell our mailing list.

Q. Do you remember to who or what?

A. Probably a company that would have something of interest to appraisers. I don't remember specifically who. And I know that it was at such a price and at such a hassle. I remember one request that Bob would impose such a hassle and such a price that, you know, by the time the conversation was over, you know, the guy didn't want the labels, it wasn't worth the effort.

Q. Do you mean that Bob tried to charge a lot for the labels?

9504367 3356

A. I think. Yes, I think so.

Q. Do you have any idea about the reasonableness of the figure that's listed on page 3 for the mailing list rental charge of $50 per thousand names?

A. I think that's somewhat reasonable. I don't think it's indicative of what other people, other companies when they request a mailing list were charged or indicated would be charged.

Q. You have an impression that it was more than that; you're not certain, but you have an impression?

A. Yes.

Q. Now we're referring again to page 5. Do you notice the statement at the bottom, presumably this statement by Mr. Twichell where it says, quote, I stuffed the envelopes myself and no corporate employees' time was used.

Is that a true statement, to your knowledge?

A. Not if it were referring to the thousand solicitation letters that were sent out. No. At the time outside stuffers were hired, as I indicated before. Kelly was able to pick up some extra money by stuffing these.

I don't think we -- any corporate time was used.

9504367 13357

I mean, she did it at night, Kelly did it at night at her house. She never did it during the workday. That I'm aware of.

Q. Who paid for her to do it?

A. I don't know. Kelly would know. I don't know.

Q. She didn't do it as a volunteer, is what I am asking.

A. Oh, no; she was paid for it so she could get the extra money.

Q. Mrs. Johnson, do you know anything about the check that's on page 4 of the exhibit that is from Mr. Twichell to the Association for $760?

A. No.

Q. The bill on page 3, does it resemble other bills that the Association would send out?

A. I wouldn't know about that. But I just know in this -- in the unprofessional environment that existed there, they would manufacture things.

For example. There was an article written in an international publication and the author was a member of the International Real Estate Institute. They fabricated a letter from someone in another foreign country, I can't

9504367 1358

remember where, that one of Bob's buddies was going to go visit real soon; and they had that person take that letter so it was postmarked in a foreign country indicating that this was a wonderful article, I really enjoyed reading it, la-da-da-da-da. So that is an example of the manufacturing certain things.

Am I being clear?

Q. Yes, I think so.

A. Okay. So again, this could easily be manufactured.

Q. Do you have any knowledge from whatever source that this was a manufactured bill?

A. No.

Q. Okay, last question. The first page of the single page of Exhibit 5 includes a statement by Mr. Johnson suggesting that the contribution cards and envelopes were in their entirety gotten from the Bush headquarters.

Is that possible?

A. Well, he doesn't really say that, if you read it. He just says from time to time I picked up a couple of contribution cards. I believe that statement is probably true. Now, the entire cards that were used for the mailing

9504367 3359

I know were printed here in Arizona.

So what he's saying in this letter is true, he dropped in at the Bush National Election Headquarters and from time I picked up a number of blank contribution cards; so that's probably true, he probably did that, they were blank or whatever. I have also acquired a few cards from other Chairmen, that's possible.

But that still does not answer the basic question of where he got the thousands of cards that had to go within that big mailing.

Q. He also says that he -- and I am picking up where you left off -- that he affixed the AZ 04 number and the Attention Lucy Cole notation on the envelope.

A. I can assure you Bob Johnson personally never stamped a number. He did not do work like that.

Q. Thank you. Off the record for a minute.

(Discussion off the record.)

Q. Mrs. Johnson, are you aware of whether Mr. Robert Johnson ever sent a resume to Bush or someone on behalf of George Bush?

A. Yes, through a conversation with Barbara Hemmerick, who I believe typed it, there was some

9504367 13360

connection; I don't know if it went directly to George Bush, if it went to someone on his staff or whatever; but I wouldn't question Barb, she wouldn't say something out of the blue like that.

Q. Was the resume sent with a cover letter?

A. I don't know about that. Don't know about that.

I would think. I mean, in the business world you usually send a cover letter with a resume.

Q. But you never saw the letter, you wouldn't know what was in the letter?

A. No.

Q. Other than the activities that we have talked about today, can you think of any other political activities that you engaged in at Robert Johnson's request while you worked at the Association?

A. Yes. Throughout the time prior to Bush being elected President, he was involved so much that the little, quote, errands or secretarial-type things I would be the one he would ask for that as opposed to his regular secretary, because I was dealing with government regulations specifically.

Specifically I remember sending flowers to Lucy

9504367 13361

Cole, Margaret Tutweiler -- is that it, she's now at the State Department, I think. Is that her name?

Q. Could have been Alexander?

A. Could have been. Better. You're right. Margaret Alexander. And a few other of the people that he knew.

I also sent a telegram to Bush to congratulate him on being the Republican nominee.

Q. When was that?

A. June or whenever it was.

Q. Do you mean you sent the telegram upon his nomination?

A. Yes.

Is that what I mean?

I sent the telegram the night before he was actually nominated, so it was Bob's desire that Bob's telegram be the first one that Bush received after being nominated by the party. I don't know whether that came about or not. But yes, so I sent it the night before actually.

Q. And do you know who paid for the flowers and the telegram?

9504387 1362

A. No.

Q. Well, you arranged to send the flowers?

A. I think I put it on a credit card, an American Express. Now, I don't know if that was a corporate one or Bob's personal one. But yeah, I did put it on a credit card. And it was the flower shop that he usually used, and I don't know which one that was. I want to say Cassidy Flower, but that might be wrong. He told me which flower shop to call, I remember that.

Q. You are pretty certain that you put it on a credit card?

A. I think.

Q. Was it a company credit card?

A. I don't know. I can't remember. Probably.

Q. And how about the telegram?

A. I don't remember how that was paid for.

Q. And were there any other activities that you engaged in?

A. Just finding out little bits of information for him, for whatever purpose. I really don't recall the specifics.

The whole goal was to boost Bob's recognition

9504361363

within the Bush campaign and so they know who Bob Johnson was when he called or whatever. He was very involved in promoting himself.

Q. Let me move back to one area we talked about earlier and then we can wind up.

You described that the associations moved from the old office, the smaller office where there was only the one office that Bob Johnson had and everybody else was in an area separated by dividers, to another larger offices; and that was in June of 1988 as best you can recall.

A. Um-hum.

Q. Can you tell me what efforts the employees were involved in in connection with that move?

A. Secretarial staff was told to move what was on their desk and in their drawers, they boxed up, took over. Believe Tim was in charge of the computer room. He actually physically moved the computers, put them in his car and moved them over there, hooked them back up.

Patty was involved in the phone service, getting that hooked up. I don't recall any other people who were involved. I really did not play a part in that.

Q. Was the same computer that was in the old

9504367 13764

building used in the new building?

A. I think, yes. Tim put it in his car and transported it over. Yes.

Q. So you don't remember that a new computer system was installed?

A. Well, it was much bigger and there were more computers. It was a much better system in the new office. But they didn't -- I think they brought over the printers, or at least something. Because I remember the jokes going around the office about seat belting in the computers, and, you know. I think one girl in the office was concerned 'cause she was driving one over. I'm not too sure about that. But I know there was conversation about that.

Q. Do you know whether Tim Cloud worked a lot of extra hours before the move to prepare for it?

A. Not necessarily before the move. Tim Cloud worked a lot of extra hours, period. Not necessarily in conjunction with the move, because of all the mailings and whatever else. He was -- he was there a lot.

Q. But you don't remember any specific substantial time that he was putting in that was relating to the relocation?

9504367 1365

A. Never discussed it with me.

Q. Do you think it would have been apparent to you if there had been?

A. Possibly.

I know the move was delayed a number of times. Had to pick up equipment that hadn't gotten there or whatever. Or that -- so it got pushed back.

Q. I guess I'd like to ask the same question about Ken Twichell. Were you aware of Ken Twichell putting in substantial number of extra hours in connection with the move?

I mean for both of them I guess I'm asking something that would have lasted for a couple of months, you know, before preparing, not just in the week of or that sort of thing.

A. No, but both Ken and Tim did put in a lot of extra hours. But it wasn't just because of the move. You know, Tim did it because, you know, he was responsible for the computers; and Ken did it just because Bob, you know, he was there.

Q. So I guess what I am trying to get at is that for a period of -- the move was in June, for a period of, say,

9504367 13666

two months, April, May, or something like that, or March, April, May, it wasn't apparent to you that there was a special intensive effort by one or the both of them in terms of hours or effort to prepare for the move?

A. No. Not any more than the other. Not that I knew of. But then I -- Ken's favorite line was that if it was 5:00 o'clock or 5:05, I was always out of there; and my response back to him was Ken, it's quality of time, not quantity. Because I could get more done in two hours than he could get done in eight.

Q. So you are not sure exactly what they did in the hours that you weren't there?

A. Right. I have no idea. I assumed it was Association business. But then we were also required one Saturday a month to come in and do that.

Q. Well, then, why would you think that there was not extra effort that they were putting in in preparation for the move?

A. Well, there -- any move of an office is going to require extra hours. But I don't think it was anything above and beyond the other work they did. There was enough staff people that someone else could handle a project or

9504367 13367

something so that they could handle the work load. You know, Patty was involved in the phone lines and everything, and I don't think she was there for any exorbitant amount of time.

Q. So you don't remember hearing any talk in the office about there being any special bonuses that were tied in to the move?

A. We never talked about financial matters in the office. Never. Because Bob never wanted it, and pretty much it's kind of unprofessional to start talking about your bonuses and everything else. So no, we never talked about that.

Q. Well, were you aware of any bonuses -- maybe you answered the question already. You were not aware of any bonuses that were tied in to the work, extra work connected with the move?

A. No. Just the Christmas bonus, that kind of thing.

Q. But I think the first part of your answer was that there could well have been bonuses that were tied in to the move for some people and you wouldn't necessarily have been aware of it.

9504367 13368

A. Right.

Q. Can't rule it in, can't rule it out?

A. Right. Sorry.

Q. No, that's fine.

Off the record.

(Discussion off the record.)

Q. Back on the record.

Mrs. Johnson, I think we have now concluded this deposition. Is there any other information that you would like to convey at all about this?

A. No, I can't think of anything.

Q. As I explained earlier, you will have the opportunity to review and to sign this deposition. In addition, can you approximate for me how far you have traveled to get here; and in the mail will come a witness check.

A. Seven miles.

Q. With that, this deposition is concluded.

(Concluded at 1:35 p.m.)

9504367 3369

I, the undersigned, say that I have read the foregoing deposition taken October 31, 1990, and I declare, under penalty of perjury, that the foregoing is a true and correct transcript of my testimony contained therein.

EXECUTED this _____day of _____, 1990.

_____
JEAN JOHNSON

Subscribed and sworn to before me this _____ day of _____, 1990.

_____
Notary Public

My Commission Expires:

_____

9504367 1370

STATE OF ARIZONA)
) ss:
COUNTY OF MARICOPA)

I HEREBY CERTIFY that the foregoing deposition was taken before me, Kent L. Carter, RPR, CM, a Notary Public in and for the County of Maricopa, State of Arizona; that the witness before testifying was duly sworn by me to testify to the whole truth; that the questions propounded to the witness and the answers of the witness thereto were taken down by me in shorthand and thereafter reduced to writing by me; and that the foregoing 110 pages are a full, true, and correct transcript of all proceedings had upon the taking of said deposition, all done to the best of my skill and ability.

I FURTHER CERTIFY that I am in no way related to any of the parties hereto, nor am I in any way interested in the outcome hereof.

DATED at Phoenix, Arizona, this 11th day of November, 1990.

KENT L. CARTER, RPR, CM
Notary Public

My Commission Expires:
September 30, 1992

2043631371

TRANSCRIPT OF PROCEEDINGS

BEFORE THE

FEDERAL ELECTION COMMISSION

ORIGINAL

In the Matter of
MUR 2984

DEPOSITION OF ROBERT G. JOHNSON

Scottsdale, Arizona

Thursday, November 1, 1990

ACE-FEDERAL REPORTERS, INC.
Stenotype Reporters
444 North Capitol Street
Washington, D.C. 20001
(202) 347-3700
Nationwide Coverage
800-336-6646

9504367372

44759.0

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of:) MUR 2984

DEPOSITION OF ROBERT G. JOHNSON

Scottsdale, Arizona
November 1, 1990
10:30 a.m.

Original Prepared For
Federal Election Commission

James J. Stramaglia, RPR
Court Reporter

McFATE REPORTING SERVICE, INC.

9504367 1374

I N D E X

WITNESS	PAGE
ROBERT G. JOHNSON	
Examination by Ms. Reilly	5

E X H I B I T S

NO.	DESCRIPTION	IDENTIFIED
1	IAMI Managers Financial Statement	17
2	Nat'l Assn. of Review Appraisers Financial Statement	69
3	NAREA Financial Statement	100
4	Todd Publishing, Inc. Financial Statement	108
5	Int'l Inst. of Valuers Financial Statement	122
6	Letter from Twichell to John R. Lair and contribution card	171
7	Letter from Robert Johnson FEC of 4-4-88 and Letter from Twichell to FEC of 4-4-88	188
8	Letter from Robert Johnson to FEC of 4-6-88	210
9	NAREA Supplemental Responses to Interrogatories	218

McFATE REPORTING SERVICE, INC.

NO.	DESCRIPTION	IDENTIFIED
10	Xerox copies of checks to Presidential Trust and Durenberger for U.S. Senate	250
11	Xerox copies of checks to Cloud and Twichell from NAREA	266
12	Xerox copy of check to Bush for President Committee from Twichell	268
13	Xerox copies of checks to Twichell and Schneck from NAREA and Int'l Inst. of Valuers respectively	271
14	Xerox copy of check to Twichell from NAREA	283
15	NAREA Response to Interrogatories	289

9504367 375

The deposition of ROBERT G. JOHNSON was taken before James J. Stramaglia, RPR, a Notary Public in and for the County of Maricopa, State of Arizona, at the Clarion Hotel, 7353 East Indian School Road, Scottsdale, Arizona on the 1st day of November, 1990, beginning at the hour of 10:30 a.m.

APPEARANCES:

Appeared on behalf of the Federal Election Commission:

FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Room 819
Washington, D.C. 20463
BY: PATTY REILLY, ESQ.
and JONATHAN A. BERNSTEIN, ESQ.

Appeared on behalf of Robert G. Johnson:

MERCHANT, GOULD, SMITH, EDELL, WELTER & SCHMIDT, P.A.
1000 Norwest Center
55 East Fifth Street
St. Paul, Minnesota 55101
BY: D. RANDALL KING, ESQ.

9504367 3376

ROBERT G. JOHNSON,

having been first duly sworn by the Notary,

was examined and testified as follows:

E X A M I N A T I O N

BY MS. REILLY:

Q Okay. We are here in Scottsdale, Arizona, on November 1st, 1990, taking a deposition in Matter Under Review No. 2984.

Would you state your name, please?

A Robert Johnson.

Q And your address?

A 8628 East Sharon Drive in Scottsdale.

Q Mr. Johnson, is that your home address or your business address?

A My home address.

Q And what is your business address, please?

A 8383 East Evans Road in Scottsdale.

Q And your home phone number, please?

A It's unpublished.

MR. KING: That's an unlisted number.

MS. REILLY: We'll take your business one then.

9504367 3377

THE WITNESS: 998-3000.

Q BY MS. REILLY: Mr. Johnson, are you represented by Counsel here this morning?

A Yes.

Q And who is your Counsel?

A D. Randall King.

Q Have you had your deposition taken before?

A Yes.

Q So you are familiar with this procedure. But let me sort of run through some things we're going to do here today.

I am going to be asking you a series of questions that will address activities conducted by you and activities conducted by other people.

It is very important that you give to me verbal answers, since the court reporter can't record any gestures or any sort of other non-affirmative or negative answer.

As you know, you have just taken an oath to tell the truth, and you should treat your testimony here as though you are testifying before a court of law.

If at any time you don't understand a question,

9504367 1378

please let me know, and I will be happy to repeat it or to rephrase it.

In the event that you do not indicate that you don't understand a question, I am going to understand that you do understand the question. Is that clear?

A Yes.

Q I am also going to ask you, and I am going to assume, that all your answers are full and complete.

Do you understand?

A Yes.

Q If at any point you want to change, modify or clarify one of your answers, please let me know, and we would be happy to give you that opportunity.

Is that acceptable?

A Yes.

MR. KING: Excuse me, Counsel. As a preliminary matter, I would like to establish that we'll be given a copy of this transcript along with any documentary or any documents marked during the progress of the deposition.

MS. REILLY: As we agreed before we went on the record, that is acceptable to the Commission, certainly.

Q BY MS. REILLY: This deposition is being

9504367379

conducted pursuant to the Commission's subpoena power at 2 U.S.C. Section 437g.

That provides that the Commission's investigations remain confidential until the file in this matter is closed. Thus, you are precluded from discussing the testimony that you are about to give today with anyone other than your attorney.

Do you understand that?

A I understand what you have said, yes.

Q Do you intend to respect that provision of the law?

(Witness conferred with his attorney.)

MS. REILLY: Let the record reflect that the witness is conferring with Counsel.

MR. KING: Do you have a copy of the section to which you have just referred, Counsel?

MS. REILLY: Sure.

Let the record reflect that we have produced a copy of the Federal Election Campaign Act of 1971 as amended.

MR. KING: Specifically the section you referred to.

9504367 1380

MS. REILLY: Right.

MR. KING: The easiest way is page 36, item 12(A).

Do you understand that? You understand the section?

THE WITNESS: Yes, I understand the section.

Q BY MS. REILLY: Just so we're clear, what is your understanding of the section?

A Well, that I can give written consent that the thing can be open and discussed; that I could literally hold a press conference if I wanted to as long as I give the open consent.

MR. BERNSTEIN: In which case, no confidentiality would attach your involvement in the matter thereafter.

THE WITNESS: That's correct.

MS. REILLY: It would be waived for the duration.

THE WITNESS: That's correct.

Q BY MS. REILLY: Okay. Mr. Johnson, did you receive any subpoenas from the Commission?

A I think I received a number of subpoenas.

Q And did you produce documents respecting those subpoenas?

9504367 3811

A Yes.

Q Did you --

A Thousands.

Q Did you produce all the documents which the subpoena asked?

A Yes.

Q In preparation for your testimony today, to whom did you discuss your appearance this morning?

A With Mr. Twichell and with Mr. King.

Q And Mr. King is your attorney?

A Yes.

Q And what did you discuss with Mr. Twichell?

A That I was --

MR. KING: Excuse me, to the extent that conversations between him and Mr. Twichell occurred at which I was present, those are privileged communications. And I would simply advise you that it is your right not to waive that privilege as to the substance of those conversations.

THE WITNESS: Not to discuss the substance, we discussed the fact that a deposition was going to take place today.

9504367 3382

McFATE REPORTING SERVICE, INC.

Q BY MS. REILLY: And how many conversations did you have with Mr. Twichell regarding this?

A I work with Mr. Twichell on a daily basis. I have no idea how many times I have discussed this with Mr. Twichell.

Q So would it be fair to say that you have discussed it with him several times?

A The fact that depositions are occurring, yes.

Q Did you discuss with him outside the presence of your Counsel any matters of substance?

A No.

Q None?

(Witness conferred with his attorney.)

THE WITNESS: None.

Q BY MS. REILLY: Did you read any documents in preparation for your appearance here today?

A Yes.

Q And what documents were those?

A I don't recall. There were a number of documents that the FEC had produced and in responses that we had sent back and things like that.

Q Did you review anything which you have not

9504367 3883

produced to the Commission?

A No.

Q Mr. Johnson, what is your occupation?

A I manage associations.

Q How many associations do you manage?

A Five.

Q And what are they?

A The National Association of Review Appraisers and Mortgage Underwriteres.

Q It might help for the court reporter if you use the acronym as well if there is one that you use.

A National Association of Review Appraisers and Mortgage Underwriters; the International Real Estate Institute; the Professional Women's Appraisal Association; the National Surgical Assistant's Association; the International Society of Meeting Planners; the Travel Agency Owners and Managers Association International.

That's it.

Q Are there any others?

A No.

Q When you say that you manage associations, are you employed by an organization as well?

9504367 384

A Yes.

Q And what organization is that?

A The International Association Managers, Incorporated.

Q And that is known as IAMI; is that correct?

A We call it the International Association Managers.

Q Okay. And where is that located?

A At the address I gave you before, my business address.

Q Are all of those organizations also located there?

A That's correct.

Q Could you tell me a little bit about your educational background?

A I went to and graduated from South St. Paul High School. Went to Hamlin University, the University of Minnesota, St. Cloud State College.

I had five years of college. No degree. I have taken a number of gruduate courses in management and in real estate.

Q And the gruduate courses you took were at which

9504367 385

university?

A University of Indiana; Worton School of Business in Pennsylvania; New York University.

Q Anyone else?

A Oh, I am sure there is. I am probably forgetting. I don't recall.

Q Are you active in any community organizations?

A No. My church.

Q Anything else?

A No.

Q Are you married?

A Yes.

Q And do you have any children?

A Yes.

Q How many do you have?

A Two.

Q And what are their names?

A Julie and Jeffrey.

Q And what are their ages?

A The boy is two and the girl is four.

Q When was the Institute of -- I am sorry, I have gotten used to all the acronyms -- when was the

9504367 3886

International Institute of Real Estate established?

A I don't recall.

Q Was it recently?

A What do you mean by recently?

There is no International Institute of Real Estate.

Q I am sorry. International Real Estate Institution -- Institute, I am sorry.

A The International Real Estate Institute, yeah. I am not sure when it was established.

Q Was it within the last three years?

A I believe it was before then.

Q Was it within the last ten years?

A Probably.

Q Do you think it was later than the last ten years?

A I am not sure.

MS. REILLY: Would you be willing to produce to us their founding corporate documents?

MR. KING: May I ask the relevance of that, Counsel?

MS. REILLY: We're just interested in the

9504367 3387

organization since Mr. Johnson is involved with it.

Under the circumstances, we're interested in knowing how long these organizations have been ongoing.

MR. KING: This is an investigation concerning violation of the Federal Election Campaign Act. I can't imagine what the articles of incorporation have to do with that.

MS. REILLY: One of the problems here, of course, is whether or not a corporation has made a contribution, and so consequently it is very important to us whether something was incorporated and when it was incorporated.

So I will ask you if you will produce that document?

MR. KING: We'll take it under advisement.

MS. REILLY: Okay. And we'll follow up with that at the end of the deposition.

Q BY MS. REILLY: How long has the International Association of Managers been in existence?

A Oh, I really don't recall exactly.

Q Has it been within the last two years that it was established?

A Certainly within the last three.

9504367 3888

MS. REILLY: What I am going to do now is hand to the court reporter what will be marked as Exhibit 1, and I am going to ask the court reporter to hand a copy to you and to your Counsel.

(Exhibit 1 was marked for identification by the reporter.)

MS. REILLY: If you want to take a moment and just review that --

MR. KING: Yes, please.

(Brief pause.)

MR. KING: I note there are numbers on each of these pages. Who noted those numbers?

MS. REILLY: Mr. Bernstein.

MR. KING: Okay.

Q BY MS. REILLY: Have you reviewed this document?

A Yes, I have glanced at it.

Q Do you recognize it?

A It appears to be a financial statement of the International Association Managers.

Q And the date on that would be December 31, 1988?

A No -- oh, yes, it is. The first page, however, says January 16, 1989. That's why I was somewhat confused

9504367 3389

there.

Q By way of clarification, this is a document which was produced to the Commission. So I will really have no explanation of the dates other than I suspect the January 16th date inside is the date that the accountant transmitted it.

You would probably know better than I regarding that.

In any event, I would ask you, please, to turn to what has been marked as page 3 of that exhibit. I direct your attention to the left side of the page under the heading of Assets. And under Assets it says Current Assets, and then under that it says Scottsdale Checking.

Mr. Johnson, is that a checking account maintained by this organization?

A I assume it is. I would have to check with my accountants. I am not -- I assume that's what it is.

Q And underneath that it lists Property & Equipment, and under Property & Equipment is Accumulated Depreciation and showing zero balances.

As of December 31, 1988, would this be a statement of the assets of International Association of

9504367390

Managers?

A I assume it is.

Q Do you have any reason to believe that it would not be?

A No. I produced documents to the FEC that showed those. I believe those to be correct, produced by our accountants.

Q If I could ask you, please, to turn to page 4 of this exhibit, and under Liabilities & Stockholder Equity, and under that Stockholder Equity, could you tell me who are the stockholders of International Association of Managers?

A I am the stockholder.

Q You are the sole stockholder?

A I believe so.

Q By saying that you believe so, do you believe that anyone else may have an interest in this organization?

A I just want to be perfectly clear, and so there is no misunderstanding, that I am not sure if I am the sole shareholder or not.

I believe I am, but I would have to check our

9504367 1391

records to find out if I am or not.

Q Who else would you believe would also be a stockholder?

A I am not sure.

Q Is this stock which is commonly traded?

A No.

Q I am going to ask you, please, to turn to page 5, and under Operating Expenses, which appears at the left side of the page, there are are number of items underneath. One of the first is Gross-Wages.

Could you explain to us what this entry means?

MR. KING: If you know.

THE WITNESS: Yeah. No, I could only guess.

Q BY MS. REILLY: And your guess would be?

A That it's salaries that were paid by the International Association Managers, gross wages.

Q And you realize, of course, that all of our questions here this morning go only to your knowledge?

We're not asking you to answer questions to which you don't know the answer or to make up answers. I hope that's clear.

A Well, based on your comments at the very

9504367 3392

beginning, you instructed me to bring to your attention anything that is not perfectly clear.

Q Right.

A And that's what I am doing here, saying, hey, I am not totally sure that that's it.

And now you are coming back changing the rules on me here saying that it's only to the kind of -- to the best of my knowledge.

Q Well, I want you to be very clear on the fact that we expect you to answer fully and completely. And if you are unsure, then certainly I would want you to bring that to my attention.

A Very good.

Q All of your questions, of course, are based upon your personal knowledge.

Under Advertising, could you tell us what would happen -- what the meaning of that category would mean?

MR. KING: Counsel, excuse me. I fail to understand the relevance of this line of questioning.

This again is an investigation concerning possible violation of the Federal Election Commission Campaign Act. What in the world does an advertising

McFATE REPORTING SERVICE, INC.

9504336713993

expenditure have to do with that?

MS. REILLY: Mr. King, as you are aware of the fact, one of the problems here is a possibility that the corporation may have contributed funds to a federal candidate or federal political committee. Consequently, the method by which the corporation isolates its expenses is important to this investigation.

And I am going to direct you to answer the question, please.

MR. KING: Well, it will be subject to the objection that it's irrelevant.

THE WITNESS: Would you read the question back, please?

(Record read.)

THE WITNESS: No.

Q BY MS. REILLY: By your answer "no," you do not know what the entry advertising means as it applies to the International Association of Managers?

A That's correct.

I understand what advertising is, certainly. But I don't understand what the figure -- I guess it's zero or the one to the right being $2,194.94, I don't -- I have no

9504367 1394

direct immediate recollection of what that figure is.

Q Does the International Association of Managers advertise?

A I believe on occasion we have taken an ad out.

Q And what would that occasion be?

MR. KING: Counsel, again, I can't imagine whether or not this organization advertises or not, I can't imagine the relevance to this proceeding.

Must we go through all of this?

MS. REILLY: Mr. King, as I explained before, one of our concerns is whether this corporation made a contribution, and, consequently, how they characterize their operating expenses is a matter of importance to this investigation.

And, yes, we will continue this line of questioning.

MR. KING: I understand that. But now you are asking him what forms of advertising they do?

MS. REILLY: Yes.

MR. KING: That is irrelevant to this proceeding.

MS. REILLY: I am going to direct the witness to answer the question, please.

9504367 1395

(Witness conferred with his attorney.)

THE WITNESS: Could you read the question back, please?

(Record read.)

THE WITNESS: I am not sure.

Q BY MS. REILLY: Do you recall advertising?

A Vaguely.

Q Do you recall seeing advertisements?

A No.

Q Do you recall discussing advertisements with anyone?

A Yes.

Q And when was that?

A Within the last two years.

Q On how many occasions?

A I don't recall. Probably once, maybe twice.

Q And with whom did you discuss this?

A I don't recall.

Q So, in other words, you recall discussing advertising on one or two occasions with someone whose identity you don't recall; is that correct?

A That's correct.

9504367 3396

Q The next entry under Operating Expenses is Auto Expenses.

Does the International Association of Managers maintain a car?

A What do you mean maintain a car?

Q Is there, for example, a company car?

A No, I don't believe so.

Q Can you explain what the entry Auto Expenses would refer to?

A My best guess would be for someone from the company that would be traveling on Association business that would rent a car, be using his own car, his or her own car in the case of business.

Q So this would refer to both rentals as well as reimbursement of personal transportation; is that correct?

A That's how I would guess Auto Expenses means. Other than that, I am not sure.

Q Under the next entry, which is Bank Charges, can you explain that entry to us?

A No.

Q And why is that?

A Why is what?

9504362 13397

Q Why are you unable to explain the entry?

A Well, you asked me what it was.

Q Right.

A I said I don't know.

Q I thought you -- could you read the question back, please, and the answer back?

(Record read.)

THE WITNESS: Let me add to my answer that it is possible that those are charges that I incurred because of the Federal Election Commission requesting copies of checks and records and so forth. So it's a possibility that that is what that exorbitant amount of 2,000 or whatever it is -- that whatever that amount is for Bank Charges, that's possible that that's what it is.

Q BY MS. REILLY: In light of the fact that the statement is dated December 31, 1988, is there another possible explanation?

A Not that I know of.

Q The entry Insurance, to what does that refer?

A I can only guess that that is an insurance policy that the Association has.

Q Does the Association maintain insurance policies?

9504367 1398

A The Association pays health insurance for its employees, and I assume that that is what it is. But I am not sure.

Q Does it maintain any other sort of insurance?

A I am not sure.

Q Who would know?

A My accountant.

Q And who is your accountant?

A Boyum & Barenscheer, Certified Public Accountants, in Minneapolis.

Q Are these the people who prepared the statement?

A That's correct.

Q Under the entry Miscellaneous, what sort of operating expenses would that include?

MR. KING: Counsel, really, it's two cents.

MS. REILLY: Mr. King, we're not questioning the amount. We're questioning the category.

MR. KING: For two cents?

MS. REILLY: Yes.

THE WITNESS: I have no idea what the category Miscellaneous is, and I have no idea why there is an entry in there of two cents.

9504367399

Q BY MS. REILLY: And, again, we're not questioning the entry, merely the category.

Under Office Expense, what sort of operating expenses would be incurred on that category?

A I am not sure.

Q And who would know the answer to that?

A My accountant.

Q Anyone else?

A No.

Q Who provides these figures to your accountant?

A I do.

Q And when do you do that?

A Monthly.

Q And how do you reach these amounts?

A How do I reach what?

Q These amounts.

A They're taken from our check ledger, our checkbook, and just mailed to our accountants.

Q Do you mail your accountants, for example, a copy of the check register?

A That's correct, including a copy of the check.

Q Do you also mail to your accountants your bank

9504367 1400

statements that would accompany the check register?

A Yes.

Q And how many accounts does the International Association of Managers have?

A I believe just this one.

Q Under the entry Outside Services, what sort of expenses would be incurred in that category?

A The only one that I am familiar with would be people like Kelly Girls that we would hire to come in to do some work or outside employees.

Q By Kelly Girls or outside employees, these would be temporary people?

A Yes.

Q And you would hire them through an agency?

A Not necessarily.

Q How would you go about hiring them?

A Putting an ad in the paper, interviewing, that typical hiring process.

Q I guess I am confused.

Are we referring to people who are essentially off the company payroll?

A That's correct. They're hired to do a specific

9504367 1401

task, come in for a week, come in for two weeks.

Q And what sort of things do they do for you?

A Typing, stuffing envelopes, mailing, things like that.

Q Anything else?

A Oh, I am -- I just can't recall right now.

Q Is it accurate to state that this would be more of sort of general office tasks which they would be doing?

A I am not sure.

Q Do you hire specialists to come in and do outside services for you?

A What do you mean by specialists?

Q Someone who, for example, might run your computer.

A No.

Q Or word processing?

A I am not sure.

Q Is there anyone else who would know the answer to what sort of expenses are incurred in that category?

A I assume my accountants would be able to tell you that.

Q Anyone else?

9504367 1402

A No.

Q Who makes the determination as to whether a person's salary is paid under the heading of Outside Services as opposed to the first entry, which is Gross Wages?

A My accountants.

Q Your accountants tell you how your help is to be paid?

MR. KING: That's what he just answered, Counsel.

MS. REILLY: I want to be sure that I understand. Is that correct?

THE WITNESS: That's correct.

Q BY MS. REILLY: And how do they make that determination?

A You would have to talk to them.

Q What sort of information do you provide to them so that they can make that determination?

A I have already answered that by telling you that I send them a copy of the check and a copy of the check register.

Q And in terms of making a determination as to whether someone is paid under the Gross Wages category as

9504367 4403

McFATE REPORTING SERVICE, INC.

opposed to the Outside Services category, what sort of information would be included on the check stub that your accountants would be able to make that determination?

A You would have to talk to them.

Q How detailed are your check stubs?

A You have a copy of all of them, I believe. If you don't know that, I am sorry, I can't help you.

Q Under the entry of Rent-Space, can you explain what that entry means, please?

A I believe that is for rental of the space that the Association occupies.

Q And this is rent which the Association occupies at the business address which you gave to us?

A That's correct.

Q And how much space does the International Association of Managers occupy?

A I am not sure.

Q How big is the building?

A I am not sure.

Q Who would know how big the building was?

A City of Scottsdale in their records, I suppose.

Q How long have you been in the building?

9504367 4404

McFATE REPORTING SERVICE, INC

A I am not sure.

Q Have you been in there for more than two years?

A We have been in the building less than four years, but I am not sure if it's two or three.

Q Did you move in all at once, or did you move in gradually?

MR. KING: Counsel, what in the world does that have to do with this proceeding?

MS. REILLY: If the witness is unable to testify how much space he occupies, I think it certainly is relevant as to whether this entry was used to make a corporate contribution, Counsel.

MR. KING: Do you have any reason to believe it was?

THE WITNESS: No.

MS. REILLY: I am going to ask you to answer the question.

THE WITNESS: What was the question?

MS. REILLY: Could you repeat the question, please?

(Record read.)

THE WITNESS: Basically, we moved in all at once.

9504367405

I mean you can't move an Association in all within one hour or one day, but over a period of time. But it was all at once rather than over a period of -- to differentiate it, whether from a period of, say, six months to a year.

Q BY MS. REILLY: Where were you located prior to your move?

A We were in Scottsdale.

Q Where were you in Scottsdale?

A I don't recall the street right offhand, but it was five to ten miles from where we are now.

Q Were you renting that building?

A No, I owned that building.

Q Do you own the building you are in right now?

A Yes.

Q And by saying you owned the building, are you the actual recorded owner personally?

A Yes.

Q And so under the entry of Rent-Space, would those be rental payments made to you?

A Yes.

Q Under the entry of Repairs & Maintenance, what

9504367 406

sort of expenses would be incurred in that category?

A I am not sure. I could only guess repairs and maintenance to -- I am not sure -- could be to equipment, could be to something. I guess I just don't know.

Q Under the entry of Taxes-Payroll, would those refer to federal and state taxes?

A I don't know. You would have to talk to my accountants.

Q Just so I am clear, do you pay the taxes, send the accountant the check register, and the accountant would calculate the total amount of taxes from that information?

A I have no idea what you just said.

Q Let me try again.

Is it my understanding that what you would do or what the Association would do would be to pay the taxes for each individual, record them in the checkbook, you would then mail the copies of the checkbook, check stubs, to your accountants, and your accountants would come up with a dollar figure for this entry?

A I believe your understanding is incorrect.

Q Could you correct me?

9504367 4407

A I believe our accountants handle everything. I do not prepare any tax statements or anything like that.

Q So when an employee gets their check, are taxes taken out?

A Yes.

Q And who takes out the taxes?

A International Association Managers.

Q And do you have one person whose responsibility it is to prepare those paychecks?

A No, not necessarily.

Q Is there more than one person whose responsibility it is to prepare those?

A Yes.

Q Who are those people?

A Well, I prepare them, my wife prepares them, and I believe we have a bookkeeper that occasionally has prepared them.

Q And who is the bookkeeper?

A A person by the name of Marilyn.

Q How long has she worked for you?

A Oh, a year, I believe.

Q When you prepare the checks for your employees,

9504367 1408

do you take out any taxes?

A I answered that and said yes.

Q And are you the person who calculates how much taxes are taken out?

A That's correct.

Q Does anyone else make that calculation?

A Our accountants.

Q And what role do your accountants have in determining the tax calculations?

A They would tell me what to take out.

Q Could you tell me how you would go about preparing a check for an employee where you would take out taxes?

A I don't understand the question.

Q I presume that you issue paychecks on a regular basis; is that correct?

A Yes.

Q And those paychecks would reflect a certain amount of salary owed to a given individual; is that correct?

A Yes.

Q And presumably taxes would be owed to that

9504367 4309

individual, yes?

A No. Taxes are owed to the government, not to the individual.

Q True. Presumably taxes are owed to the government, correct?

A That's correct.

Q When you write out the check, do you make the calculation regarding the taxes?

A On some occasions I might. On some occasions our accountants would make those.

Q Do you call them up and ask them what the tax should be?

MR. KING: Counsel, are you interrogating this witness for Interval Revenue Service purposes or for the FEC?

MS. REILLY: Counsel, you are well aware of the fact that this is a Federal Election Commission matter.

MR. KING: I am starting to wonder, quite frankly.

Go ahead.

THE WITNESS: What was the question?

MS. REILLY: Could you read it back?

9504367410

(Record read.)

THE WITNESS: If there is something unusual, yes. If there is not, I believe they have given us a percentage or deduction to take out from a person's check.

Q BY MS. REILLY: So you have like a table that you would use?

A No.

Q Just a set percentage of how much should be taken out?

A I believe that's it, yes.

Q Would it be fair to assume that under Operating Expenses, the entry under Telephone would refer to telephones maintained by the International Association of Managers?

A Yes, I believe so.

Q Would it refer to anything else?

A Yes.

Q And what is that?

A May reflect long distance telephone calls.

Q Anything else?

A Oh, I am sure there is, but I can't recall.

Q And who else would know about your telephone

9504367 4111

services?

A Well, I think, other than my accountants, the FEC would.

Q The FEC would know about your telephone services?

A Yes, ma'am.

Q And what is your basis for belief of that?

A You have copies of all my checks for the telephone records, for all my records produced to the FEC from the International Association Managers.

Q In terms of the services that you have inside your organization regarding telephones, can you tell me a little bit about what they're like?

A I don't understand the question.

Q How many lines do you have, telephone lines?

A For the International Association Managers?

Q Uh-huh.

A I am not sure. One or two.

Q How many total lines come into the building to organizations which you have previously named as organizations which you manage?

A I have no idea.

Q Would there be more than ten?

9504367 4112

A Probably.

Q Would there be more than 20?

A Gee, I don't know.

Q So somewhere between more than ten and an unknown number are the number of lines that are there?

A And depending upon how you define coming into to the building, I think we have hundreds of lines coming into the building.

And how many lines we are physically utilizing, which is a different question than you asked, again, I don't have any idea other than it would be more than ten and less than 30.

Q Okay. Do you have a WATS line?

A Yes.

Q And by you I am referring to the International Association of Managers.

A Well, let me clarify that answer.

I am not sure that the WATS line is the International Association Managers' WATS line. It may be one of the other corporations. I am not sure.

Q Is there anything else included under Telephone Services other than long distance bills, telephone service

9504367 4 1 3

itself?

A Well, as I mentioned, you have copies of all of my check registers, and I think if you go through that, you could certainly determine very quickly if there was anything else.

Q I realize that. But I am asking you.

A Yeah. Not -- I don't know.

Q Under Utilities, what sort of utilities does the International Association of Managers have?

A I am not sure.

Q I am going to ask you, please, to turn to page 6 of this exhibit and ask you to take a moment and look it over, please.

MR. KING: I would like to take a break just a minute.

MS. REILLY: Sure. We'll go off the record, please.

(A recess was had off the record from 10:41 a.m. until 10:45 a.m.)

Q BY MS. REILLY: Let's go back on the record, please.

If we could refer back to page 5, please, for a

9504367 4414

moment of this exhibit, Exhibit 1, and just to clarify in terms of the operating expenses, is it your testimony that it is your accountant who decides what expenses will be placed in each category based upon your check stub?

A Not necessarily.

Q And are there instances where persons other than your accountants make that determination?

A Well, let me clarify that answer.

There has been an instance or two that I recall writing a check, and I will simply use this as an example, because I don't recall the situation: I may have put something down under office expense, and the accountant may have called up and said, no, that's really insurance. Even though you may consider that writing a check for hospitalization insurance to be an office expense, I think it's more appropriately put in insurance, and I am going to put it in insurance.

So I have noted on some checks, and I think ultimately they are the ones that put these categories in.

Q Do you recall calling them up and asking them what category it would be?

A Occasionally, yes.

McFATE REPORTING SERVICE, INC.

Q How often would you say that happens?

A Weekly.

Q Do you generally speak to the same person every time?

A Not necessarily.

Q Are there a couple of people that you would generally speak to?

A I think there is probably more than two.

Q Would you say there were more than five?

A No.

Q Can you name some of the people you would generally speak to with these sort of questions?

A Rick Stout (phonetic), he is the person that I usually ask for. And if he is not available, they put me on to someone else, and I am not sure who these other people are.

They simply relay messages, I assume, or process the accounting information.

Q If there is a disagreement about what category an expense would fall under, whose decision is it where it's placed?

A I don't -- I don't know that we have ever had a

9504367 4116

disagreement.

Q Have you had an instance where you overruled your accountants in terms of where an expense would be placed?

A Never.

Q I am going to ask you, please, to turn to page 6 of Exhibit 1. I am going to ask you to take a moment and review it, please.

(Brief pause.)

Have you had a chance to look at it?

A Yes.

Q Can you describe this document for us?

A Not really.

Q Is it something which your accountants gave you?

A Yes. It's described as a Chart of Accounts, and I believe from glancing at this, it's something that's been used for, oh, over the ten years that my accountants have been keeping my financial records.

And I think it's a listing of what assets or income and expenses and things like that are. It's a Chart of Accounts that they have used.

Q Now, on the left side where it says Account, and there are those numbers which follow in the left column,

9504367 4417

those would refer to categories describing the account, the asset or the account in the right column?

A (No response.)

Q Sort of a code?

A I would assume. That would be my guess, but I am not sure.

Q How many employees does the International Association of Managers have?

A I am not sure.

Q Do you have more than 10?

A Yes.

Q Do you have more than 20?

A Yes.

Q Do you have more than 30?

A I am not sure.

Q In December 1988, how many employees did you have?

A I have no idea.

Q Is the Association larger now than it was then in terms of employees?

A I am not sure.

Q Would you describe it as fairly stable?

9504367 1418

A I would describe it as growing.

Q When you describe it as growing, do you mean growing in terms of more employees or more revenue?

A Both.

Q Can you tell me a little bit about the structure of the organization?

A What do you mean by structure?

Q Well, who is in charge, who is under is that person, and how the chain of command would work?

A We really don't -- I don't have a chain of command of the International Association Managers.

I suppose I would be the manager or whatever title you would want to give, and under that would be the employees.

Q And we decided there were probably in the vicinity of 30 employees?

A Well, I am not sure.

Q We decided there were more than 20?

A That's correct.

Q Do you have an assistant?

A No, not really.

Q Do you have someone who is second in command?

9504367 4419

A Not really.

(Witness conferred with his attorney.)

MS. REILLY: Let the record reflect the witness and Counsel are conferring.

Q BY MS. REILLY: Did you want to modify your answer?

A Excuse me?

Q Did you want to modify your answer?

A No.

Q What is your position exactly?

A My position with the International Association Managers?

Q That's right.

A I don't know that I have a position, per se.

I suppose if I am president of the company, that might be a position.

I don't think anyone in my office has ever called me president. But that's -- if you need a title, I suppose that would suffice.

Q Do you have any vice presidents?

A No.

Q What about an executive manager?

9504367 4o20

A No.

Q And who are the people in your organization who report to you directly?

A Oh, I guess every one of my employees comes in my office, and some days I think they all come in twice.

Q Can you identify some of your employees for us?

MR. KING: I think they're identified in here someplace.

THE WITNESS: Yeah, they are.

Well, it would save a great deal of time if I could simply say that some of the employees are listed on pages 32, 33 and 34.

Q BY MS. REILLY: Of Exhibit 1?

A And page 35, yes.

These are not necessarily all current employees. I assume these are employees that we had during the year.

Q Referring to page 32, the second entry, Twichell, Edmund K.?

A Yes.

Q Is Mr. Twichell still with the Association?

A Yes, ma'am.

Q What are Mr. Twichell's responsibilities?

9504367 4211

A He manages the National Association of Real Estate Appraisers, I think his basic duties are.

Q And what does that involve?

A Running the Association.

Q And how does he run the Association?

A Very well.

Q What are his responsibilities in terms of running this Association?

A He has the day-to-day management responsibilities for running the Association.

Q What does the Association do?

A It's an Association of real estate appraisers.

Q What is the relationship of the National Association of Real Estate Appraisers to the International Association of Managers?

A Other than the International Association Managers pays the salaries for that group, I don't believe there is any other association, any other relationship.

Q International Association of Managers pays the salaries of this unrelated organization, the National Association of Real Estate Appraisers?

A That's correct.

9504367 4222

Q And why is that?

A Well, as I stated earlier in this deposition, the International Association Managers is a firm that manages Associations. One of the Associations that it manages is the National Association of Real Estate Appraisers. Therefore, in order to manage it, we must have personnel.

Mr. Twichell is the one that manages that Association, therefore, his name appears as an employee.

Q You know, I am a little confused. Because, you know, I took down notes very quickly when we started regarding what organizations the International Association of Managers was involved with and associated with, and I don't believe you mentioned it.

But so the record is very clear, it's your testimony that the National Association of Real Estate Appraisers is one of the organizations that the International Association of Managers manages?

A Well, I believe your question was not that.

I believe your question was -- and we can go back and find out what your question was -- what Associations do I manage.

And I do not manage the National Association of

9504367 4423

Real Estate Appraisers. Mr. Twichell does.

Q So essentially what we're saying, if I am correct, is that the International Association of Managers through you manages certain organizations, and that there are other organizations associated with the International Association of Managers that are not managed by you; would that be correct?

MR. KING: Do you understand the question?

THE WITNESS: No.

MS. REILLY: Can you repeat it, please?

(Record read.)

THE WITNESS: I have no idea as to what you just said.

Perhaps I can make a statement that would clarify it?

MS. REILLY: Sure.

THE WITNESS: The International Association Managers manages various Associations. They are all of those that I listed previously and including the National Association of Real Estate Appraisers.

Q BY MS. REILLY: Are there any others which you did not list previously?

9504367 4424

McFATE REPORTING SERVICE, INC.

A I don't believe so.

Q If we can return, please, to Mr. Twichell's responsibilities, you testified, I believe, that he is responsible for running the National Association of Real Estate Appraisers?

A That's correct.

Q And that this -- what is the purpose of this organization?

A It's an association of real estate appraisers.

Q And does the National Association provide certain services to these people?

A Yes.

Q And what sort of services does it supply?

A The National Association of Real Estate Appraisers holds seminars, produces educational materials, newsletters, holds conferences, things of that nature that virtually any association does.

Q You mentioned that it provides members with newsletters. How often does that occur?

A I am not sure.

Q Would it be weekly?

A No.

9504367 4425

Q Would it be monthly?

A Probably not.

Q Would it be biweekly?

A No.

Q Would it be every other month?

A That would be my best guess.

Q Is it your understanding that the newsletters come out regularly within a set time period?

A What do you mean regularly?

Q For example, every two months, for example, you would have a newsletter come out as opposed to --

A As opposed to what?

Q Every month that letters would come out; is that correct?

A No. I don't believe there is any exact date, an exact time, an exact period, that the newsletters come out.

Q Does it in some respects depend on what is happening in the real estate community?

A Yes.

Q Now, you mentioned that it provides -- the National Association of Real Estate Appraisers provides

9504367 4426

certain service to its members.

How many members do they have?

A I am not sure.

Q Do they have more than 100,000?

A No.

Q Significantly less?

A Between 20 and 30,000, I think, is fair.

Q And that's today we're talking?

A That's correct.

Q And in 1988, how many members would they have had, roughly?

A I would not have any idea.

Q Has the National Association of Real Estate Appraisers grown since 1988?

A Yes.

Q It's larger today than it was then?

A That's correct.

Q Do you have any members of the organization who would be citizens of Canada?

A Yes.

Q You would have, approximately, how many would you say?

9504367 4427

A I have no idea.

Q Do you have any members who are citizens of countries other than Canada?

A Yes.

Q And what countries would those be?

A United States.

Q Anything else?

A Mexico. I would guess at least a half a dozen other nations, but I am not sure which ones those are. I believe Australia is one and England is one.

There are other countries, but I don't know what countries they are.

Q How do you become a member of this organization?

MR. KING: Counsel, what is the relevance of that to this proceeding?

MS. REILLY: What the relevance of it is is this is a situation --

MR. KING: How one becomes a member of NAREA?

MS. REILLY: I can refer to the Supreme Court case entitled Federal Election Commission versus National Right To Work Committee if you need to.

MR. KING: What does that have to do with this

9504367 4428

proceeding?

MS. REILLY: To educate yourself regarding the permissibility of a corporation to communicate with its members.

There are certain exemptions under the law where a corporation may make certain communications to its members, and that is why the membership issue is relevant here.

MR. KING: We're not talking about communications to -- you are asking what the qualifications are to become a member. You are talking about two different things.

MS. REILLY: The qualification of someone to become a member impacts on the ability of a corporation to communicate to those members. And, as we are aware in this case, one of the issues is whether or not this corporation communicated in connection with a federal election.

So I would direct you to answer the question, please.

MR. KING: Continuing in my objection, it has nothing to do with this proceeding.

THE WITNESS: I am not sure exactly what the

9504367 4429

qualifications are to become a member today.

Q BY MS. REILLY: Do you know what they were in 1988?

A No, I do not.

Q Do you have to be a licensed real estate broker to be a member of the organization?

A A licensed real estate broker?

Q Yes.

A No. Most appraisers in the United States are not licensed real estate brokers, to my knowledge.

Q Who would know what the criteria would be to become a member of the National Association of Real Estate Appraisers?

A Mr. Twichell.

Q Anyone else?

A I suppose the majority of our members would. Members of the National Association of Real Estate Appraisers would probably know what the qualifications are.

Q I am sorry, did you indicate that the qualifications for membership had changed since 1988?

A I believe they have, yes.

9504367 1430

Q And how have they changed?

A I am not sure.

Q What duties does Mr. Twichell have regarding the International Association of Managers?

A Oh, he has interviewed some employees. I would say that's probably the extent of his involvement in the International Association Managers.

Q That would be it?

A As best as I can recall right now, yeah.

Q And what are Mr. Twichell's duties regarding the National Association of Real Estate Appraisers?

A I think we covered that, didn't we?

Q We have. We completely covered it?

A He is responsible for the day-to-day operations of the Association.

Q Does the Association have a computer?

A The Association?

Q The National Association of Real Estate Appraisers?

A Yes, I believe they do.

Q Does the National Association of Real Estate Appraisers, is that the only entity using that computer?

9504567143

McFATE REPORTING SERVICE, INC.

A Their computer?

Q Yes.

A Yes, I believe so.

Q In the building which you described which you own where all of these offices are apparently housed, how many computer systems are there?

A I would have to guess saying 20, 30, something like that.

Q And what do you mean by computer systems?

A You used the term.

Q You answered the question.

A I don't know what I mean by it, I guess.

Q Is there one main computer?

A I guess I have to answer by saying I don't know what a main computer is and other computers.

I know I have heard the term that we have 20 or 30 computers in our office. And, you know, other than that, I don't know how to answer your question.

Q Are you -- have you taken any courses regarding computers?

A No.

Q Do you have a personal computer yourself?

A Their computer?

Q Yes.

A Yes, I believe so.

Q In the building which you described which you own where all of these offices are apparently housed, how many computer systems are there?

A I would have to guess saying 20, 30, something like that.

Q And what do you mean by computer systems?

A You used the term.

Q You answered the question.

A I don't know what I mean by it, I guess.

Q Is there one main computer?

A I guess I have to answer by saying I don't know what a main computer is and other computers.

I know I have heard the term that we have 20 or 30 computers in our office. And, you know, other than that, I don't know how to answer your question.

Q Are you -- have you taken any courses regarding computers?

A No.

Q Do you have a personal computer yourself?

9504367 1432

A No.

Q Do you know very much about computers?

A I think it would be fair to say that my four-year-old girl knows more about computers than I do.

No, I would like to establish or add to that answer, without a doubt, my four-year-old daughter knows more about computers than I do. And the other day I was looking at her computer system, and I did not know how to turn it on, and she said, Daddy, you turn it on over here.

So, without a doubt, she knows more than I do.

Q Who works underneath Mr. Twichell in the National Association of Real Estate Appraisers?

MR. KING: Could you repeat that, please?

Q BY MR. REILLY: Who works under Mr. Twichell in the National Association of Real Estate Appraisers?

A No one.

Q How many employees does the National Association of Real Estate Appraisers have?

A None.

Q It has -- is Mr. Twichell considered an employee of it?

A No.

9504367-1433

Q And who performs the work for the National Association of Real Estate Appraisers? And by that I mean putting out the newsletters that you mentioned and the communication to members.

A Staff of the International Association Managers.

Q And these would be the people that we have previously referred to on page 32 of Exhibit 1; is that correct?

A That's correct.

Q Does Mr. Twichell have any other responsibilities regarding any of the other organizations that we have discussed so far today?

A I would like to think that all of the 20, 30 employees, whatever it is, has responsibilities with all the organizations; that if the telephone were to ring on a different Association, that they have the ability to pick it up, say hello, and converse intelligently.

To that extent, I would say that Mr. Twichell does have involvement with all the Associations.

Q Other than picking up the telephone when it rings, does he have any other responsibilities vis-a-vis these other organizations?

9504367 4434

A Well, as I said, I would hope that all of my employees could be -- or employees of the International Association Managers -- could be versatile enough to handle just about any situation with any of the Associations.

Q Do you have specific knowledge of Mr. Twichell performing duties for any of these other organizations?

A Yes.

Q And what would those be?

A I know he has answered the telephone on all of them. I assume he has done a lot more than that.

As to what he has done or hasn't done, you would have to ask Mr. Twichell.

Q So your testimony is your only specific knowledge is that he occasionally answers the telephone for the other organizations?

A Oh, not at all. Not at all.

I think he does a lot of things, and what they are at this particular moment, I don't recall.

I know you are going to depose Mr. Twichell tomorrow, and I think that's just an appropriate question to ask him.

9504 3671435

I really can't put my finger this moment on any particular duty that he has with the other Associations.

Q Is Mr. Twichell skilled regarding the computer systems which we have alluded to?

A Mr. Twichell has a degree in computer science. He is very skilled.

Q Is he the person in International Association Managers who is responsible for what we have been referring to as the computers?

A Not -- I guess I don't know how to respond simply because we have a person in our computer department who works in there full time by the name of Tim Cloud, and he is responsible, as is Mr. Twichell.

We don't have a chart of -- typical employment chart or something like that.

So, other than that, I don't know how to answer your question.

Q And that's because it's sort of an informal group of organizations; is that correct?

MR. KING: That isn't what he said.

THE WITNESS: Not at all. That's a very formal group of organizations.

9504367143436

It's just the employees are hired to manage or the International Association Managers manages Associations.

One employee, hopefully, can work in any one of the Associations.

Q BY MS. REILLY: Does the International Association of Managers meet the payroll for all these organizations?

A Yes.

Q Has it always?

A No.

Q And when did the International Association Managers begin to meet the payroll for all these organizations?

A I don't recall.

Q Was it within the last year?

A Gee, I really don't recall. It would be within the last three years anyway.

Q Would that be about the time you moved to the new building? Is there any correlation between those two events?

A There may be, but I am not sure.

9504367 4437

Q So it's certainly not a cause and effect situation?

A No.

Q When the International Association of Managers makes salary payments to individuals, is there an attempt to sort of figure out what individuals work for each organization?

A No.

And let me correct you. It's not the International Association of Managers. It's the International Association Managers.

Q There is no attempt to subrogate any sort of activity that employee does. It's all paid from the International Association Managers?

A That's correct.

MS. REILLY: Why don't we take five minutes?

(A recess was had off the record from 11:14 a.m. until 11:23 a.m.)

Q BY MS. REILLY: Back on the record, please.

Mr. Johnson, other than the check register, which you provide to your accountant so that he is able to put certain expenses into categories, and your communications

9504367 1438

that you had with him by telephone, do you provide to him any other sort of information regarding how budgetary categories should be maintained?

A I do not know what you mean by how budgetary categories should be maintained.

Q Do you provide to your accountant any information other than the check register and your telephone conversations regarding what expenses should be allocated to each budgetary category?

A I believe my testimony was not what you just said, but that the majority of the time he determines what categories, not me.

Q Based upon the check register that you provide to him?

A That's correct.

Q Do you provide to him any other sort of information other than the check register?

A I provide him with every bit of financial data that crosses my desk.

Q Can you tell us what some of that financial data would be?

A I don't know what that would be other than the

9504367 4439

check registers and stuff, but perhaps there is other things. I can't recall what they are, but whatever it is, I provided it to him.

Q Would some of those things be invoices that you receive?

A No, I don't believe we provide him with any invoices.

Q Would there be statements from vendors?

A No.

Q Can you give us any idea what other sort of financial data you would be supplying to your accountants?

A No, just other than all of it.

Q All of it, but you can't describe it?

A I can describe it by saying all of it.

Q But you can't describe it other than to say all of it?

A Well, I can describe it by saying the check registers and bank statements, and I suppose that's all I can think of at this moment how to describe it.

Q But there is at least the potential that there are other documents which are provided to him; is that correct?

9504336714440

A Let me answer by saying anything that we have provided, that I have provided to him, I certainly have provided to you. So if --

Q So we have seen them --

A -- you can think of some.

Q So we have seen the universe of what you supplied to your accountants; is that correct?

A That's correct.

MS. REILLY: At this point I am going to hand to the court reporter what we would like to have marked as Exhibit No. 2.

(Exhibit 2 was marked for identification by the reporter.)

Q BY MS. REILLY: This purports to be National Association of Review Appraisers' financial statement. The date on the cover is March 31, 1988.

I am going to ask you, please, to take a moment and review this document. It's 50 pages in length, and we have individually put the numbers on each page.

(Brief pause.)

Have you had had a chance to review this document?

9504367 1441

A I have thumbed through it.

Q Do you recognize it?

A It appears to be the statement, financial statement, from the National Association of Review Appraisers.

Q Is this a statement which was prepared by your accountant?

A It appears to be, yes.

Q And you use this accounting service regularly; is that correct?

A That's correct.

Q How often do they issue these sorts of financial statements?

A Monthly.

Q And to whom are they addressed?

A I am not sure.

Q You don't see the envelope when it comes in?

A No, I am not saying that I have never seen the envelope.

I am saying that I don't recall who they're addressed to. They end up on my desk, but I don't know who they're exactly addressed to.

9504362 14442

Q How soon from the time they come in the building do they end up on your desk?

A I have no idea.

Q Is it your sense that they appear on your desk at fairly regular intervals?

A It's my opinion that within an hour after the mail gets there that half of it ends up on my desk, yes.

Q And the other half?

A I have no idea where it goes. But thank god it doesn't end up on my desk.

Q Do you review the statement when you receive it?

A Usually not.

Q What do you do with it?

A Put it in the pile.

Q And the pile goes where?

A In my office or in the back room someplace with other financial statements.

Q Are they filed away?

A Filed is probably too nice of a word. They're put away.

Q Do you have occasion to go back and read them?

A Yes.

9504367 1443

Q And what sort of occasions do you go back and read them?

A Oh, as an example, if we were bidding out a project such as a directory, printing a directory, we may go back and say, hey, what did we pay last year for a certain item? We might refer to our check register and also the financial statements, things like that.

Q So you rely upon these in terms of future budgetary -- let me correct that.

You rely upon them for future business decisions?

A Well, I think it's one part of the decision making process but certainly not in its entirety.

Q Do you use them for anything else?

A Oh, I am sure I use them for a number of things but I can't recall what.

If my accountants would have a question about something, they may call me, and I might refer to the statement, things like that.

But I don't know exactly. I can't put my finger on an exact item or exact instance that we would do it. But I know I have referred to them many times.

Q And by "many times," in the course of a year, how

9504367 1444

often would you have occasion to go back and peek at them?

A At least -- sometimes it seems once a week, and sometimes it seems once a month.

Q I am going to ask you, please, to turn to page 2 of this document and to take a moment, please, and read that letter.

(Brief pause.)

A Yes.

Q Turning to paragraph 2 of that letter, the second sentence, which states -- and this is the accountants -- "We have not audited or reviewed the accompanying financial statements, and accordingly, do not express an opinion or any other form of assurance on them."

Do you know why your accountants don't review the accompanying financial statements?

A Yes.

Q Why is that?

A I think they just -- I think that whole paragraph, this whole thing is like a limiting condition sheet that CPA's put in all statements they prepare, unless they physically spend, I think it's been explained to me, you know, somewhere between 30 and $60,000 to come

MAFATE REPORTING SERVICE, INC.

9504367 4445

down and do all these things.

And the Associations just do not have that type of income, nor do we feel that's necessary.

I don't think that is true, by the way, what they said. And I don't think -- I mean you will have to ask them, but I believe they -- where it says we have not reviewed the accompanying financial statements, obviously, they have reviewed the financial statements. They produced them. So to produce them they had to review them.

So I mean I think that's not necessarily a true statement.

Q Have any of the Associations been audited in the last five years?

MR. KING: By whom?

MS. REILLY: By an outside independent audit firm.

THE WITNESS: No.

Q BY MS. REILLY: Have they been audited in the last five years internally?

A Explain what you mean by audited, please.

Q Has someone gone in and reviewed your assets,

9504367 4446

your cash on hand, the method by which you make disbursements, the categories in which budgets have been -- the categories by which expenses have been placed into operating expenses?

A Well, I have done that.

We have yearly board of director meetings at which all the expense items and information is discussed, thoroughly discussed, and budgets are voted on.

The financial statements are discussed in detail, previous financial statements, as well as the anticipated expenditures for the next year.

I guess I would call that an audit.

Q So the board of directors' meetings would be another example where you would be using information in these financial statements; is that correct?

A That's correct.

Q Do all the members of the board of directors of each respective organization see their financial statements of their respective organizations?

A Yes.

Q Do they do that routinely?

A Yes.

9504367 4447

Q And so are copies made of these when they come in to go to the board of directors?

A Well, the year-end statements are, and also other statements are produced at the time that board of directors' meetings are held.

Q And that's it?

A Yes.

Q I am going to ask you, please, to turn to page 3 of this exhibit.

Under the listing of Assets, would this be a complete statement of all of the accounts maintained by the National Association of Review Appraisers?

A I assume it to be.

Q And that would be based upon the information that you have given to your accountants; is that correct?

A That's correct.

Q And who are the stockholders of the National Association of Review Appraisers?

A There are no stockholders.

Q And who are the -- what persons are on the board of directors of this organization?

A There is myself. There is a gentlemen by the

9504367 4448

name of Jay Knox McConnell (phonetic). There is a gentleman by the name of Walter Abbott, a Merrill Sherrick (phonetic), a Douglas Gurloan (phonetic). There is seven of us.

Q Seven total?

A Yeah. I guess I missed some, unless I just named seven. I am not sure.

Q I don't believe you did.

A It slips from my mind.

Q I am going to ask you, please, to turn to page 5 of this exhibit and take a moment to review that, please.

(Brief pause.)

Have you had a chance to review this page?

A I have glanced at it, yes.

Q Under Operating Expenses, if I could direct your attention, please, to the entry labeled Computer Services, could you tell me what --

MR. KING: Where is it?

MS. REILLY: About five down.

THE WITNESS: Uh-huh.

Q BY MS. REILLY: Could you tell me what sort of expenses the National Association of Review Appraisers

9504367 4449

incurs regarding Computer Services?

A No. I can speculate.

Q Please.

A Computer repair; special programming that would be needed just for the National Association of Review Appraisers to maintain their membership lists; some diskettes or something that the National Association of Review Appraisers would require, things like that.

Q What about under Contract Services, what sort of expenses does the National Association of Review Appraisers incur under that category?

A Contract Services?

Q Yes. It's directly under that one.

A I am not sure. Again, I can speculate by saying that may be something that the National Association of Review Appraisers contracted out on.

And I guess I can't come up with something at this moment. That's the only thing I can suggest.

Q Potentially for a service you couldn't do?

A Exactly. Perhaps even a mail expense it would be. We use outside mailers that do mailings for us.

We have I am not sure how many members. Ball

9504367 4450

park of 7,500. So when we do a mailing it's a rather large deal, and we use mail houses to do those things. So that could be under Contract Services.

Q Do you do any in-house mailings regarding this organization?

A Yes.

Q Roughly, how many in-house mailings would you do a year?

A Half a million.

Q A half a million pieces, right?

A Yes.

Q How many mailings would that be?

A Half a million pieces is what I am talking about.

Q So we divide by 7,500?

A Oh, no. Perhaps that -- I am not sure how many mailings we do.

Let me clarify it by saying that, no, it's not just to members. It is perhaps to encourage people to attend our seminars. It's perhaps encouraging people to join our Association, things of that nature.

Q How do you acquire the names of people who are not already in your Association?

9504367 4451

A How do we acquire the names of people?

Q To send them mail.

A We have in the past purchased mailing lists, as an example.

Q Any way else?

A Members refer other members. Members send us lists of people that they feel would be qualified and want to attend seminars. People that attend our seminars, inviting them to join.

I am sure there are others. I just can't think of any.

Q Now, when you purchased the mailing list, do you purchase those from commercial list brokers?

A No. Usually from people like directly from the Savings & Loan League, financial institutions, groups like that.

Q Any from political parties or political organizations?

A I am not sure. I don't believe so.

Q You don't believe so?

A We may have, but I don't recall.

We have not purchased any mailing lists from

9504367 4452

McFATE REPORTING SERVICE, INC

political parties outside the State of Arizona. I am sure of that.

I am not sure whether we ever did purchase any in the State of Arizona or not. But I am sure that we did not purchase any lists outside of Arizona.

Q But it's quite possible that you obtained a list inside Arizona?

A Well, we try and be as comprehensive as we can to find members. That's the life blood of the Association. And I just don't recall.

Q You mentioned that the National Association of Review Appraisers puts on seminars?

A Yes.

Q Can you tell me a little bit about your seminar program?

A Well, we hold seminars. We have held seminars for FDIC, put it on specially just for them.

We have held seminars for members.

We have held seminars for the general financial industry, for the reviewing industry, for the mortgage underwriting industry.

I would say the Association is holding a seminar

9504367 4453

at least once a month, if not more often.

Q Now, are they mostly in Arizona or are they in other places?

A No, they're throughout the United States.

Q And who in the National Association of Review Appraisers is responsible for running the seminars?

A I suppose it would be fair to characterize it by saying I have the ultimate responsibility.

Q Do you delegate any of that responsibility?

A Yes. I have people that help me with that.

Q And who are those folks?

A Today they would be a fellow by the name of Joe Iacuso (phonetic) and a girl by the name of Lisa Iverson (phonetic) are the two main people that would assist in those seminars.

Q What do they do?

A They work for the International Association Managers in managing associations.

Q But what do they do in terms of setting up the seminars?

A Oh, they probably contact the hotels, invite people to attend the programs. Just everything that's

9504367 1454

included with a seminar.

Q Do they do a certain amount of travel, or can they do that from in-house?

A They do a certain amount of travel.

Q Sort of scouting out the location?

A Well, not so much scouting out the location as physically putting on the seminar.

Someone from the Association is usually at the program to register people and handle the needs of the speakers, things like that.

Q Do you ever have occasion to speak at one of the seminars?

A I have in the past, yes.

Q When have you spoken most recently?

A For the National Association of Review Appraisers?

Q Yes.

A I don't recall. Probably within the last couple of years.

Q Seminar Expense actually is a budget category if you will see on there. And in terms of reaching the dollar figure, which is in the column opposite Seminar

9504367 455 16

Expense as you line over, how is that total figure reached?

A That total figure is reached from the checks that are written.

Q So they would include things like deposits for the hotel, speakers' fees, things like that?

A Hotel expense, speakers' fees, yes.

Q Anything else?

A Oh, I am sure there is many things, but I just can't think of them right now.

Q Do you pay expenses of these folks as they go about organizing the seminars and putting them on?

MR. KING: Who is these folks?

MS. REILLY: The two people you referred to in the organization, your two assistants who --

THE WITNESS: If they travel on behalf of the Association, we certainly reimburse them for their expenses, yes.

Q BY MS. REILLY: How does the reimbursement work?

A Well, in some cases our employees do not have enough money up front to dig in and take $500 out of their pocket. So they -- we might cut them a check previous to

9504367 4456

it.

And in some cases they will use their own money and give us a statement after they come back, and we reimburse them for their expenses.

Q Do you have company credit cards that they can use?

A I believe today those people may have. I am not sure. Again, something we just recently started.

Q In 1988 then, you didn't have company credit cards?

A Well, they were not in wide use, no.

I mean I certainly had one and, you know, maybe a few others on the staff, but not like it is today.

Q Now, when someone goes out and incurs expenses for a seminar, how do they go about obtaining your reimbursement?

A They ask me.

Q Do they have to submit a written request?

A Usually they do.

Q Are there times when people simply walk up to you and say I have incurred $50, may I have it, please?

A I don't think it's $50. It's more like, I just

9504367 4457

spent $2.40 on something, and may I get my $2.40 back?

Usually if it's a large item like $50, they usually put it in writing.

Q And when they request these smaller reimbursements, what do you do?

A I approve them and see that they get reimbursed.

Q When you approve them is it an oral okay? Is that the way that is done?

A Well, I don't think it's an okay. It's the fact that they have spent some money, and I want to see that they get reimbursed for their funds.

Q Do you reach into your own pocket and pull it out?

A If it's two cents, I certainly might do that simply to expedite things.

If it's larger than that, we in the past have gone to petty cash. If it's just $1.42, something comes in, postage due, or if it's larger, then we'll, of course, cut them a check.

Q Now, the petty cash situation, do you have petty cash for all of the Associations?

A No. Each Association has their own.

9504367 4458

Q Roughly, are all the petty cash amounts for all the Associations roughly the same?

A No. I don't think the Professional Women's Appraisal Association has a petty cash. It's just not -- they don't use it.

I think it's probably just the National Association of Review Appraisers and the National Association of Real Estate Appraisers that would have a petty cash fund.

Q And how much would they be, the fund?

A Under $25.

Q And you require written requests to be reimbursed, or is there some sort of writing where the money has gone?

A Well, again, I don't recall.

You know, if it's -- employees will usually give you a little written slip that says something.

Q And it doesn't have to be a formal receipt?

MR. KING: What do you mean by formal?

MS. REILLY: I go to the store. I get a receipt from the cash register tape.

THE WITNESS: Well, if they have that they will

9504367 4459

McFATE REPORTING SERVICE, INC.

produce it.

If you have ever tried to get a receipt for a $1.50 from a taxicab driver, sometimes they get very upset. And if they're having to take a board of director's person out to McDonald's, and that's happened, that I don't know that McDonald's would give you a receipt. I have never asked for one.

And they would come back and say I just took a board member out. We grabbed a burger. And it's $6.22, and he puts it down on a sheet of paper, that certainly suffices.

Q BY MS. REILLY: Let me ask you this: In terms of the people that you give the money up front for seminar expenses, what sort of accounting do they give?

A They come back and have a written sheet that would tell me what they spent the funds on.

Q Is it a formal document that your office has?

A No.

Q What sort of information is on this form?

A It's not a form. I mean it's they tell me what they spent. They list it out on a sheet of paper.

Q They just would write it in handwriting?

McFATE REPORTING SERVICE, INC.

A Right, and attach like expenditures.

If they had a $50 dinner bill, they would attach that to it. Things like that.

Q And it goes to you?

A Yes, probably.

Q And what do you do with it?

A Write them a check.

Q And so then we have the check, and then we have the form with the receipts attached.

How does the employee get the check?

A If I write the check, I would hand it to the employee.

Q Directly?

A That's correct.

Q What do you do with the sheet of paper itemizing the expenses as well as any receipts?

A Probably keep it for a month or two, see if there is any problems, and then maybe we keep it for longer and it's trashed.

Q Do you have a regular system for trashing receipts?

A No. Other than we certainly don't like to have

9504362 14461

McFATE REPORTING SERVICE, INC.

boxes of that type of stuff around. We don't feel it's necessary.

Q So after a month or two, unless there is a problem, all the receipts from all the seminar expenses are thrown away?

A Well, not necessarily. You are talking seminar expenses?

Q I am sorry. Seminar expense reimbursement.

A Yeah.

Q They are?

A That's correct.

Q Have there been instances where there have been problems with reimbursement requests?

A I don't know of any.

Q And in that case we can assume that the expenses are trashed within a month? The expense reimbursement forms are trashed within a month or two?

A Yes.

Q Now, what happens if --

A Can we take a break here?

MS. REILLY: Off the record.

9504367 1462

(A recess was had off the record from 11:56 a.m. until 12:00 p.m.)

Q BY MS. REILLY: Back on the record, please.

To return to Seminar Expense, what other sorts of expenses would be in this category that would be paid to employees?

A The only thing that I can think of would be -- and the only thing to my knowledge that has ever been paid out of seminar expenses is direct reimbursements for employees' expenses that they spent in association with their putting on or attending a seminar.

Q And there would be other sorts of expenses in this category that wouldn't be paid to employees; is that correct?

A I don't understand that question.

Q In other words, for example, you would have speakers' fees. Would they be in this category of Seminar Expense?

A I would assume so, yes.

Q Anything else?

A Well, perhaps if I attended a seminar. That would be a seminar expense, if I attended a number of

9504367 4463

seminars. Employees attend a number of seminars.

Q Potentially, I guess, costs of producing publications of the seminars?

A Uh-huh, perhaps.

Q Anything else?

A I am sure there are other things, you know, hundreds of things that are associated with seminars. I just can't think of them right now.

Q Under the item Promotion, which is at roughly the bottom quarter of this column, could you tell me what sort of expenses would be placed in this budget category?

A No.

Q You don't know what sort of expenses would be in this category?

A No.

Q Have you ever discussed this budget category with your accountants?

A Oh, I am sure I have.

Q Do you recall those conversations?

A No.

Q Under the very next category, which is Rent-Equipment, could you explain what that entry means?

9504367-4464

A No. I'd guess that or I'd speculate that occasionally we lease some equipment, perhaps, in some additional mail machine to get out special mailings for the National Association of Review Appraisers, something like that.

Q So it wouldn't be a situation of the National Association of Review Appraisers paying you a rental fee for the use of certain equipment?

A I don't believe so.

Again, the records for that have been produced, and you have the checks for this year. So it would be easy to ascertain if you wanted to look back and check and find out exactly what that is. You can do that.

Q Under Travel & Entertainment, what sort of expenses would be in that budget category?

A Again, it would only be speculation on my part, but it would be travel and entertainment such as travel to Los Angeles.

Entertainment would be classified as taking a board of director out to dinner, something like that.

Q More than McDonald's?

A More than McDonald's.

9504367 4465

Q How is that different from Seminar Expense?

A Seminar Expense is those expenses associated with the seminar.

There are certainly other travel such as board of directors' meetings, things like that, that have nothing to do with seminars.

Q Is there ever an overlap?

A Oh, I presume there is. I presume that -- I don't presume, I know -- I know that we have held a seminar at the same time we have had a board of directors' meeting.

And I suppose travel to that program where a board of director spoke, you know, is it -- should that airplane ticket of the board member be classified as seminar or should it be classified as travel to a board meeting? I don't know.

I think I have allowed my CPA's to make that call and judgment, and I am not sure where they put the expense.

Q What you are saying is it's not your decision?

A That's correct, yeah.

I mean I together with the other board of

9504367 4466

directors do review the budget and do review the financial statements. And whether it's in one category or another, I am not sure what the difference is.

Q Well, I guess the question is, from your perspective, does it really matter to you what category is used?

A I want it to be the correct category. Yes, it does matter.

What I am saying is I am not sure what the correct category is in that expense. Should it be divided 50/50 because the person spoke and attended the board meeting? Or should it legitimately be all, or was he there with the board meeting and not with the seminar expense?

Yes, it does matter to me, but I am not sure what the correct answer is to that question.

Q To the question of what category?

A Where should it be, right.

Q Now, you testified that there is no stock ownership in the National Association of Review Appraisers?

A That's correct.

9504367 4467

McFATE REPORTING SERVICE, INC.

Q What kind of corporation is it? Is it a non-profit?

A That's correct.

Q And is it a non-profit corporation -- obviously it's doing business in Arizona; is that correct?

A Yes.

Q Any other states?

A We do business in all 50 states.

Q What state is it incorporated in?

A I believe Minnesota.

Q Why Minnesota?

A That's where I originally resided when the Association was formed.

Q By Association, you mean the National Association of Review Appraisers?

A That's correct.

Q And when was that?

A I don't recall. 20 years ago, 15 years ago.

Q A long time ago?

A Well, I don't consider myself that old. So 15 years ago is not that long ago.

Q And the number of employees the National

9504367 4468

Association of Review Appraisers has?

A None.

Q And, again, it's the situation where the International Association Managers meets the payroll of this organization?

A That's correct.

The National Association of Review Appraisers pays a management fee, which is set by the board of directors to the International Association Managers, for them to administer the affairs of the Association.

Q And in 1988, however, what would that management fee be?

A I don't recall.

Q Can you give us a ballpark figure?

A No.

Q Was it more than $100?

A Pardon?

Q More than $100?

A Oh, yes, it is. It was a lot more than that.

Q More than $1,000?

A Yes.

Q More than five?

9504367 4469

A As best I recall in producing the financial records for the FEC, I think it was during 1988 that the International Association Managers began. So it would be, perhaps part of the year in that particular year, that there were fees paid to the International Association Managers, Incorporated, and part of it was not.

So I am not -- I would again, ballpark, assume that those expenses would be 5 to $10,000 a month perhaps.

Q Now, you had been operating the National Association of Review Appraisers for, roughly, 15 or 20 years, I guess, and then decided to form the International Association Managers.

Why was that?

A I don't think you --

Q Well, help me out then.

A The Associations were growing, and there was a need to establish, keep clear, definitive expenses for each of the Associations as we began to manage for Associations.

And in order to do that, it was our legal counsel's advice as well as our accountants that we form what is called a multi-management association. And there

McFATE REPORTING SERVICE, INC.

9504367 4470

are thousands of those in this country which literally manage multiple associations.

And the vehicle of that is you then enter into a contract with the Association, and they pay the management association, and the management association then handles the functions for the Association.

Q Of the Associations that we have discussed this morning thus far, which are non-profit?

A The National Association of Review Appraisers and Mortgage Underwriters.

Q And any others?

A Well, we have only discussed this.

Q And we have got the International Association Managers, which I presume is not a non-profit?

A That's right.

MS. REILLY: At this point I am going to hand to the court reporter what is going to be marked as Exhibit 3, and I am going to ask you to please mark it.

(Exhibit 3 was marked for identification by the reporter.)

Q BY MS. REILLY: I ask you, please, to take a moment and review this.

9504367 4471

(Brief pause.)

A Yes.

Q Have you reviewed this document?

A Yes, I have thumbed through it.

Q And do you recognize it?

A It appears to be the financial statement of the National Association of Real Estate Appraisers for the month of June 1988.

Q Now, what does the National Association of Real Estate Appraisers do?

A Well, I will restate it for you. I covered that this morning.

It is an association of real estate appraisers.

Q Doing?

A Seminars, newsletters, awarding a designation to members, performing just general association functions.

Q Now, do you have people who are members of both the National Association of Real Estate Appraisers and the National Association of Review Appraisers?

A Yes, we do. They're very few, however. They are two different -- I suppose the correct answer is I am speculating that there is one or two or five or ten. I

9504367 4472

guess I really don't know for sure that we have members of both. It would only seem that there would be a coincidence that that may happen. But, again, it would be very nominal.

Q Can you distinguish for me the difference between the two types of members? Would you have the type of member in one organization as opposed to the other?

A Sure. A real estate appraiser is a person that takes his camera and his tape measure and pad of paper and goes out, should we say, to a house, and measures the house, and photographs it and goes through it and writes up a report, which is called an appraisal report. He would then -- he or she would then turn that appraisal report, in all likelihood, over to someone that would be called a reviewer who would then review that report.

Obviously, there would be a direct conflict if the person were to review his or her own report. So they tend to be very different.

The review appraisers and mortgage underwriters tends to be more of a management where you might call it an umbrella type of association where the real estate appraisers are almost always, should we say, employed to

9504367 4473

perform a certain function and get paid for it. That's their function.

Q If you could, please, turn to page 5 of this exhibit?

A Page what?

Q Page 5, please.

A Yes.

Q Under Operating Expenses, about a third of the way down, under Foreign Currency?

A Yes.

Q Could you explain what that budget category would be about?

A No. And I notice that there is nothing used.

I would only guess that, as I have stated earlier, that these are a -- let's call them chart of accounts that were set up by our accountants and was just a typical entry that was put in.

The accountants I suppose again are speculating since we do have members from foreign countries that occasionally they do pay in the currency of their country. And what the foreign currency really means is foreign currency exchange costs, I believe.

McFATE REPORTING SERVICE, INC.

9504367 4774

I think that's the best -- I recall discussing with our accountants that if you receive a check from Canada today for $5 for some item, it would cost me $10 to get that check, to obtain the $5. So that $10 would go under like foreign currency conversion cost.

Obviously, we hope we don't do too many of those.

Q Under the O's that are there you have an entry for Office Expense. Could you tell me what sort of expense would be included under that category?

A Again, I can only speculate, and that would be for direct expenses from buying paper that the Association would use to anything associated with office expense, I suppose.

Q How about Operating Supplies?

A I guess I would probably define it as the same as I would Office Expense. I wouldn't -- I really wouldn't know how to differentiate the two.

Q One that you would let the accounts call?

A Yes.

Q Does a situation ever arise where you create new budget categories?

A Where I create?

9504367 4475

Q Create, make up?

A You mean like a category listed under Operating Expense?

Q Yes.

MR. KING: He does that? Is that what you are asking?

MS. REILLY: Yes.

THE WITNESS: I have never made up a category under Operating Expenses.

Q BY MS. REILLY: Have your accountants ever communicated to you a question whether a new budget category should be created?

A The only one I recall that they have ever discussed with me and that they have added since we have -- since I first used Boyum & Barenscheer was Foreign Currency.

They wanted to somehow show that as a separate expense as they felt that -- and I am not sure if it was this Association or not -- but they felt that there was enough charges that were being put in that they felt we should do that.

I know of no category which they have added.

9504367 4476

Q And how many members are in the National Association of Real Estate Appraisers?

MR. KING: He has indicated that earlier. But go ahead.

THE WITNESS: Well, as I stated earlier, I am not sure of the number, but it's over 20,000 and under 30,000.

Q BY MS. REILLY: And maybe you will have to refresh my recollection. What was the criteria for membership?

A Again, I don't recall.

Q On page 13, please, if you could, under the entry of Capital Stock --

A I haven't found -- oh, okay.

Q Could you explain that?

A No, I cannot.

Q And is that because no one owns stock in it?

A No. I believe there is. I own the stock in the National Association of Real Estate Appraisers.

Q Just you?

A Yes.

Q Have you always owned all the stock in it?

A No.

9504367 1477

Q And when did you acquire all the stock?

A I don't recall. Less than ten years ago.

Q And who was the person who or persons who also owned stock before you acquired all of the stock?

A I don't recall. There was a gentleman by the name of Newman, and I believe a gentleman by the name of Frain (phonetic). And whether there was other owners, I am not sure.

Q Did you acquire all the interest graudally or at one time?

MR. KING: Did he acquire all the stock?

MS. REILLY: Right, the stock.

MR. KING: Okay. Go ahead.

THE WITNESS: I did not acquire it all on the exact same day. But in reaction to your question, I would say, yes, I acquired it within a relatively short period of time.

And, again, I don't recall what that time frame was. It wasn't five years or three years. But it was a relatively short period of time.

Q BY MS. REILLY: At this point I am going to hand to the -- actually, before I do, the National Association

9504367 4478

of Real Estate Appraisers, who are their officers and directors?

A Well, their directors are a gentleman by the name of Tom Nakahara who is president. I am an officer. I don't recall what -- I believe I am secretary-treasurer. The other directors are Waylon Hutchins (phonetic) -- and we just had a change of directors, and that's the reason I was out of town, basically, at the board meeting.

So I saw them all at -- I recall their faces and recall their names, but at this particular moment -- John Steensland. A fellow from North Carolina, and I don't recall his name. I just don't recall right now.

Q And in 1988, how many of those people were on the board of directors?

A I think the ones I -- other than the one from North Carolina, I think both Mr. Nakahara and Mr. Steensland were on the board, which is the reason those names immediately come to mind.

There is a gentleman from Oakland by the name of Joe Villa that was on the board, I believe, at that time. Michael Ofsansky, I believe, was on the board at that time, a Dennis Theisen who I believe was on the board at

McFATE REPORTING SERVICE INC.

9504367 4779

that time. I just don't remember at this moment.

MS. REILLY: And at this point I am going to hand to the court reporter what we would ask to be marked as Exhibit 4, and ask you to please mark it and hand it to the witness and his Counselor.

(Exhibit 4 was marked for identification by the reporter.)

Q BY MS. REILLY: I'd ask you to take a moment and review this document, please.

MR. KING: I note with regard to what has just been marked Exhibit 4 that it's a financial statement of Todd Publishing, Inc. of January 31, '88.

Todd Publishing, Inc. is not a named respondent in this action. Therefore, I consider anything with regard to this statement to be irrelevant to this proceeding.

Q BY MS. REILLY: Thank you.

Have you had had a moment to review this document?

A I thumbed through it.

Q And did you furnish this document to the Commission?

9504367 4480

MR. KING: Are you asking did he furnish it?

MS. REILLY: Yes.

THE WITNESS: I don't recall.

Q BY MS. REILLY: Did you instruct anyone else to give this document to the Commission?

(Witness conferred with his attorney.)

A I don't believe this document was called for, but I believe it was in the room at the time the FEC was at my offices checking the records.

Q Are you saying you didn't furnish this to us?

A No. I am saying -- I am saying I am not sure I had to or not.

Q But did you?

A Well, I believe that my instructions -- I was producing everything to my attorneys.

MR. KING: At what point in time, Mr. Johnson, are you referring to?

THE WITNESS: This is the first time that the FEC was visiting my offices. I use the term visiting very loosely here.

And at that time the legal counsel was instructed not to produce -- I mean I wanted to give it to them so

9504367 4481

they would totally have a picture of what the situation was. And I believe they were to remove the documents, and they did not do that or she did not do that.

Q BY MS. REILLY: In any event, are you familiar with this document?

A Yes.

Q And Todd Publishing, Incorporated, can you tell me what its relationship is to the International Association Managers?

A Oh, I don't think they have any relationship other than we manage this company, provide management.

Q What kind of a company is it?

A It's a book publishing company.

Q Is it a for-profit corporation?

A Yes.

Q And who owns the stock in this corporation?

A I believe I do. It's possible that my son also owns some.

Q Your two year old?

A No, my -- I have two children that are older, one that's 24 or 25, and the other is 21, 22. And the oldest son is named Todd, and that company was named after him.

9504367 4482

Q Is he an employee of this company?

A He is an employee of the International Association Managers.

Q If you would turn to page 23 of this document, which is actually the last page --

A Yes.

Q Actually, I am sorry, 21. It's not the last page. The document is headed Todd Publishing, Incorporated listing employee information?

A Yes.

Q First entry is Johnson, Todd?

A Yes.

Q The second, I believe, is you?

A That's correct.

Q So now I am confused.

Is Todd Johnson an employee of Todd Publishing?

A No.

Q And why is this information here?

A Because you are looking at a statement that if you would read up above it says 1-31-88. This is 1990. We're in November now. He is not an employee of Todd Publishing.

9504336714883

Q Now?

A That's right. He was.

I suppose we both were receiving some income back in '88, but he is not now.

Q And when did this change occur where Todd is no longer an employee of Todd Publishing?

A I have no idea.

Q Do you recall when you stopped becoming an employee of Todd Publishing?

A No.

Q Does Todd Publishing have any employees at all?

A Today, no.

Q But it did in 1988?

A Yes.

Q Does Todd Publishing also do any work for International Association Managers or any of the related organizations?

A Do what?

MR. KING: I believe he has answered the question, but go ahead.

THE WITNESS: Would you please --

Q BY MS. REILLY: Provide any services?

95043674884

A They have produced publications for them. But as to providing services like making coffee or handling accounting functions, no.

Q What sort of publications have they provided for you?

MR. KING: For who?

MS. REILLY: For the International Association Managers or its related organizations.

THE WITNESS: For the International Association Managers they have done nothing.

Q BY MS. REILLY: For the others?

A On occasion they have gone out, Todd Publishing has, and contacted authors, got them to write a publication or manuscript, edited it, published it, printed it, and made it available to the Association.

MR. KING: And I assume with regard to your question, Counsel, when you use the term related you are referring to those corporations which are managed by IAM?

MS. REILLY: That's correct.

THE WITNESS: And that would be the extent of any relationship Todd Publishing would have with the named corporations that you are referring to.

9504367 4485

Q BY MS. REILLY: Was there ever a point in time when Todd Publishing had more than two employees?

A Not to my knowledge, no.

Q So it would be fair to say that the services which you just described, editing, contacting, writing and such, would have been done either by you or by your son; is that correct?

A I believe we may have in the past had outside editors to edit things.

We're a publishing company. If you know anything about a publishing company, they're not necessarily a printing company.

So a publishing company may actually go out and hire someone to edit stuff. They would hire a printer, perhaps, to print things. And so we would have relationships with other individuals.

I hope that clears up the question anyway.

Q If you could turn to page 7 of this document, please --

A Yes.

Q -- under the entry of Outside Services?

A Yes.

95043674486

Q What sort of expenses would Todd Publishing incur regarding Outside Services?

A I don't see any there.

Q No, but I mean the budget category itself.

A I don't understand the question.

Q In other words, you have got this budget category --

MR. KING: His accountant does.

MS. REILLY: Right.

Q BY MR. REILLY: There exists a budget category for Outside Services for Todd Publishing. And the question is: What sort of expenses would Todd Publishing incur that would be budgeted under Outside Services?

A Gee, I don't know. And I say that simply because as I look at this statement there are none listed.

Q But it's entirely possible that none could be listed in January of 1988 but that are incurred during that year?

MR. KING: I object to that, Counsel.

If you want him to review the statements for the balance of the year, fine.

He doesn't know whether the expenses are noted

9504367 4487

for Operating Expenses in later statements.

THE WITNESS: I would be happy to add that this statement has up there Current Period, which I believe means the month, and that it also has Current Period Last Year, and it has Year-To-Date, and then Last Year Year-To-Date. And under all categories it is zero, zero, zero, zero.

Therefore, I can only assume that even for the entire year there has been absolutely nothing under Outside Services either in the years 1988 or in the previous year, to the best of my knowledge. I don't know that.

Q BY MS. REILLY: Well, if it's dated January 31, 1988, the only information it would have would be -- fiscal year, I'm sorry.

A Well, regardless, it has Current Period and Last Year.

Q Right. But for 1988 thus far nothing was incurred potentially.

And the only point I am trying to make is there is this budget category. Nothing is in it thus far in '88, but we can't tell from this piece of paper what might

9504367 4888

McFATE REPORTING SERVICE, INC.

have happened later on in the year?

A Yes, you really can by looking at --

Q What happened the previous year?

A Yeah. Or looking at all the other statements that I have produced to you.

Q Right. But from this piece of paper you are --

A Well, you can look at Last Year Year-To-Date, which would have in it the previous 12 months.

Q Right.

A So I mean --

Q Certainly, it's not a -- it does not have a tradition of being an active category?

A No. Zero, zero.

Q For the next one, Outside Services, could you tell me what sort of expenses Todd Publishing would incur for Outside Services?

A You will have to excuse me, I am confused. What are we talking about now?

Q Outside Services.

A Isn't that what we were talking about just before?

Q Oh, I am sorry. I meant Operating Supplies.

9504367 4889

A Okay. I see the category. And your question is?

Q What sort of expenses would be incurred under that?

A I assume pencils, paper. Not to use the term in defining it, but operating supplies: Pencils, paper, postage stamps, whatever.

Q How much time during 1988 did you devote to your employment with Todd Publishing?

MR. KING: What's the relevance of that, Counsel?

MS. REILLY: Well, we're looking at a situation where we have got a corporation which is alleged to have made contributions. This gentleman is an officer and director of that corporation and involved with other corporations.

MR. KING: We are not involved with a situation where Todd Publishing is alleged to have done anything.

MS. REILLY: No, but Mr. Johnson is a member --

MR. KING: So then what is the possible relevance of how much time he contributes to that corporation to these proceedings?

MS. REILLY: Well, it certainly goes to the relevance that he is an officer and director of one

9504367 1490

corporation that has made a corporate contribution. Potentially the issue becomes relevant as to whether he has done this through other corporations which he controls.

And so I will ask you, please, to answer the question.

MR. KING: Well, it's totally irrelevant to this. Go ahead.

THE WITNESS: I have no idea.

Q BY MS. REILLY: A lot?

A I enjoy what I do. I am usually at the office at 7:00 in the morning. I am there until 6:00 or 7:00 at night. This happens on Saturdays. I am usually always there in the morning. And exactly what happened in 1988, I am sorry, I just have absolutely no recollection of how much time I spent with Todd Publishing.

Q During 1988, was Todd Publishing your son's only employer?

MR. KING: I am sorry, what was the question?

Q BY MS. REILLY: During 1988, was Todd Publishing Todd Johnson's only employer?

MR. KING: It's irrelevant.

9504367 4491

THE WITNESS: You know, you would have to ask him that question.

I assume that he worked also -- worked for some of the other entities that I had. But, again, I am not sure on that. Whether he worked at someplace else or not during that, I don't know.

Q BY MS. REILLY: But, in any event, it was just the two of you running the corporation in 1988, plus whatever outside services you contracted for?

MR. KING: I don't believe that's the testimony.

Q BY MS. REILLY: Is that correct?

A Todd Johnson and myself were the employees in 1988 of Todd Publishing.

Now, what is the rest of your question?

Q You were the sole two employees?

A As best I can recall and from the statement, yes.

Q Did Todd Publishing have any officers and directors in 1988?

A Yes.

Q And who were they?

A I don't recall.

Q Were you one of them?

9504362 1492

A I assume I was, yes.

Q Was your son one of them?

A I am not sure.

Q Did the board of directors meet in 1988 for Todd Publishing?

A The board of directors of Todd Publishing has met every year.

Q Do you recall your son being at that meeting?

A I honestly don't recall, you know, who was there and who was not there. Nor do I recall who the board of directors were in 1988. I believe we had had a change since then.

Q Can you estimate, approximately, how many people were on the board of directors?

A One, two or three.

Q And Todd Publishing's board of directors met once a year?

A Annually, that's correct.

Q And when was the annual meeting?

A I have no idea.

Q Do you recall if it was in Scottsdale?

A I have no idea.

9504367 1493

MS. REILLY: At this point I am going to hand to the court reporter Exhibit 5 and ask him to mark it, please.

(Exhibit 5 was marked for identification by the reporter.)

MR. KING: Off the record.

(Brief pause.)

Q BY MS. REILLY: Have you had a chance to examine this document?

A Yes, I have glanced through it.

Q Do you recognize it?

A It appears to be the financial statement for the International Institute of Valuers, also known as the International Real Estate Institute, for March 31, 1988.

MR. KING: I would also like to make a statement that that organization is not a named respondent, and, therefore, I consider any questioning with regard to this particular document marked Exhibit 5 to be irrelevant.

Q BY MS. REILLY: This document was prepared by your accounting firm?

A That's correct.

Q And is this an organization which the

9504367 4494

International Association Managers manages?

A That's correct.

Q And is it incorporated?

A Yes.

Q Is it a non-profit?

A No.

Q It's a for-profit?

A That's correct.

Q And who owns the stock in this corporation?

A I believe I do.

Q All of it?

A I believe so. I am not sure, but I believe so.

Q I guess I am a little confused.

What is the, if you will pardon the expression, the real name of the corporation?

MR. KING: Which?

MS. REILLY: The one that represents the document in front of us entitled International Institute of Valuers.

THE WITNESS: Well, we have had a name change after its formation.

The corporation was formed as the International

9504367 4495

McFATE REPORTING SERVICE, INC.

Institute of Valuers, and sometime between then and now we changed the name to the International Real Estate Institute. And I don't recall when that name change took place.

Q BY MS. REILLY: Is there a reason for the name change?

A Yes.

Q What was that?

A Well, the corporation was called the International Institute of Valuers, which were people that valued real estate basically internationally. And a number of our members internationally were involved in the investment, development, the finance management of real estate on an international level.

And I think the reason it was changed is because the members thought it was, as the association, group, it was becoming kind of misnamed. So we wanted to have a name that more graphically and adequately describes the Association.

Q And how many members does it have?

A I am not sure. Ballpark, 2,000.

Q And you stated that it's growing. So 2,000 is

McFATE REPORTING SERVICE, INC.

9504367 4496

the membership estimate today?

A Well, first let me correct you. I did not state that the International Institute of Valuers or the International Real Estate Institute had grown.

We were talking about the Associations. We were talking about the International Association Managers, characterizing it that it had grown.

Q That's what you were referring to that had grown?

A I believe that was a direct answer to your question.

Now you are asking has this Association grown, and I assume it has, but I am not sure. I do not know.

I know that the membership today is around 2,000. I suppose it's possible it could be 2,500, maybe as high as 3,000 members. And I am not sure what it was back in March of '88.

Q And what is the criteria for being a member?

A Of the International Real Estate Institute?

Q Yes.

A To be active, I think, in the international real estate field.

Q So you would presumably have members who are not

9504367 4497

United States' citizens?

A About half of them.

Q Are not United States' citizens?

A I would say half of our members are not in the United States.

Q And, roughly, what sort of majority -- where are the majority of them located?

A We have members from, I believe, 98 nations of the world. And I can only guess, and it is my best recollection that those members are scattered throughout the world almost in equal proportion to the wealth of the world.

Japan has a lot. I think we have a lot of members. Great Britain has a lot. We have a lot of members.

Zambia probably has no wealth, and we probably have no members from there, although we do have members from the continent of Africa, but not necessarily a lot.

That's how I would best describe the geographic location of the members.

Q Do you run seminars as part of the management that can you do for this?

9504367 4498

A Yes, we did.

Q When was the last seminar you had?

A It was at the University of Oxford. Oxford University, last month.

Well, I take that back. I think it was September. I keep thinking this is October, but I guess it's the 1st of November. So it was -- it was September or October.

Q Fairly recently?

A Right.

Q I am going to ask you, please, to turn to what has been marked as page 5 of this document.

I would ask you, please, to look under Operating Expenses under C, the first entry and only entry for C, Contributions.

I was wondering if you can explain that entry to me?

MR. KING: What category?

MS. REILLY: Contributions.

MR. KING: Okay.

THE WITNESS: Yes.

Q BY MS. REILLY: I was wondering if you can

9504367 4999

explain that entry to me, please?

A No, really can't.

I see there was a $25 contribution made, and I can only assume that that was a contribution that the Institute made to somebody or some organization.

Q And does the International Real Estate Institute have a board of directors currently?

A Yes.

Q Who is on the board of directors?

A Myself. I believe the president -- the president is Chris Moran (phonetic) from Hamburg, Germany. And I am not sure who the other directors are.

Q And do you own any stock in this organization?

A Yes.

Q How much stock do you own?

A Well, I am not sure, but I think I own it all.

Q Have you always owned it all?

A I formed the International Institute of Valuers, yes.

Q And when did you form it?

A Gee, I don't recall. Ballpark, 10 years ago, 15 years ago.

9504367 500

Q So it's a smaller one of the organizations that we have discussed thus far today?

A Well, with members from 98 nations of the world, I wouldn't consider it small.

Q In terms of total numbers?

MR. KING: Small as compared to what?

MS. REILLY: Small as compared to, oh, the National Association of Real Estate Appraisers?

THE WITNESS: In terms of numbers of members, yes.

Q BY MS. REILLY: And what sort of -- what does the International Association Managers do regarding this organization?

A It manages the Association.

Q Would you characterize its activities as similar to the ones that you have described for, for example, the National Association of Review Appraisers?

A Yes.

Q So we're looking essentially at a situation where they're conducting seminars, putting out publications, things like that?

A Yes. I think the difference to this particular

McFATE REPORTING SERVICE, INC.

9504367 1501

organization is that the International Real Estate Institute, having 98 members of the world, has had more of a focus on providing a forum to contact other members on an international basis as well as provide education, like the University of Oxford.

And I think right immediately prior or immediately post, we did get invited by the Budapest government to go in and visit there with them becoming capitalists, change of government, things like that.

It's more of a medium to communicate internationally.

MS. REILLY: Okay. At this point we should break for lunch.

MR. KING: Before we go off the record, I would like to ask, did you state, Counsel, in the beginning of this deposition that the witness was appearing here today pursuant to a subpoena?

MS. REILLY: I believe that's correct.

MR. KING: I don't believe a subpoena was issued in connection with this deposition today.

MS. REILLY: I believe we have a stipulation and a Court order.

9504367 1502

MR. KING: I just simply want to clarify the record. We're appearing here without a subpoena having been issued.

MS. REILLY: Well, there is no question about the fact that the Commission did issue a subpoena.

MR. KING: About a year ago, perhaps.

MS. REILLY: The Commission has continued to issue a number of subpoenas.

MR. KING: Many, many, many subpoenas have been issued. But my point is I want to make sure the record is clear that we are appearing here today without a subpoena having been issued with regard to the appearance today of this witness.

MS. REILLY: Because of the Court order --

MR. KING: I don't know what Court order you are talking about.

We're appearing here voluntarily, and that's the only point.

MS. REILLY: Your point is it's a voluntary appearance?

MR. KING: There was no subpoena issued for the appearance of these witnesses today and tomorrow.

9504367 1503

MR. BERNSTEIN: The Commission issued a subpoena requiring the appearance of Mr. Johnson on a previous date and time. And, as you know, Mr. King, at that appearance there was disagreement as to the conditions under which the deposition would take place.

As a consequence, the Commission filed a subpoena enforcement action, and it was the understanding of the Judge that the depositions would go forward under the conditions that the Commission had insisted on.

So, frankly, whether this appearance is pursuant to the earlier issued subpoenas or not, it's certainly our impression that it's as a consequence of the Court understanding that Mr. Johnson was required to appear for his deposition.

MS. REILLY: Off the record.

(A luncheon recess was had from 12:58 p.m. until 2:29 p.m.)

Q BY MS. REILLY: Let's go back on.

We have returned from lunch. The instructions which we gave you this morning have not changed in any way.

If you recall when we got in here, we talked

McFATE REPORTING SERVICE, INC.

about the fact that your testimony is under oath, that your answers to the questions should be complete, and that if you would please inform us if you don't understand a question, and we'll be happy to clarify anything for you.

Sort of as a preliminary matter to sort of help me understand, we have gone through this morning a number of financial statements regarding certain budget categories, some of which were paid by the International Association Managers and some which were paid by other organizations.

And my question is: Can you tell me what bills the International Association Managers would pay as opposed to what bills would be paid by the Associations themselves?

A If I understand the question correctly, those bills paid by the Association would be those bills that relate directly to the Association. Those bills that relate to the management aspects of the Association would be paid by the management association.

Q How do you tell if a bill is relating to management as opposed to relating to the other sort of things that the Associations do?

9504367 505

A I think it's quite clear. You would have to give me an example, and I could then -- you know, I don't see a problem with distinguishing between the two.

Q A bill comes in, and who makes the decision regarding whether the International Association Managers pays it or the other Association pays it?

A What bill?

Q Utilities?

A Well, utilities are paid by the -- basically, they're paid by the association management company.

Q What about printing?

A Depends on who ordered the printing. If the printing was ordered by the National Association of Real Estate Appraisers, then they would pay their own bills.

If the printing was ordered by the International Association Managers, they would pay the bill.

Q So is it fair to say that if a bill comes in and it relates directly to what an Association does, the Association would pay that bill, for example?

A I guess I failed to understand the question.

Q I guess what I am trying to flesh out is what sort of bills do the Associations pay?

9504367 1506

They would pay, for example, for rental of mailing lists?

A That's correct.

I think, you know, a better answer is you have all of our financial statements. You have all of the check registers. So I think if you were to look down those registers you would see what types of checks are paid by each, and I think they're quite easily discernible.

Q But I don't have any invoices that go with them, and I guess maybe that's part of the problem that I am having.

A I don't think you need the invoice to determine where the check would go. I mean just look at the checks. They're self evident.

Q But, generally, if I understand you correctly -- let me start again.

What are some of the management type things that International Association Managers pays for?

A Salaries.

Q Anything else?

A You have the financial records. If you care to

9504367 507

McFATE REPORTING SERVICE, INC.

show them to me, I would be happy to go through them with you.

Q Okay. Well, let's do this one.

The record should reflect that we're on Exhibit No. 3.

Well, I guess, for example, we have seen that both the International Association of Managers pays for office expenses, and the National Association of Real Estate Appraisers pays for office expenses?

A That's correct.

Q How could we tell from the financial statement what sort of expenses were incurred?

A You probably can't from the financial statements. A financial statement is not meant to do that. A mutual statement is meant to be compilation of data. They both obviously have items that would be classified as office expense.

Q Then, of course, the financial statement gives us a listing of all the checks?

A That's correct.

Q And it breaks it into certain categories; is that correct?

9504367 1508

A Yeah. I believe those are the categories that I have testified to this morning that our accountants assigned to those checks.

Q If a question is raised regarding who pays a bill, who in the organizations would decide whether or not International Association Managers pays a bill as opposed to the Associations?

A I don't think that question has ever come up.

Q Is it because everyone just knows?

A Well, whoever orders --

MR. KING: Well, the question has never come up, Counsel, so that question is impossible to answer.

MS. REILLY: Well, no. Because if everyone just knows then the question isn't raised.

THE WITNESS: What do you mean everyone just knows?

Q BY MS. REILLY: In the organizations themselves, do people just assume that certain expenses are to be paid by the Association? Does it matter?

A I am totally lost when you say everyone knows.

Are you assuming that a secretary knows something about our accounting and checkbook? The answer is

9504367 1509

absolutely not.

Q Secretaries don't know?

A Well, secretaries are not hired to be CPA's. I mean they're hired to do other functions. I don't --

Q So who are the people who make these decisions regarding what accounts pay for certain expenditures?

And by accounts I mean checking accounts of the Associations involved.

MR. KING: You mean the decision as to which Association pays it?

MS. REILLY: Yes.

THE WITNESS: Well, it depends upon who ordered, you know, the supplies or whatever.

Q BY MS. REILLY: Well, who has authority to order?

A Order what?

Q Supplies?

A I think virtually anybody in the office can order supplies if they need it for their task or their duties.

Q Who has the authority to place an order with a publishing house?

A A publishing house? What?

Q How about Todd Publishing?

9504367 1510

A It would depend upon what is being ordered.

Q Does Mr. Twichell have the authority to make those decisions?

A Make what decisions?

Q Make decisions as to order from a publishing house?

MR. KING: On behalf of National Association of Real Estate Appraisers?

MS. REILLY: Or any of the other organizations.

THE WITNESS: I don't know that that has ever come up whether he has the authority or not.

I don't know that he ever has ordered something from another Association.

If you give me an example or a question, I can respond to it. I will be more than happy to do that.

I still don't understand or can't answer your question.

Q BY MS. REILLY: Well, let me see if I can summarize it.

If I understand what you are saying, it's that International Association Managers pays all the bills that come due regarding services that it provides to the

9504367 5111

organizations; is that correct?

A I guess I am still -- I still do not understand your question. I can state that.

Q Very simply, what kind of bills does International Association Managers pay?

A You have the statements in front of you.

Q I know I have the statements, but that's not the question.

A I am at a loss other than to say they pay the expenses associated with that management group.

Q And can you give me some example of some of those kind of expenses?

A I did. Wages.

Q Anything else?

A I am sure there is many items, but, no. Again, you have the financial statements, and if you care to go through those with me, I will be more than happy to list those items that they pay.

Q Let me see if I can clarify things a little bit.

I have in hand Exhibit No. 2 and Exhibit No. 3. Number 2 is National Association of Review Appraisers. Number 3 is National Association of Real Estate

9504367 1512

Appraisers.

Turning on Exhibit 3 to page 16, we see certain expenses that were paid by the Association. Those include Plumbing Salon, City of Scottsdale -- and these were all under Office Expenses -- Carpet Cleaning & Consultation, Minute Press, Smitty's, West Office Products.

We turn to this one, and this is the National Association of Review Appraisers, we're under the category Office Expenses. And then we see Janitor Supply, Kentucky State Treasury, Real Estate, Canyon Ribbon.

My question is: How do you know what expenses should be paid by one organization as opposed to the other?

A Maybe the only way to answer that question is using something as simple as auto expense.

If Mr. Twichell was traveling to Los Angeles, as he was there yesterday, I believe the day before, his expenses, his auto expense if he rented a car, would certainly be that of National Association of Real Estate Appraisers, because that was a seminar he was at. And so that would go to that.

If I, on the other hand, yesterday were to travel

9504367 5138

to a seminar put on by the National Association of Review Appraisers and I was to lease a car, that expense would go to the National Association of Review Appraisers.

And those are both auto expenses, but they both go to two different groups.

Q What about postage?

A Well, that's an easy one. Because postage -- if a letter was mailed on behalf of the National Association of Review Appraisers, postage would go to the National Association of Review Appraisers.

Q And only the National Association of Review Appraisers would pay the postage on that?

A That's correct.

Q And all the mailings from that postage would relate to publications only by the National Association of Review Appraisers; is that correct?

A No.

Q Why not?

A Because you said publications. We may mail other things. We may mail out a letter of invitation for somebody to join. We may mail out correspondence to our board of directors.

9504367 5514

Q But if I understand you correctly, what you are saying is if an Association pays for postage, the postage that it pays relates only to materials which it has sent out?

A I wouldn't say -- maybe materials is the wrong word. But, yes, it relates only to information, data, related to that Association, that's correct.

Q And so any postage expense that would be paid by the International Association Managers would relate only to data put out by that Association; is that correct?

A Yes.

Q So there is no mixing of the accounts; is that correct?

A That's correct.

Q So, if I understand you correctly, what we're saying is financial statements that we have looked at this morning, checks which are paid by those Associations relate only to expenses incurred by those Associations; is that correct?

A That's correct.

Q Now, in terms of when bills come in, is one person responsible for opening the mail?

9504367 5515

A No, not really.

Q And who would be responsible for opening that?

A Any one of the 30 employees that we have. 30, 40 or 20, or whatever we have got.

Q On any given day there is sort of a rush to open the mail?

A It's a very good way of describing it, yes. There is a rush to open the mail.

Q Do you ever open the mail?

A Absolutely.

Q And when you open the mail, do you open all the mail that comes in or just certain pieces?

A Occasionally I will open every piece of mail that comes in on a given day.

Q How much mail would you receive on a given day?

A Oh, it varies from probably a low of 20 pieces all the way up to -- I have never counted. Lots.

Q Do you date stamp it as it comes in?

A No.

Q Is there a procedure for routing materials as they come in by mail?

A No.

9504367 5116

Q How does the mail that comes in that, for example, would be an invoice to one of the Associations, how does it get paid procedurally?

A Procedurally, if the National Association of Real Estate Appraisers -- Ken Twichell had leased a car, the invoice would go to Ken who would then sign his initials that, yes, he did order it or used it or whatever. And then it would go to me, and then it would get paid.

Q Now, we're looking at a number of Associations. Who has authority to sign checks?

A Virtually just me.

Q Just you?

A Yeah. I think my wife has authority to sign checks and maybe our -- the bookkeeper that we hired in the last year, Marilyn.

Q As a practice, do you sign most of the checks that go out?

A I don't know. I have never -- I see a lot of them.

When you say most, that implies more than 50 percent, and I don't know.

Q You think you sign close to 50 percent?

9504367 5517

McFATE REPORTING SERVICE, INC.

A I just don't have any idea. I sign a loft of checks.

Q And procedurally when you decide to sign checks, what is in front of you at that time?

A The bill, the checkbook.

Q Anything else?

A Cup of coffee.

Q Now, you stated that we -- the example used of Mr. Twichell leasing a car, apparently, an invoice would come in, and Mr. Twitchell would -- I think you testified he would initial it?

A Yeah, okay it. Say, yeah, I used it.

Q And then he would attach that invoice -- or let me back up.

Do any of the Associations have any sort of check authorization form?

A No.

Q So what happens then is the invoice comes to you?

A Yeah. Like we're talking about Mr. Twichell using the car. Who ordered this bill? I mean who ordered this product? Who ordered this glass of water? Where should it be? Somebody has to say, yeah, hey, I ordered

9504336751518

it.

Q How does the invoice get physically to Mr. Twitchell?

A (No response.)

Q Mail comes in. There is a bill --

A I suppose it might have Mr. Twichell's name on it. It might be. Maybe does. Maybe it comes to me and I say I don't know where this bill goes. It happens every day. I then would look at the bill and say, well, this is -- I think this is Joe's bill or Ken's bill or Marylou's or somebody's.

And the bill then would go to that person. And they would say, yes, this is. I ordered that. And they would then initial it.

Q How does the bill -- I don't mean to be difficult -- but how does the bill get from you to the person who ordered the service?

A (No response.)

Q You have got it in your hand --

A My office, Mr. Berstein knows, is not that large. You can stand right outside my desk and see everybody's desk.

9504367 5519

Q Are you waiving it at the time, or do you walk it over?

A Well, yeah, let's be realistic.

I know that if it's a bill that says Ken Twichell on it that it goes to Mr. Twitchell. And if it is a bill for the International Real Estate Institute for some publication that they have ordered, you know, I mean that's not a problem.

Q So would you walk it over?

A Yeah. There has not been a problem. That's why I guess I am having a hard time answering your questions.

Q I guess what I am trying to get down to is what the procedure is.

A Well, it's a simple procedure.

To make this even more clear for you, I guess, yeah, the bills eventually come to me to be paid.

Q Right. And you pay them?

A And we pay them.

Q But there is no check authorization form?

A No.

Q And --

A You wouldn't need a check authorization form.

9504367 5520

Q After you are looking at the invoice and someone has okayed it --

A The person that ordered it?

Q Right. What do you do?

A Pay it.

Q Write the check?

A Write the check.

Q Put it in an envelope?

A Yeah. My secretary might physically type up the envelope. Although, no, I would say half the time the person that ordered the product is the one that physically typed up the envelope.

Q So it's all sort of ready to go once they put the check in?

A Hopefully.

Q What happens to the invoice then?

A Oh, we may put it in a box for a week or two depending on the type of invoice.

We may keep some of our invoices for six months if they're a major purchase.

But once the next bill has come or next billing cycle, you might say, and if there is no problem, we

9504367 5521

probably trash them.

Q You don't maintain copies of invoices?

A No, no.

Q Why is that?

A Well, let me turn the question around. Why should we?

There is no need to. The bill is paid. The event is over, and then you go on to new bills.

I mean if everybody kept copies of invoices in business I would hate to see their storage facilities. It would be horrendous. I can't believe people do that.

Q Do you ever send any of the invoices to your accountants?

A No. I shouldn't say no. There may have been an instance or two, but basically, no.

The accountants get the number of the check, the copy of the check, and the check register.

Q So you make a Xerox of the check?

A No. We have duplicate checks.

Q So they get the duplicate?

A That's correct.

Q And at that point all you have left is, I guess,

9504367 5522

the check register or stub?

A Yes.

Q And there is no invoice, just the check register stub?

A Well, as I said, I might keep the invoice around for a little bit to make sure that there is not a problem.

As an example, let's take a hotel. I have been putting on seminars for a number of years, and I will be a little facetious, perhaps, but I don't think a hotel has ever billed us correctly for a major event. They're always charging us. And it's unusual because they always charge us more. They never under charge us. They always charge us more.

So once that hotel has been paid and we settle it, at that particular point the invoice may be trashed. But we would keep it around until such time that we established with the hotel that everybody is happy.

Q Now, as we have stated this morning, of course, there have been numerous subpoenas going back and forth in this matter. And one of the things, certainly we have received copies of the financial statements and copies of the checks and check registers, but we don't have any

9504367 1523

invoices or check authorization forms or employee reimbursement requests or basically any other documentation relating to writing out a check.

And, if I understand you correctly, the reason why we don't have that is because they don't exist?

MR. KING: Let's put this in perspective if we might. We did not learn --

MS. REILLY: You are not -- I can't let you testify.

MR. KING: We did not learn it was invoices and whatnot that you wanted until this past summer sometime when we had a hearing in Phoenix on this case, some two and a half years after the period of time that you were interested in them.

Q BY MS. REILLY: Well, let me ask you this:

Suppose that there were a subpoena issued tomorrow, a hypothetical, and we asked you for all your invoices for the last year, say, from January 1, 1990, forward. Would you have those?

A No.

Q Okay. If the time frame on the subpoena were for the last six months, would you have those?

9504367 1524

A Well, as I have testified, it would depend upon the invoice.

If somebody were billing us for $3.22 for some outside Xerox copies that for some reason we needed because our machines were broken, I doubt very much that we would keep that past 30 days, or we might not even keep it at all. Might just send us -- they would send us their bill. We might just send the check right back to them and not keep it at all. Be no reason to.

Q Have you always done business this way?

A It's -- yes. And it's -- I have yet to get any indication why I should change. I think it's a very expedient way of doing business.

I might add that the stories I hear from large corporations that do business differently is that they have horrendous problems in filing and keeping things.

Q I understand that you don't have check authorization forms?

A I actually don't even know what a check authorization form is.

Q Having seen a number of them, I can tell you that they're requests for checks that request payment for a

9504367 1525

McFATE REPORTING SERVICE, INC.

certain amount by a certain date to a certain vendor.

A Okay.

Q Take my word for it.

A Okay.

Q But when an employee -- for example, how would it work if someone needs an advance for a seminar? How would that help -- you wouldn't have an invoice?

A No. It would depend upon the seminar.

A seminar is being held in Scottsdale. Obviously, they wouldn't need any money at --

Q How about Oxford?

A Oxford, England. We now have credit cards.

A person that went over there, Matt Owen, and I believe we cut him a check in advane of, let's just say, $1,000. Matt would use his American Express. His airline ticket is paid. We'd probably have one of our local members pick him up at the airport, so he wouldn't need that type stuff.

He would come back and turn in to us a sheet, as we have talked about before, of his expenses. And it would say note given, less the expenses, and that's the way that would happen.

9504367 5526

Q Now, assuming that you have a situation where an employee receives an advance, it's a particularly frugal week and doesn't spend it all, how would you go about getting the reimbursement from that employee?

A When the employee comes back -- let's say we're giving $100 and the employee only spent 50. The employee then would give me the sheet that would say I have spent $50 on these items together with the $50 back.

Or in many cases, checks that they would literally put, rather than carrying the cash, they would put the money in their accounts and write me a check for the 50 -- or the Association, not me -- write the Association for the $50.

Q And it would be, of course, the Association running the seminar?

A That's correct.

Q And then what do you do with their check or that money?

A Just handed me a check for $50. They spent 50. The check would then get deposited into their account, into the Association's account that they were working with.

9504367 1527

As an example, Matt Owen, going to -- if he were only to spend 500 of that $1,000, he would then come back and write a check to the Association for $500, and that check would get deposited back into the account.

Q Do you go back into the check register where you have made the initial advance and make a notation that not all of it was spent?

A No. It's the account -- we label the deposit on a separate deposit sheet that our accountants then pick up as to offset the expense.

Q Do you maintain copies of the deposit sheets?

A I have given all of them, yes.

Q So we have all of them?

A You have them all. They were made available to you. Whether you copied them or not, I am not sure.

Q Is it necessary for an employee to request an advance in writing?

A In writing?

Q Yeah.

A I don't think an employee has ever requested anything in writing.

Q Who determines how much the advance is?

9504367 1528

A Usually the employee. He says, hey, I need a 100 bucks to get here and back.

If it's reasonable, I don't think I have ever changed an employee's requests. I don't think an employee's request has ever been unreasonable.

Q Now, in terms of the employees of the Associations, you have testified previously that it's sort of an office without a lot of formal titles?

A That's correct.

Q Would you say that all of the employees have equal responsibility in running the Associations?

A I have no idea what you mean by equal responsibility.

Q Suppose, for example, that one of the Associations is putting out a newsletter regarding legislative developments in Arizona real estate. Would one person be responsible for that mailing?

A Yes.

Q And who would that be?

A Would depend upon the Association. It would depend upon the newsletter.

Q Would it be fair to say that the people who

9504367 5529

receive the greatest amount of compensation from the Association, from the International Association Managers, are the persons who are the most responsible in the organization?

A Generally, that's true.

Q Is there an exception?

A In today's market, yes.

Q And what is that exception?

A Oh, today here in Arizona you can hire a college gruduate that has fire in his or her eyes for $16,500 a year.

That person will -- we have a couple of them that literally take on responsibilities far and above some people that are earning more than that. And so --

Q Is Matt Owen one of these people?

A Matt makes more than that, but we have people like that that are there.

Q This, of course, is today.

Was that the case in 1988?

A I would have to reflect and look back on salaries. And I think it's generally safe to say, whatever that means, that those people that make more

9504336715330

money generally have more responsibilities. However, that's not always true.

Q In 1988, who were the top three or four people, excluding yourself, paid by the International Association Managers?

A I have no idea. You have the records, and if would you like to show me those financial statements I will be more than happy to go through them and try and recognize those for you.

Q Yeah, let's do that.

We're back to Exhibit 1. We're on page 32, which is titled Employee Information, and you are first. Then we have Mr. Twichell who we have just previously discussed.

Would he be a person who would have a lot of responsibility in the Association that he is working with, which is the National Association -- no, he is with the National Association of Real Estate Appraisers?

A Yes.

Q Would he be -- and you have testified, I believe, that he is the person who is responsible for running that organization?

9504336715311

A Managing it, yes.

Q Is there anyone who Mr. Twichell supervises?

A I think everyone in the office feels that they could go to Mr. Twitchell if they have a problem if I am not available.

Yet I think everyone in our office feels that they could come to me -- it's not that big of an office -- if they have a problem.

Supervises? I don't really understand the term in that -- let's just take our receptionist. I don't think our receptionist needs supervision. If she has a problem, she has come to me. She has come to Ken, you know.

Q Would Mr. Twichell make decisions regarding the type of publications the Association would put out?

A No. That probably would be done by the board of directors.

Q What sort of decisions does Mr. Twichell make?

A Well, he works with the board of directors in establishing educational programs and in seeing that those programs get implemented.

He may physically have the responsibility of

9504367 5532

choosing a hotel, as an example. Although in many cases I know that he has given that responsibility to somebody else on staff.

Q So he delegates?

A Yeah, uh-huh. Or a person is putting on seminars and would -- well, we're talking about Mr. Twichell here. What else would Mr. Twichell do?

Q Would he select a vendor to print letters?

A Yes. He may select one vendor over another to do printing, or he would certainly select -- as an example, we have just talked about renting a car. Whether he uses Hertz or Avis, Mr. Twichell is free to select his vendor, his car rental agency.

Q Does Mr. Twichell have the authority to hire and fire?

A Yes.

Q Has Mr. Twichell, in fact, hired anyone?

A Mr. Twichell has hired a lot of people.

Q Has he fired anyone?

A A lot of people.

Q Mr. Cloud, Tim Cloud, what are his responsibilities?

9504367 5533

A He is in charge of our computer.

Q There is a room where the computer is?

A Uh-huh.

Q And it's his responsibility to be sure that the computer functions?

A That's correct.

Q Is there a computer operator as well?

A What do you mean by computer operator?

Q Someone who would sort of run the computer, feed the paper?

A That's Mr. Cloud.

Q Mr. Cloud does all that?

A Yes.

Q Does Mr. Cloud have authority to hire and fire?

A Yes.

Q And are we to presume that he has done both?

A I don't know that he has ever fired anybody.

Q He certainly has hired?

A It's my understanding that he has, yes.

Q The sorts of decisions that Mr. Cloud makes, are they related to the operation of the computer?

A Yes.

9504367 534

Q Does he make any other decisions regarding the publication's content?

A No, not generally.

Mr. Cloud's general area of responsibility is that of computers. He would buy computer supplies. He would hire people to work in his area, his department, enter into contracts with computer repair people and service people, things of that nature.

Q They're pretty much limited to computers, his area of expertise?

A That's correct.

Q Fitzgerald, Shonn (sic). Would this be somebody with management authority?

A Who.

Q This person, Shonn (sic) Fitzgerald.

A Shaun Fitzgerald. Yes.

Q And what would her responsibilities be?

A Gee, I don't know. She was actually Tim Cloud's girlfriend for awhile.

I really I think she had some authority in putting on seminars and stuff like that. I don't really recall what her duties were.

9504336705535

Q You do a certain amount of legislative monitoring too, right?

A We used to.

MR. KING: You being who?

MS. REILLY: You being any of the Associations.

THE WITNESS: No. Some Associations do and some Associations don't.

Q BY MS. REILLY: Which ones do?

A The National Association of Review Appraisers and Mortgage Underwriters do, and the National Association of Real Estate Appraisers do.

Q Is there person who is responsible for doing sort of legislative monitoring?

A No.

Q So how do you approach monitoring legislation?

A We monitor it.

Anybody that sees something would probably bring it up in a staff meeting or something.

Q How regularly do you have staff meetings?

A Too often. Once a week, twice a week, depending upon the needs.

Q And the needs are -- can anyone call one?

9504367 5536

A You bet.

Q From a secretary to --

A Absolutely. We have secretaries that do call them.

Q No wonder you have --

A I might say that -- I might add to that statement, the secretaries, when they call them, are the most meaningful meetings that we have.

Q Jean Johnson, Todd Johnson, are they -- is Jean Johnson related to you?

A No relation.

Q Jeff Johnson is related to you?

A No relation. I have an son by the name of Jeffrey, but that's the --

Q He is the two-year-old?

A Two-year-old.

Q Tracy Johnson?

A No relation.

Q Deborah?

A My wife.

Q She is also the person who has responsibility of signing the checks?

9504367 5537

A That's correct.

Q What else does she do at work?

A I think that's her main area of expertise.

Q Does she work full time?

A No.

Q How many hours in a given week would she work?

A Oh, I think that depends upon -- are you talking about today?

Q Let's talk about 1988.

A 1988, she was probably working 30 hours a week.

Q What about today?

A 20 hours a week.

Q And most of the time she is there she is writing checks?

A Following up on invoices, things like that, yes.

Q And in terms of following up on invoices, what would that mean?

A Well, as I stated earlier, I have yet to receive bills from hotels that are correct. And she might call the hotel and say, hey, what is this charge.

You may get an invoice in from somebody that we have know idea, nobody knows who it is.

9504362 1538

We have printers that I believe in some cases deliberately double bill us, and all those things need to be followed up on.

Q Printers who you believe double bill you, you go back to?

A No, try and get rid of them.

Q In 1988, was there anyone else in your organization -- we have identified, I think, some of the key players -- anyone else in your organization who had management authority, which I would define as hiring, firing, determining content of publications?

A You bet. I think any one of our employees we encourage to get in the content of publications.

Talking about hiring and firing, I don't consider that to be the sole criteria for a management responsibility.

Q Steve Schneck?

A Yes.

Q Was he someone who had management type responsibility?

A Yes. He is my brother-in-law.

Q And what were his responsibilities?

9504367 1539

McFATE REPORTING SERVICE, INC.

A Publications.

Q For which of the organizations?

A National Association of Review Appraisers.

I think he had a lot of other responsibilities as well. I guess I would have a hard time putting my finger on it today, but he did not just do publications.

I suppose he hired and fired, worked as a, you know, general association manager.

Q Is he still with you?

A No.

Q When did he leave?

A Gee, I don't recall.

Q Was it this year?

A I don't recall. It was within the last two years, though.

Q Are you politically active?

A Describe what's politically active.

Q Have you ever run for office?

A No.

Q Have you worked in any campaigns?

A Other than the one you are aware of, George Bush for President, no.

9504367 5540

Q You haven't done any fund raising, any passing out of handbills door to door, solicitation for any other candidates?

A Well, it seems to me that back when I was in college I took a political science course, and I may have done something in that regard. But other than that, no.

Q Sort of like as a project for the course?

A Yes.

Q When did your interests begin in George Bush and the Bush for President Committee?

A When I heard he was running for office.

Q He first ran for office for Congress, I think, in '72 in Texas -- in '64, I guess.

A I guess when I first heard he was running for President.

Q So that would be 1988?

A I believe he announced before then, but I am not sure. I don't recall.

Q Why were you interested in George Bush?

A I think he is a good candidate. I think he is a wonderful President and one of the best Presidents the country has had.

9504367 541

Q Does he have -- do you consider him, I guess, to be a friend of the real estate community in general?

A Yes, I think he understands problems of the real estate market, financial markets, things that affect real estate.

Q Did you make a contribution to the Bush for President Committee?

A Yes.

Q When was that?

A I have no idea.

MR. KING: Excuse me, was the contribution made specifically -- you named some sort of specific committee?

MS. REILLY: Bush for President Committee.

I can tell you, by way of edification, that's the name of George Bush's Presidential campaign?

THE WITNESS: Yeah.

MS. REILLY: They all have committees, and that's the name of his.

THE WITNESS: Yes, I assume that's the one.

Q BY MS. REILLY: Right. And how much was that for?

A Gee, I don't recall. I believe it was $1,000.

9504367 25542

Q Do you remember when you made it?

A No.

Q Would you characterize it as having made it earlier in the campaign?

A Yes.

Q Before the New Hampshire primary, perhaps?

A Oh, yes.

Q And the New Hampshire primary is February of '88, I believe.

A I don't recall when the New Hampshire primary was, but it was certainly prior to that.

MS. REILLY: At this point, I am going to hand the court reporter Exhibit No. 6 to be marked. I'd ask you to mark that, please.

(Exhibit 6 was marked for identification by the reporter.)

Q BY MS. REILLY: I am going to ask you to take a moment, please, and review this three page document.

(Brief pause.)

A Yes.

Q Have you had a chance to review this?

A I glanced at it.

9504367 5543

Q Do you recognize it?

A Yes.

Q Could you describe it?

A It's a letter from Mr. Twichell to a member of the Association inviting him to send a contribution in for the George Bush for President campaign.

Q Do you know who wrote this letter?

A Yes.

Q Who is that?

A Mr. Twichell.

Q Did Mr. Twichell show you this letter before it was mailed out?

A I don't recall.

Q When did you first see the letter?

A This letter?

Q This letter.

A I suppose it's possible that the first time I have seen the letter is right now.

I don't recall if I have seen it before or not. Could be that right now is the first time I have seen it.

Q Have you seen a letter similar to this one except that the address would be different?

9504367 5544

A I believe I have.

Q And when do you think that happened?

A Probably about the time Mr. Twichell was sending the letters out.

Q And the date on this letter is February 4, 1988?

MR. KING: Well, it speaks for itself. Is that what you are asking?

MS. REILLY: I am asking if that's the date when you first --

THE WITNESS: I don't recall when I first have seen the letter.

Your question was have you seen a letter similar to this, and I said yes.

And you said when, and I said probably around this date. But, again, I do not recall when.

Q BY MS. REILLY: Did Mr. Twichell discuss with you the fact that letters similar to this one would be going out?

A Well, not the exact content of the letter.

He discussed with me the fact that letters -- he would like to send out letters.

Q How many times did he discuss that with you?

9504367 545

A Once, twice. I have no idea.

Q Can you tell me a little bit about that conversation?

A Well, as best as I recall, Mr. Twichell knew I was active in the Bush campaign, and he was hearing from members that Bush was the best candidate for the Presidency and perhaps that he would like to promote George Bush for President and contact a few of the members.

I recall that conversation. I recall telling him that, whatever he does, to be sure and contact the Federal Elections Commission, because I do want any problems.

And I think that was the best I can recall the conversation regarding this letter.

Q Did you help draft it?

A No.

Q Do you know who typed it?

A No.

Q Do you know when in terms of time of day Mr. Twichell began to put out these letters?

A No.

Q If I could direct your attention, please, to the

9504367 1546

second paragraph, first and second sentences:

"Vice President George Bush is a close friend of one of our Directors. Through him, I have personally gotten to know the Vice President."

Is Mr. Twichell referring to you as the person who was a close friend of the Vice President?

A You would have to ask Mr. Twichell that.

Q Do you consider yourself to be a close friend of the President?

A If I were to see him in a meeting, he would recognize me and shake my hand. But if that's -- I guess that would be a close friend, relatively speaking.

Q In political circles?

A In political circles.

Q How many times have you met Mr. Bush?

A A dozen.

Q How many times in the last four years?

A A dozen.

Q So your association goes back only for the last four years, personal association?

A That's correct.

Q And when did you first meet him?

9504367 5547

McFATE REPORTING SERVICE, INC.

A I don't recall. If I were -- to the best of my recollection, it was at someone's house in Washington, D.C., private residence.

Q You travel to Washington often?

A Yes.

Q In 1988, roughly, how many times would you go to D.C.?

A I have no idea.

Q More than five?

A Yes.

Q More than 20?

A No.

Q Ten?

A It's a good guess.

Q Would it be your guess?

MR. KING: He said he didn't know.

THE WITNESS: I don't know. I would say more than five and less than 20.

Q BY MS. REILLY: Did you discuss with Mr. Twichell what the letter was going to say?

A No.

Q And you had no role in drafting the letter?

McPATE REPORTING SERVICE, INC.

9504367 15548

A That's correct.

Q The second page, please, dated February 16, looks like '98. '88, I guess. And the 22 cent postage. It's February 10, '88, I am sorry. It's a bad copy.

And that would be the National Association of Real Estate Appraisers' return address in the upper left corner; is that correct?

A That's correct.

And I would like to add that earlier in the morning you had asked me the previous address of our Association building, and it's clearly stated there, 8715 Via De Commercio.

Q Thank you.

Then the last page of this exhibit we have looks like another copy of another envelope contribution card, which is essentially two pages.

Did you have occasion when you were in Washington to visit the Bush for President offices?

A Yes.

Q And do you remember where they were located?

A In Washington.

Q Close to the White House?

9504367 5549

A Close to Ebbet's (phonetic) Grill. I remember that.

Q That's close to the White House.

Did you have occasion to go to the White House when you were there?

A Yes.

Q How many times?

A Oh, I suppose I have been to the White House four times, five times.

Q And what were the occasions of your visits?

A One I had a meeting with President Reagan and Vice President Bush, and it seems to me there was another meeting in there.

And after that was just when George Bush was President.

Q And when George Bush was President, what were the sorts of meetings you attended at the White House then?

A He did a reception for people that served on his National Finance Committee. That was one such visit.

Q Did you serve on his National Finance Committee?

A Yes.

Q And how did you come to obtain that post?

9504367 1550

A I was asked to serve.

Q Who asked you?

A Fred Bush.

Q And when was that?

A Gee, I don't recall. Prior to the --

Q New Hampshire primary?

A Yes.

Q Was it prior to when Mr. Twichell put out the letter in question?

A Yes, I believe so.

Q And what did Mr. Fred Bush say to you when he asked you to be on the Finance Committee?

A Gee, I really don't recall other than he'd like me to be on the National Finance Committee for the President or for the Vice President.

Q Did he extend that invitation to you while you were in Washington?

A Gee, I really don't recall.

Q You don't recall?

A No. I recall getting, you know, a letter from him as well, but for some reason I want to say that it --

Q Is it your impression there was some sort of oral

9504367 1551

McFATE REPORTING SERVICE, INC.

solicitation prior to his letter of invitation?

A I really don't recall. I want to say yes, but I would think I would have recalled the event, but I don't.

Q You do recall the letter?

A Yes.

Q Did you save it?

A No.

Q As a member of the Finance Committee, how many fellow members did you have?

A Oh, I suppose they ranked from one per state like West Virginia to two or three or four from Arizona to perhaps five or six from California.

And there were various events at which the people were present, a couple of hundred, I suppose, would be a guess at how many people were on his National Finance Committee.

Q And what sort of things did you do as a member of the National Finance Committee?

A Well, raised money for George Bush.

Q How did you go about doing that?

A Friends, talked to friends, church people I knew.

In Scottsdale we have a very affluent

9504367 1552

neighborhood, so it makes it a little easy. And we have a number of -- I remember an art fair that I was at meeting people from out of town.

Just all sorts of different ways.

Q Did you solicit your employees to contribute?

A I never asked one employee to contribute.

Q Did you ask more than one employee to contribute?

A I never asked any employee to contribute.

Q Did you business people who you use, vendors, did you ask them to contribute?

A Yes, I think I might have.

Q And who did you ask?

A I don't recall.

Q But you think you did?

A Well, I don't recall. You know, trying to raise money for a person, the Vice President, was something that was very important to me, and I don't recall who I specifically asked.

I do recall a person I specifically asked sitting next to a person on the airplane when I was flying once. That person gave $500. So I mean I just did it anywhere and everywhere.

McFATE REPORTING SERVICE, INC.

9504367 1553

Q So it sounds like you did devote a lot of time to it?

A Yes.

Q This was a time period, say, beginning late January, end of February, late January, beginning of February, 1988, until when?

A I have no idea when it started and no idea when it ended.

I think it -- I can tell you that it certainly ended when total funds were raised. When he got elected it was over.

But exactly when it began or the date it began and the date it ended --

Q This is your involvement?

A Right. I have no idea.

Q Do you recall how much time you spent, for example, in a given week on this activity?

A No.

Q Did you spend more than ten hours a week doing it, you think?

A I suppose there was weeks that I spent more than ten hours, yes.

9504367 1554

Q And weeks, presumably, where you might have spent less?

A That's possible.

Q And weeks, perhaps, where you might have spent more than ten hours?

A Yes.

Q Do you remember any one week in particular as being particularly busy?

A No.

Q Sort of all run together?

A Well, it was quality, not quantity. And I think you are talking quantity. You are talking in terms of hours.

And flying from Minnesota to Arizona sitting next to an individual who after a nice dinner and a few drinks on the airplane asked what I was doing, and explaining to him, that may not have been quantity, but it certainly was quality.

And so it's hard for me to recall what happened back in '87, '88, whenever it was.

Q It sounds like something you ejoyed doing, yes?

A Yes.

9504361555

Q Now, who else was a finance chairman from Arizona?

A I am not sure. Simmons that was with the bank.

Q The bank?

A One of the banks in town. He had switched, I think, from one bank to another.

Q This is Scottsdale we're talking?

A Well, in the greater Phoenix area. Let's put it that way.

Q Barry Goldwater, was he one of the chairmen?

A No, I don't believe so.

Q And you think that there may have been one or two others?

A I seem to recall someone from Tucson being involved.

Q But apparently your efforts were more single as opposed to group efforts?

A That's correct.

Q Now, did they give you a code as a finance member of the finance board?

A I had like an AZ 04 was some type of code or something that was used.

9504367 5556

Q Was used by the Bush people?

A Yeah, I believe so. I am not sure how it was used.

I would receive cards from the Finance Committee, and I am not sure if I coded them or if they coded the cards with my number on it.

Q By cards you are referring to page 3 of Exhibit 6? In other words, the AZ 04, those are the cards?

A Yes.

Q How many cards did you get as finance chairman?

A Well, without being too facetious, I think if you can raise a lot of money, you could go to the headquarters or when I was in Washington and pick up all the cards you wanted. I don't think there was a limit that you could only have two or three. And I think the idea was to give as many cards as you could to get them out. That's the idea of fund raising.

Q So when you went to Bush Headquarters -- how many times did you say you were in Washington during 1988?

A I dont' know. A number of times.

Q And you would stop off at Bush Headquarters?

A Yes.

9504367 5557

Q And who would you talk to there?

A Again, without being facetious, everyone.

Q Was there anyone in particular who you would speak with?

A No. Certainly Fred Bush, Lucy Cole.

Q Now, Lucy Cole is who?

A Someone that worked at the Vice President's campaign headquarters.

Q That's her name stamped on the envelope at the top of the page?

A Yes.

Q And was she seated in the front of the office?

A I don't recall where she was seated. I mean --

Q Did she have her own office?

A As best I recall, she did not.

Q So you spoke to Fred Bush, Lucy Cole?

A Margaret Alexander. Three names that I -- and, oh, there were a number of young guys that I always said hello to, and I don't recall their names. There was two or three other girls that I always said hello to.

There were people in the -- I think one girl is now on the White House staff in terms of public relations

95043675558

or news stuff.

And I would get over to the news release end of things, and I, again, without being facetious, you would try to say hello to everybody.

Q So you would spend, it sounds like, a fair bit of time at Bush Headquarters? You weren't coming in and grabbing the cards and running out?

A Well, I don't think I would sit down and have a four hour conversation with Fred Bush. I mean this was busy times.

Again, it's not quantity. It's quality. And I think on some visits it would be fair to say I rushed in and rushed out, and other visits were longer.

Q Did you attend any fund-raisers for the Vice President?

A Yes.

Q And how many did you attend?

A I don't recall. A number. More than three and less than 12.

Q Were they in Arizona?

A No.

Q Where were they?

95043675559

A I recall one being in California, one in Washington, D.C., a couple at the Vice President's home. There were others, but I don't recall.

Q At this point I am going to hand to the court reporter what we'll have marked as Exhibit No. 7, please.

(Exhibit 7 was marked for identification by the reporter.)

Q BY MS. REILLY: I ask you to please take a moment and review this document, please.

(Brief pause.)

A Yes.

Q Do you recognize this document?

A Yes.

Q And could you describe it?

A It's a letter I sent to Robert Raich who was an attorney with the Federal Elections Commission regarding some correspondence that I believe he had sent me.

Q And what was that correspondence?

A I don't recall other than it implied that there was a violation of some such of the Federal Election laws or something like that.

Q And when did you receive that correspondence from

9504367 1560

Mr. Raich?

A I have no idea. Sometime during or after the campaign. Or I suppose in this -- it would be prior to April 4, '88 when I wrote this and prior to, say, the last half of -- I would rather suspect that I answered immediately, and I can't say whether it was a week or a day or a month.

Depending upon my business schedule, but I suspect I replied shortly after receiving his communication.

Q And the communication from Mr. Raich presumably enclosed a copy of the complaint the Commission had received regarding the fund-raising letter we had just had as a previous exhibit?

A Yeah, I believe that was the letter or problem that he was replying.

Q When you received the complaint, what did you do?

A I don't recall. I rather suspect that I wrote this letter back.

Q Did you discuss this matter with Mr. Twichell?

A Yes.

Q How many times?

9504367 5561

A I don't recall. As a problem comes up, you deal with them. And whether you discuss it with them once or twice or three times, it was discussed and, I thought, properly handled and the situation was put to bed.

Q And what were the substance of your discussions?

A Well, that we need to be sure that there was no violations of the Federal Elections Commission and that he should -- well, I guess I didn't instruct him to write, but that it would be appropriate if he would certainly write Mr. Raich back and tell him that he had talked to Janet Hess of the Federal Election Commission, and that I had followed up and talked to Janet Hess of the Elections Commission and that, you know, we were -- that he was doing everything under the rules and regulations of the Federal Election laws.

Q Did you receive any publications from the Commission?

A Gee, I don't recall.

Q Do you recall when you spoke with Ms. Hess?

A As best I recall, Ken had said he wanted to send some letters out as he felt the members would be very supportive, and he thought it was the right thing do do.

9504367 5562

I then indicated that I think it was necessary that he call the Federal Election Commission and that I didn't want any problems.

And he said he did, and it was all right for him to do it as long as it didn't go over $1,000.

And I asked him who he talked to, and he told me a Janet Hess.

Shortly thereafter, I called Janet Hess, probably within a day or two, and verified what Mr. Twichell had heard from Janet Hess.

Q Which was?

A That it was totally acceptable for him to do what he did as long as the total expenses were under a thousand dollars.

Q Now, when you became Finance Chairman of the Bush for President Committee, did they give you any sort of instructions regarding fund raising?

A Yes.

Q What were those instructions?

A Gee, I don't recall what they were.

Q Did they tell you anything about contribution limitations, for example?

95043675563

A Yes.

Q You knew, for example, that you could only solicit someone for a set amount of money?

A Yes, $1,000.

Q And they might have mentioned something to you about corporate checks?

A That's correct.

Q And what did they tell you about corporate checks?

A Oh, I believe it's stated on the previous exhibit that you could not take corporate checks.

Q You were referring to the card?

A That's correct.

Q Anything else they tell you?

A I tended to -- you know, there were a number of meetings where I am sure these things were discussed.

Q Did they tell you, for example, that funds had to be contributed -- the funds that are contributed have to be the funds of the person writing the check?

A Yes.

Q Did they mention anything to you regarding spousal contributions?

9504367 5564

A I never heard that term before.

Q Did they mention anything to you about a husband and wife with joint checking accounts making contributions?

A Other than husband and wife, each one, can contribute $1,000. A husband and wife can contribute $2,000.

Q Nothing about assigned writing or an election designation?

A I don't recall.

Q Did they give you any sort of guidance -- "they" being the Bush Committee -- regarding mass mailings?

A They being the Bush campaign, as I recall, gave a three ring binder that was about three or four inches thick of various information regarding all sorts of things.

Q Did you read it?

A Yes, I believe I did.

Q Did you have occasion to look at it during the course of your activities as a member of the finance board?

A I don't know that I referred to it on a daily

9504367 5565

basis.

Q But you looked at it occasionally?

A Well, there would be the names listed in there of other finance people, and -- yes.

Q Other than looking up the names of other finance people, what other sort of information did you get from this three ring binder?

A I don't recall.

Q What did the binder say about mass mailings?

A Gee, I really don't recall.

Q Nothing?

A I don't recall if there was anything about mass mailings or not in it.

Q Did you believe at that time that you could pay for a mass mailing?

MR. KING: "You" being who?

MS. REILLY: Mr. Johnson personally as a member of the finance board.

THE WITNESS: After talking to Janet Hess, particularly the fact of that nature, you could do something up to $1,000.

Q BY MS. REILLY: And $1,000 seems to be the

9504367 5566

important piece of information?

A Yeah, for some reason that's what sticks in my mind.

Q Now, this letter that we have before us, the most recent exhibit, did you write this letter?

A Yeah, I believe I did.

Q Do you type your own correspondence?

A I type 70 words a minute, so I don't know whether I typed this or not.

Q You could have?

A I certainly could have, yes. I type a lot of my own. I don't like to, but --

Q If you don't type your own letters, who does your typing?

A Secretary.

Q Who is?

A Jill.

Q The letter states that Mr. Twichell had printed at his own expense the Association's letterhead and envelopes?

A That's correct.

Q And that he rented the mailing list?

9504367 5567

A That's correct.

Q Now, when this letter says "our mailing list," whose mailing list does the letter refer?

A The Association.

Q And that would mean the National Association of Real Estate Appraisers?

A Yeah, I believe so. That would be my assumption.

Q Does the International Association of Managers have a mailing list?

A No.

Q It also states that Mr. Twichell reimbursed the National Association of real Estate Appraisers for the use of the equipment?

A That's correct.

Q What equipment did Mr. Twichell use?

A He used our computer and our mailing machine.

Q And maybe you can just sort of walk me through this. You say he used the computer?

A Well, I think he personally entered the letter. He has a degree in computer science.

I believe he selected people who he wanted to mail to. And how he selected that, I do not know. And

9504367 5568

was going to send out originally 2,500, as best I recall.

It was substantially less than that, probably down to only about a thousand or less, and he mailed it out.

Q A thousand people or less?

A Excuse me?

Q He mailed it out to a thousand people or less?

A Yes.

Originally he was going to mail it out to 2,500, I believe, was the number. And, as best I recall, after work one night he was sifting through envelopes, and I said, "What are you doing?"

And in casual conversation, he says, "Well, I had ran 2,500 people, and I can see that some of these I don't want to mail to for the Republican George Bush solicitation letter." And he was trashing some envelopes.

Q Shredding or just throwing them away?

A Just throwing them away.

Q And, of course, not all members of the National Association of Real Estate Appraisers would necessarily be supporters of the Vice President?

MR. KING: Well, Counsel, he has no idea whether

McPATE REPORTING SERVICE, INC

they are or they aren't.

Q BY MS. REILLY: Well, actually, isn't it the case, as we found out here, that one of the Association's members was, in fact, not a supporter of the Vice President?

A I think Mr. Twichell learned a hard lesson real quick. You bet.

Q And did Mr. Twichell explain to you why he decided to send out fewer letters than he had originally intended?

A As I just testified, you know, he was looking through them saying he didn't feel some of these people were right to ask or something of that sort was the feeling I got.

Q So he must have known these people personally?

A I have no idea. I have no idea who he sent them to.

Q Now, the mailing list in question, what sort of information is on it?

A I have no idea.

Q Peoples' names?

A I assume.

9504367 1570

Q Addresses?

A I assume.

Q Titles?

A Yes, I assume. And that might be -- I am only speculating, but that might be why he trashed certain ones.

Q Have you seen the mailing list?

A That he used?

Q The one that the National Association of Real Estate Appraisers has.

A We have the names and addresses and titles and various data about our members in a computer system. You can pull that data up in a number of formats.

So when you say have you seen the list, yes, I have seen a complete printout. I have seen an alphabetical printout, you know, for different reasons that we have used it and trashed them.

Q So in terms of the data that's available regarding this, quote-unquote, list, what sort of data is on there?

A On this list?

Q On the information that is stored in the computer

9504367 5571

regarding the members.

A As best I recall, it's their name, their address, their phone number, their fax number. I think at one time we had the telex. I don't know if that's still on. The date they joined, if they changed an address, the type of member they are, whether they're a candidate or a full fledged member.

I am sure there is two or three other bits of information that's there, but by and large, that characterizes what's in the system.

Q And you can sort of run a program to pull up some members as opposed to others?

A Well, again, as I testified earlier, my four-year-old daughter knows more than I do.

It's my assumption that you can pull up data any way you want. Now, whether that's true or not, I don't know.

But my assumption is you can pull up everybody that has a G in their name if you want to, for example.

Q This letter at the bottom appears to be acknowledged by a notary?

A Yes.

9504367 0572

Q And who was that notary?

A E. Kenneth Twichell.

Q This is the same Mr. Twichell we're discussing?

A That's correct.

Q And how did he come to notarize your response?

A I have no idea.

Q Do you recall giving it to him and having him notarize it?

A No.

Q You don't?

A No. I am sure I did if it's notarized in the letter, but I don't recall doing it.

Q And, of course, the seal or the blurb at the bottom, I guess, states that it's acknowledged but not that it's sworn to?

MR. KING: It says what it says, Counsel.

MS. REILLY: It does.

Q BY MS. REILLY: If you could turn, please, to page 2, and I'd ask you to take a moment to review this letter, please.

MR. BERNSTEIN: Off the record.

9504367 5573

(A recess was had off the record from 3:59 p.m. until 4:10 p.m.)

MS. REILLY: Okay. Let's go back on the record. Could you read the last question and answer?

(Record read.)

Q BY MS. REILLY: If I could direct your attention to page 2, have you had a chance to read this letter?

A Yes.

Q This purports to be a letter to the Federal Elections Commission, dated April 4, 1988, signed by E. Kenneth Twichell.

Did you discuss with Mr. Twichell his response?

A No.

Q This response?

A No.

Q Did you suggest to him that he might want to respond?

A I don't recall how that all happened. But I believe, looking back on the situation, I guess I would have to say I probably would not have told him trash the letter and don't pay any attention to it during our discussions.

9504367 57 21

And Mr. Twichell is the type that you wouldn't have to suggest that. He is one of those people that kind of have fire in his eyes. He would just automatically do it, I guess.

I really don't recall whether I had mentioned it to him. I don't suspect that I would have had to. He may have said, hey, I am responding to it.

Q Did --

A I was concerned, let's put it that way.

Q Did you contact anyone on the Bush Committee regarding the complaint?

A No. I think I was too embarrassed.

Q You didn't seek any assistance from their legal counsel?

A I think I was too embarrassed to call them up, particularly after I thought I had done such a good job in making sure.

Q How much money did you raise?

A I don't remember. More than a hundred thousand and less than a million.

Q How about 200,000?

A I think that's probably the number I raised. I

9504367 0575

am guessing.

Q Did Mr. Twichell reimburse the corporation for the use of its mailing list?

A Yes.

Q And did Mr. Twichell reimburse the corporation for letter processing charges and mailing charges?

A Yes.

Q And machine time?

A Yes.

Q At this point, I am referring to page 3 of the exhibit, and this notation at the bottom "Paid," and I can't read the rest of it.

A That's my initials, RGJ. I wanted to make sure that there was no doubt that he paid, reimbursed, the company.

Q And it appears we have found an invoice?

A Yeah. That's one I would keep.

Q Are there any others you would keep?

A No. You have everything that I have for 1988, believe me.

Q On page 4 of this exhibit there is a check?

A Yes.

9504367 0576

Q Kenneth Twichell. Date is March 3, 1988?

A Yes.

Q Is this the check with which Mr. Twichell reimbursed the Association?

A Yeah, I believe it is.

Q Did he?

A I have no reason to doubt it. I am not sure if he handed it to me or caused it to be deposited or something. But I was certainly aware of the fact that he was paying the company back for any funds for anything that we used or the company that he used.

Q And who does the deposits?

A I do them, my wife does them, back in '88.

Q What about the bookkeeper?

A I don't think we had a bookkeeper. I think my wife was the bookkeeper in '88.

Q So essentially either you or your wife would have deposited this check?

A Yes.

Q And the fifth page of the exhibit regarding the Statement of Expenses?

A Yes.

9504367 5577

McFATE REPORTING SERVICE, INC.

Q DuChene Printing Company, is that someone you would ordinarily use for printing?

A Well, I have to say that I think he is one of those people that would bill you twice, and we certainly wouldn't use him anymore. I don't think he is in business today.

He is the person that we used to do it. He was all right. He was a good guy, just strapped for dollars.

Q There is a note at the bottom: "I stuffed the envelopes myself and no Corporate Employees time was used."

A Uh-huh, I see that.

Q Did you see any corporate employees stuffing envelopes?

A No.

MR. KING: In connection with this matter, I assume?

MS. REILLY: Uh-huh. Or in connection with any other political mailing?

THE WITNESS: No.

Q BY MS. REILLY: Did Mr. Twichell tell you if any corporate employees were used in connection with this

9504367 1578

mailing?

A No. As best I recall, he indicated to me just the opposite, you know, he was not using any persons to do those things.

Q And did Mr. Twichell pay the printing company directly?

A Yes. It's my understanding, I should say, that he did.

The printing company did not bill the Association or us for these charges at all.

Q Did you check to see that?

A Well, Dean DuChene was doing some printing for us. And when Ken had mentioned that he was getting the letterheads and envelopes printed, Dean was in the office, and I recall telling Dean, don't you dare bill the Association for this.

Q Was that in reference to his double billing or --

A No, in reference to the conversation, I believe, that I had with Janet Hess that said, hey, as long as they don't use corporate, our own letterheads and our own envelopes that the Association paid for, he would have to go do that. He would have to get his own printed.

9504367 5579

Q So Mr. Twichell essentially took the corporate logo with him down to the printers and got the printer to run off some letterhead with nice quality paper?

A Well, I don't know about the quality of the paper, but I assume that's what he did. I cannot testify exactly what he did.

Q Now, the mailing we have seen had contributor cards in it, the previous exhibit.

You might want to take a peek at it and refresh your recollection for a second.

Where did Mr. Twichell get the contributor cards and envelopes?

A I don't know. I can speculate that, and probably correctly so, that there is a number of those envelopes and cards in the office building; that he simply went and got those and used them and mailed them out.

Q Where were they sort of physically in the office building?

A Well, this took place at 8715 Via De Commercio.

Q But which office?

A I am being facetious, but it's perhaps no bigger than the room we're in. It's a very small office. It's

9504367 5580

McPATE REPORTING SERVICE, INC.

like, you know, there was no place to hang your coat, as an example.

So I mean it was that small of an office. I have no idea where they would be.

Q Was it common knowledge that the cards were available to employees?

A I don't know that I ever discussed it with them.

I would hope that my employees would be bright enough so that when they would walk around the office, which wasn't that big, that they would be able to see a rope on the floor so they wouldn't trip on it, or they would be able to see cards or different letterhead, different stationery. I assume they saw it. I did not explain it to them.

Q Of course, Mr. Twichell needed a thousand of these to do his mailing. Did you have a thousand in the office?

A Well, I believe I had substantially more than that.

Q How many more?

A Gee, I really don't recall, but I would say not over 5,000. But I remember a number of boxes that had

9504367 5581

these cards and return envelopes, and I only assume that the boxes hold 500 a piece or something. And so if there were ten boxes of envelopes, that would be 5,000. That's possible.

Q Did you carry them physically back from Washington?

A Yes. Not necessarily all at the same time. It was not anything that was in short supply at campaign headquarters.

Q Well, did the campaign stamp on the AZ 04 notation in the corner?

A I don't recall. I don't recall if they did that or we did it. I don't recall.

Q Did you have an AZ 04 stamp?

A You know, I don't recall.

MS. REILLY: Maybe I can sort of refresh your recollection.

Can I have this marked No. 8, please?

(Exhibit 8 was marked for identification by the reporter.)

Q BY MS. REILLY: You want to just take a moment and read that over, please.

9504367 5582

(Brief pause.)

A Yes.

Q Did you have a chance to review this document?

A Yes.

Q Do you recognize it?

A It's a letter that was to Robert Raich under my signature.

Q Did you sign it?

A Yes, looks like my signature.

Q And does this refresh your recollection regarding affixing the finance code on the envelopes?

A Well, if I may read it, it says, "I have also acquired a few cards from some other chairmen and affixed the AZ 04 number as well as 'Attn: Lucy Cole' indication on the envelopes."

So apparently I said I did it. I must have. I don't recall if I did it for all of them, though, or if they supplied it or not.

Q You don't remember if you had a stamp with that?

A Well, I must have had a stamp, yeah.

I don't recall if it was given to me by the George Bush for President campaign.

9504367 5583

Q They gave you your own stamp?

A As best I recall, I think they did. I think they gave everybody their own little markers to try and keep track of where the funds came from.

Q Did they give you also the "Attn: Lucy Cole" stamp?

A I don't recall.

Q But I guess --

A I would like to say they did.

Q Obviously, you must have had one at some point?

A Yeah, right.

Q Did anyone else stamp the contributor cards for you?

A Not that I recall.

Q Did your wife help out?

A I don't believe so.

Again, I don't recall, but as best I do recall, no, she did not.

Q Did she help you with the solicitations, fund raising?

A No, not really.

Q Did she attend any of the fund-raising events?

9504336715842

A Yeah, I believe she did.

Q And which ones did she attend?

A She attended the one in Jerry Weintraub's house in Beverly Hills. And she, yeah, that was the only fund-raising event, I believe, that she attended.

Q Did your children attend any of the fund-raising events?

A I don't want to speak for them, but I think I can safely say no.

Q At least they weren't with you?

A They weren't with me, no.

Q Did your children stamp on any of this material information on the envelopes?

A My kids are lazy. No, I take that back. That was a joke. No, they did not.

Q So was it your testimony you did it all yourself in terms of the stamping?

A That's correct.

Q No employees helped you?

A That's correct.

Q When Mr. Twichell was sort of sending out this letter, you stated that, at least I believe you stated,

9504367 585

that he initially planned to send out 2,500 and then decided that he was going to reduce that number to a thousand or somewhere in that vicinity?

A No, that's not my testimony.

What my testimony was or is is that he was going to send out 2,500, and that I saw him trashing a number of envelopes, and it would be my guess that less than half he actually sent out.

As to what he sent out, I have no idea.

Q Do you know what the time sequence was in terms of Mr. Twichell's sending out the thousand letters?

A No, I do not.

Q You employ people who stuff envelopes. Do you have any idea how long it would take to stuff a thousand envelopes with another envelope, a letter, and a contributor card?

A You could probably do three a minute. So, you know, 3 into 1,000, whatever, how many minutes. If that's the amount that he sent out, it wouldn't take very long.

Q Now, at the bottom of Exhibit 7 on the second page, there is a "P.S." Mr. Twichell says, "I typed this myself on white paper so I wouldn't use corporate funds."

9504367 1586

A Yes, I noticed that.

Q Mr. Twichell types?

A Mr. Twichell is a -- yes. And he has a degree in computer sciences and is a very good typist.

Q Of course, there is a typo under the heading "Third." He appears to have left out the "e" in the. We'll have to get after him.

So you were active in the Bush campaign.

Did you attend any other political fund raisers in 1988?

A I don't recall.

Q Did you attend any Republican Party fund-raising events as distinguished from candidate events?

A I don't recall.

Q Have you given your employees bonuses?

A All the time.

Q Is there a set schedule?

A All the time.

Q Did you give bonuses today?

A No. I think we do a lot in just different times during the year. I think it relates to the financial health of the organization and relates to the employees'

9504367 5587

attitudes and abilities and their ability to handle work and things like that.

Q Do you give a Christmas bonus every year?

A Yes, I think some type of year-end bonus.

Q What was the largest bonus you ever gave?

MR. KING: To?

MS. REILLY: Employees.

THE WITNESS: I am not sure. I recall in '89 giving Mr. Twichell a bonus like 28,000, something like that. I don't recall if that's the largest one or not.

Q BY MS. REILLY: So certainly a substantial one?

A Substantial.

Q Mr. Twichell -- how much did Mr. Twichell make in 1989, roughly?

A Gosh, I don't know. A guess, 60, 70,000. 80, maybe. I am not sure.

Q Now, you are originally from Minnesota?

A Yes.

Q Do you travel back there fairly frequently?

A Yes.

Q Do you attend any fund-raisers in Minnesota?

A The only fund-raiser I have ever attended in

9504367 5888

Minnesota, I believe, was one for David Durenberger.

Q When was that?

A I don't recall. He is a U.S. Senator.

Q And where was the fund-raiser held?

A At Mr. King's house.

Q Your attorney, Mr. King?

A That's correct.

Q And did Senator Durenberger come?

A Yes.

Q Did you make a contribution in connection with that fund-raiser?

A I believe I did. I am not -- again, I assume I did is probably the correct answer.

Q When you received your manual from the Bush people, we have the $1,000 figure which of course sticks in your head, but do you recall reading about any other sort of limitations regarding how much money you can contribute in a year?

A No.

MS. REILLY: Okay. If I could have this marked, I am going to hand this to the court reporter for marking this as Exhibit 9.

9504367 5589

(Exhibit 9 was marked for identification by the reporter.)

Q BY MS. REILLY: Please take a moment to review this.

(Brief pause.)

Have you had had a chance to review this document?

A Yes, I have thumbed through it.

Q And do you recognize it?

A No.

Q And at the third page --

A Yes.

MS. REILLY: I am sorry, if we can go off the record for a second.

(Brief pause.)

Q BY MS. REILLY: If you could, we're back on the record.

A Yes.

Q Have you had a chance to review this document?

A I have thumbed through it.

Q Do you recognize it?

A No.

9504367 5590

Q Turning to page 3 of this document --

A Yes.

Q -- is that your signature?

A Yes, I assume it is. It looks like it.

Q And the document is entitled National Association Of Real Estate Appraisers, Inc.'s Supplemental Responses to Interrogatories And Requests For Production Of Documents in MUR 2593.

Turning your attention, please, to Supplemental Response To Request 5, which is on the first page, I'd ask you to review that paragraph, please.

(Brief pause.)

A Yes.

Q Okay. First sentence says, "The Board of Directors of the company did not authorize the solicitation"?

A That's correct.

Q Did the board of directors eventually come to hear of this solicitation in question?

A Yes.

Q And when did they find out about it?

A I don't recall.

9504367 5591

Q Was it after the complaint was filed?

A I don't recall.

Q Did you discuss it with the board of directors?

A At some point it was discussed with the board of directors, yes.

Q When you say it was discussed either with or at the board of directors, was it at your meeting?

A I don't recall, you know, where it was discussed.

Q Did you convene a special meeting to discuss this matter?

A No.

Q Mr. Johnson, did the Associations, any of the Associations that we have discussed today, send out any other letters regarding the candidacy of George Bush to the members?

A Best I recall, none.

Q Do you recall the computer of your corporation being used to print letters soliciting funds for George Bush?

A Other than what Mr. Twichell -- what we're talking about, Mr. Twichell's activities?

Q Other than Mr. Twichell's?

9504367 5592

A I really don't believe so.

Q Did you see any members of your staff stuffing envelopes for George Bush?

A No.

Q At any time?

A I don't believe so.

Q Were any letters sent out under your name soliciting contributions?

A A standard solicitation type letter?

Q Yes.

A I don't believe so.

Q Did you send out a non-standard solicitation type letter?

A I don't recall.

If I was writing to somebody, I don't want to say that I never mentioned that I was on part of the Vice President's National Financial Committee. But, again, I don't recall any specific incidents of that.

Q Are any of your employees volunteers for the Bush for President Committee?

A They could have been. I have no knowledge of that.

95043675593

Q No one discussed it with you?

A No one discussed it with me.

Q And it's your testimony that, other than the letter put out by Mr. Twichell, which we have seen as an exhibit here this afternoon, that your corporation did not put out any other letters regarding George Bush for President?

A As best I can recall.

Q And that your response would include all of the Associations in question?

A That's correct.

Q Do the people who stuff envelopes in your office ever sign the letters that go out?

A I don't understand what you mean.

Q In other words, suppose, for example, Mr. Twichell was putting out a letter to people associated with his organization. Would the stuffers ever sign Mr. Twichell's name for him?

A Yes.

Q And how often did that happen?

A Frequently.

Q Why is that?

9504367 5594

A Mr. Twichell just wouldn't have the time to sit down and write thousands of letters, hundreds of thousands of letters.

Q And is it sort of a goal of the Association that people want someone to personally sign the letters?

A Well, I think it's back to just trying to do the best job you can. And I think a hand signed -- it would be my opinion that a hand signed letter would attract more attention than something that would be stamped or not signed.

Q Sort of with an autopen, I guess?

A With a what?

Q An autopen as the alternative. It's a pen that automatically signs.

A Yeah.

Q Well, did the stuffers also sign the letters that went out sort of mass mailings?

A For which organization?

Q For all of them.

A No.

Q Okay. For which organizations did the stuffers sign the names of the purported signatory on the letter?

9504367595

A Oh, I think it would be fair to say that stuffers probably have signed the names of a person writing the letter in every Association. Not necessarily all the time.

Q And how do you distinguish between the times when the stuffers sign it versus the times when the purported signatory signs it?

A I suppose it would depend upon (A) the letter and (B) the amount of letters going out.

Q Do you sign letters that go out which have been sort of mass produced?

A I have.

Q Under what circumstances do you sign those?

A I don't recall any particular instance where I have signed it, although I can recall signing a stack of letters a foot high.

Q Is that an unusual occurrence?

A All our letters that go out are signed. So if they're not signed, as an example, by me or if they're not signed by Ken Twichell, they're signed by a stuffer.

Q And it doesn't really make a difference who signs it so long as a human being signs it; is that correct?

9504367 5596

A That's correct.

Q Turning to the supplemental response in the exhibit before you, Supplemental Response To Request 18, it states that "The mailing lists were rented to two computer companies whose identity is presently unknown." And "presently unknown" obviously refers to the date of this, which is November 9, 1988.

Do you know now who those two computer companies are?

A No, no idea.

Q What have you done to search for that information?

A I don't recall. I think we looked through our checkbook. That was one of the things we did to see if our deposit records -- rather to see if we could locate a deposit for the check. But, you know, I don't think we found it.

Q Since the time of this response, have you rented the mailing list to any of the organizations?

A I would say our mailing list is rented in one form, fashion or another once every six months. Once every three months, perhaps.

9504367 5597

Q When was it most recently rented?

A I don't recall. It was some computer company wanting to sell computer supplies, real estate appraisal forms that work on computers to our members.

Q Have you ever rented your mailing list to any political organizations?

A May have. I am not sure. Don't recall.

Q Who would know?

A Either me or Mr. Twichell.

Q And you apparently don't?

A Well, I just don't recall. I don't know if we have or not.

Q Do you remember -- I remember earlier today we were sort of discussing labels, I believe, and there was some indication that maybe your political party in the state, you might have obtained labels from them?

A Uh-huh.

Q Did you use those labels to put out any mailers on behalf of the Bush Committee?

A Gosh, I don't recall.

Q You don't recall?

A No.

9504367159 8

McFATE REPORTING SERVICE, INC.

Q As distinguished from no?

A No, as distinguished from no.

Q The mailing list that you rented to the two computer companies, how much did you rent them for?

A I don't recall. You know, on a per price, I think it was around 40 to $50 per thousand or something like that.

Standard prices in the industry today are probably $65 per thousand.

Q How frequently do you update the mailing lists of all the Associations?

A Update them?

Q Update them. People move, marry, change their names.

A Daily.

Q And how do you base -- what information do you base that update on?

A Members that would send us letters that they have moved, return mail that would have their new address on it.

Q Whose responsibility is it to update?

A Mr. Cloud is probably in charge of updating that

9504367159

list.

Q Does he physically do it, or does he direct others to?

A Well, I think he physically does it sometimes, and sometimes he directs others to do it, I presume. That's a fair assumption.

Q Other than the fund raising that you did for the Bush for President Committee, did you have any other responsibilities?

A No.

Q Just to raise money?

A That's correct.

Q Did they care how you raised it?

A Well, you know, from what I know and understand of politics, I think it was extremely an ethical group, and I think the Vice President's effort was certainly cognizant of what people were doing.

Q Did you at any point send your resume to the Bush for President Committee?

A I don't recall.

Q Do you recall, did you send it to anyone? Did you send your resume out during this period to anyone with

McFATE REPORTING SERVICE, INC.

9504367 1600

the understanding that it would be directed to the Bush for President Committee?

A No. As best I recall back then, there was some communique from the campaign headquarters that if you wanted a job or if you were interested to send something in.

I don't recall if I did or not. I am pretty happy here in Arizona.

Q Do you have an updated resume?

A No.

Q What is the date of your most recent resume?

A I have no idea.

Q Have you seen your resume recently?

A No.

Q Is it on a computer somewhere?

A No.

Q Do you actually have one?

A Doesn't everybody have a resume?

Q No.

A Okay.

Q Who would know if you sent out this resume?

A Sent out what resume?

9504367 601

Q Sorry. If you were to send out a resume, and if you didn't do it personally, would there be anyone else in your office whose responsibility it would be?

A To send out a resume to someone?

Q To the Bush for President Committee.

MR. KING: Are you asking if someone did that? I am not sure I understand the question.

MS. REILLY: Actually, let me rephrase it.

Q BY MS. REILLY: If you did send out your resume to the Bush for President Committee, who would know?

A The director of, what, I don't know what they call it, Executive Personnel.

Q At the White House?

A Yes.

Q Anyone in your employment who would know?

A No.

Q Your wife?

A No.

Q Did you have any communications with any other people, any of the members of the Associations, regarding the Bush for President Committee?

A What do you mean communications?

9504367 1602

Q Did you call them up and tell them what you were doing?

A No. I think it would be fair to summarize the activities during conversations with members or conversations with more friends than members. If they were to ask what are you doing these days, I might have indicated my activities with the Bush campaign.

Q Do you recall attending any seminars during this period?

A Oh, I am sure I attended a number of seminars.

Q Do you recall at these seminars soliciting people for contributions?

A I am sure I did. I mean I don't recall any specific incident of it.

Q You don't recall a seminar you went to where you did not solicit?

MR. KING: That isn't what he said.

THE WITNESS: No, that's not what I said.

But I guess it's just fair to say during my activity when I was working trying to raise funds, I would do it anywhere and everywhere I could.

Q BY MS. REILLY: Just one point I want to clarify

9504367 1603

regarding your use of -- this possible use of this mailing list from a state party or organization in the state.

Is it your testimony that you did not use this mailing list or that you don't recall?

A Well, I don't recall.

I certainly saw a mailing list, and I certainly saw names on that list that were Republicans.

Q How did you know they were Republicans?

A I assume that Republicans would not give me a list of Democrats.

Q So you think it was the Republicans who gave you the list?

A I believe so.

Q That would sort of be the ultimate dirty trick.

A That's right.

I assume when I saw names on the list, one name in particular happened to be a member of our church. And after church one day, I believe it was after church one day, I asked him if he would be interested in contributing. He knew my activities.

Q And he said?

A Yes.

9504367 1604

Q Did you use this list to send out any names soliciting contributions for the Bush for President Committee?

A I don't recall. I don't recall.

Q And during this time period you did send out letters soliciting contributions to the Bush for President Committee?

A Well, I don't recall doing a mass mailing like Mr. Twichell did.

Q Right. Which we estimate to be about a thousand pieces?

A Again, you will have to get that from him. But, yes, that would be my -- that is my testimony.

Q Right. But during this period you did write letters, personal letters, soliciting contributions; is that correct?

A Well, I don't recall. But I do believe it would be fair to state that in some letters that I have with friends, people that I have gotten to know, perhaps a phone conversation that we have had, that I may have written the letter that would have some reference to the campaign in it.

9504367 0605

Q And you mentioned you did see this list. Do you remember where you saw it?

A No, no.

Q But did you see it?

A See what?

Q The list, the list where you knew that they were Republicans on this list?

A Yeah, vaguely I recall something, a list, yes.

Q Were you in your office at that time?

A I don't recall.

Q At your home?

A I just don't recall.

Q Just to be absolutely clear, we're referring to a list that was given to you or provided to you by the Arizona Republican Party?

MR. KING: That isn't what he said.

MS. REILLY: Right. And I am trying to clear up what he is saying.

Is that correct?

THE WITNESS: Well, again, it was almost three years ago, but, yes, I believe that's correct.

Q BY MS. REILLY: And the letters that you sent out

95043671606

soliciting contributions for Mr. Bush, which, well, we have established that that happened?

MR. KING: No, I don't agree that we did.

Q BY MS. REILLY: Well, did you send out letters soliciting contributions for Mr. Bush?

A I did not do any mass mailings or letters.

Q Did you send out any letters regarding soliciting contributions for Mr. Bush?

A For the sole purpose of that, no.

Q Did you send mixed purpose letters?

A I may have. I don't recall.

Q Do you keep copies of your personal correspondence?

A No.

Q Do you type your personal correspondence?

A I used to. I don't anymore.

Q In 1988?

A Yeah, I think that probably -- that was about the time.

'89 I think recall doing a lot less of that, and I think it's fair to say during '90 I have done almost, with the exception of perhaps one or two letters a month,

9504367607

I did not.

Q Did anyone else sign the contribution solicitation letters, mixed purpose, for which you sent out on behalf of the Bush Committee?

A Again, I am not saying that I did. But if I did, I would only assume that I would sign those that would not be a big stack. I would assume I would sign them.

Q Does anyone else sign your personal correspondence?

A Today?

Q In 1988.

A My secretary would have. Mr. Twichell could have. A stuffer could have. Yes, other people.

Q And when people signed your personal correspondence in 1988, did you dictate the letters, and they would sign them or type them out, and they would sign them? How would that have happened?

A I have no idea.

Q But, nevertheless, people did sign your personal correspondence during 1988?

A Yes.

Q Can you give us a rough estimate as to how often

9504367 6008

that would occur?

A No.

Q Now, we have decided that you did send out mixed purpose letters soliciting contributions for the Bush for President Committee?

A Well, I didn't say that. I said that that's possible.

And I don't want to say that I haven't, but it would seem likely to me that I -- in some instance I may have dropped a card in the mail to someone who said, hey, send me one.

Q And given your level of activity during 1988 and your apparent excitement regarding the campaign, it would be something that you would mention in passing in a letter?

MR. KING: Is that a question?

MS. REILLY: That is a question.

THE WITNESS: What was the question again?

Q BY MS. REILLY: Given the fact that you were excited about your role in the Bush Committee, would it be likely that you would mention the fact that Mr. Bush was running for President and that you were active in the

9504367 1609

campaign, and you were collecting funds for him?

MR. KING: Would that be likely?

MS. REILLY: Would that be likely?

THE WITNESS: You mean if I were --

MS. REILLY: If you were writing a letter.

THE WITNESS: Not on -- not in Association business, for the same reason that happened to Mr. Twichell: You don't know if you are writing a Democrat or Republican.

So, no, I would not automatically put that in any type of volume of letter.

Q BY MS. REILLY: But your personal correspondence, it would have gone in that; is that correct?

A Not necessarily. I would have to -- I suppose I would have to know some person for correspondence.

If I was talking to a friend, and he said send me a card, I may have.

Q And you never sought any assistance from Bush for President's legal counsel regarding the complaint that you received from the FEC?

A No, I don't believe I ever contacted them regarding that.

7950436761610

Q Did you have anyone else contact the legal counsel?

A No. I think after some time had passed someone may have called me from their office regarding this matter. But I never initiated any contact.

Q Do you recall the circumstances of that conversation?

A No.

Q Did you have any further communication with this person?

A I don't recall who called, whether it was someone from the legal staff or from the campaign headquarters.

Q But did you have any further communication with that person?

A I don't believe I had any written communication whatsoever.

Q Did you fax any material to him?

A No.

Q Did you have telephone conversations with him?

A As I mentioned, I never initiated any. But as best as I recal, I did get some type -- I got a phone call from Washington, D.C. regarding the Twichell problem.

9504367 0611

Q Was it a man or a woman that you spoke with?

A I don't recall.

It just seemed like the problem was handled. It was not a problem.

Q I am sorry, when was that?

A I have no idea. Obviously, after the FEC started this.

Q Was it before you got your first subpoena?

A I have no idea the time frame.

Q But you do remember a phone conversation?

A Well, I vaguely remember something about Twichell. I don't recall when it was, to what extent it was or what we talked about.

Q Do you keep a telephone log?

A No.

Q Do you keep messages?

A No.

Q They go the way of receipts?

A Yeah. I mean I can't imagine anybody keeping messages.

Q Did you ever use a for-profit postage meter to solicit contributions to pay for these solicitations that

9504367612

went out?

A (No response.)

Q Let me rephrase the question.

What is your company policy regarding your postage meter?

MR. KING: Regarding what?

THE WITNESS: I don't think we have a policy.

Q BY MS. REILLY: You have a postage meter?

A Yes.

Q And you can use it?

A Anyone can use it.

Q And if someone uses it, are they required to reimburse for using it?

A Yes.

Q Is there some sort of log that is kept next to the meter?

A No.

Q Sort of the honor system?

A Yes.

Q And do you use the postage meter for the letters that you send out personally?

A I keep a roll of stamps in my drawer, which I

9504367613

McFATE REPORTING SERVICE, INC.

generally use. I have -- I am sure I have used the postage meter.

Q If you were out of stamps?

A No, not necessarily.

Q Well, what would the circumstances be that you would use the postage meter?

A I don't have any idea.

Q Let me ask you this: You have got non-profit organizations and for-profit organizations under the same roof. Mechanically, can they use the same postage meter?

A Yes.

Q And it's possible to change the setting?

MR. KING: What setting?

Q BY MS. REILLY: The cost of the postage.

For example, a non-profit organization would pay less postage than a for-profit organization, which would pay perhaps 22 cents.

A There are different types of non-profit organizations, and basically our non-profit organizations pay the full postage.

Q Why is that?

A Direct mail seminars will consistently tell you

9504367614

that a letter that has a 25 cent stamp on it will be read quicker, more intently, and receive higher consideration than any other piece of mail.

I believe that.

Q So it's essentially a policy decision whether you are entitled to use a reduced postage rate; is that correct?

A I don't know. I have never looked into the fact that we could use a discounted postage rate.

Q But your testimony is you always go first class in terms of postage?

A Basically, yeah, unless we're sending out a magazine or something. It would go third or fourth class.

MS. REILLY: Right.

Why don't we go off the record. We're going to take maybe 15 minutes and meet back here at 5:20.

MR. KING: Do you have any idea how much longer you have?

MS. REILLY: Let's put it this way: If you are going to a 7:00 o'clock movie, you are not going to make the show. If you're going to a 9:00 o'clock movie, you are there.

9504367615

MR. KING: That helps, because your reference to 7:00 o'clock was --

MS. REILLY: If you need to call your spouse, this is the time.

(A recess was had off the record from 5:08 p.m. until 5:28 p.m.)

Q BY MS. REILLY: Okay. Back on the record, please.

Mr. Johnson, are you aware of any campaign contributions made by your employees during 1988?

A Yes.

Q Which ones are you aware of?

A Mr. Twichell made a campaign contribution. Mr. Schneck made a contribution.

To George Bush for President you are talking about?

Q No. Actually it was sort of more open ended.

Are you -- let's do the Bush people first and then if you know of any others.

A I think that was all.

My son Todd made a contribution. That was it, I believe.

9504367 6186

Q I am sorry, so Mr. Twichell made a contribution to Bush?

A I believe he did.

Q And when did that occur?

A I have no idea. Sometime during the campaign, the fund-raising activity period.

Q And how much was it for?

A I don't recall. I believe $1,000, but I am not sure.

Q And Mr. Schneck?

A Schneck.

Q Your brother-in-law?

A Yes.

Q He contributed --

A I believe he did.

Q -- to Mr. Bush?

A I believe so.

Q How much was that for?

A Again, I don't recall.

Q Was this at the same time that Mr. Twichell made his?

A I don't recall.

9504367 6617

Q And then you said your son may have made a contribution?

A I am almost sure he did.

Q That was also to George Bush?

A That's correct.

Q And how much?

A I can only assume it was $1,000. I am not sure.

Q Now, your son in 1988, I guess we discovered this morning, was with Todd Publishing?

A No. He received some funds from Todd Publishing, but that's it.

Q He was listed as an employee of Todd Publishing?

A That's correct.

Q How much was his yearly salary, do you recall?

A With or without fatherly support?

Q Both. Let's do with fatherly support and then without.

A He is my son, and I take care of him very well. I have given him $20,000 and helped him buy a home. I make his mortgage payments for him.

I gave him additional funds to keep going and in pursuing things that he enjoys. And so I think it's safe

9504367 6618

MAGNATE REPORTING SERVICE, INC.

to say that he taps his father for $20,000 a year, something like that, over and above his salary.

Q Is he married?

A No. And as far as salary, I really don't have any idea what it was in '88.

Q Okay. And that is the extent of your employees' contributions to the Bush for President Committee that you knew of?

A That I know of.

Q Did they use your little code AZ 04?

A I have no idea. I assume they did.

Q Since the cards were sort of laying around the office?

A That's correct.

Q Do you know if your employees contributed to any other political federal organizations in 1988?

A They contributed to the Presidential Trust, two of them --

Q And that is what?

A -- that I know of.

Q And that is what?

A Presidential Trust?

9504367 1619

Q Yes. Can you describe that for me?

A I believe it was a fund-raising activity to raise money for the nominee of the party.

Q The nominee of the party. The Republican Party, I presume?

A Yes.

Q And is that the Republican National Committee we're talking about?

A I don't recall who the Presidential Trust was a part of or not a part of.

Q Well, did you think it was a part of the Bush for President Committee?

A No. I thought it was more of a Presidential Trust, separate fund-raising activity.

Q Right. But it was a separate fund-raising activity of what, did you know?

A Of the Republican Party, I guess. Of the Republican Party.

Q And you said that two of your employees that you know of made contributions to the Presidential Trust?

A Yes.

Q Who were those?

9504367 1620

A Mr. Twichell and Mr. Cloud.

Q And how much did they each give?

A $10,000 each.

Q When did they do that?

A I don't recall exactly.

Q Was it after the new Hampshire primary?

MR. KING: He testified that he didn't know when that was, Counsel.

MS. REILLY: I am trying to refresh his recollection.

THE WITNESS: I really don't recall.

I believe Mr. Twichell indicated to me he produced his check, and I think Mr. Cloud did. And so if you have those documents, if you would refer to those, that would tell you the date they gave the check.

Q BY MS. REILLY: But you don't recall right now what the date was?

A Right now I don't recall the date, no.

Q Any other employees that you knew of making contributions?

A None.

Q None, okay.

9504367 16621

Your brother-in-law, Mr. Schneck, is he married?

A Yes.

Q And who is he married to?

A (No response.)

Q His wife's name?

A Mary.

Q Is that his mother's name also?

A I believe so. I know it is, yes.

MS. REILLY: Okay. At this point I am going to hand to the court reporter a single Exhibit, two pages, and ask you to mark it No. 10, please.

(Exhibit 10 was marked for identification by the reporter.)

Q BY MS. REILLY: I am going to ask you to take a moment and examine these documents, please.

(Brief pause.)

A Yes.

Q Have you had a chance to review this exhibit?

A Yes.

Q This is a two page document showing three different checks.

Turning your attention, please, to the first page

9504336722

where the exhibit sticker is, is that your signature on the bottom?

A No.

Q Whose signature is that?

A It looks -- I don't know.

Q At the top of the document, is --

A Top of which page of the document?

Q Same page.

A Yes.

Q Is that Mr. Cloud's name that appears there?

A I can't really read that.

Q The signature of it, does that look like Mr. Cloud's signature?

A I am not sure. If you tell me it is, I would have no reason to doubt it.

Q I will tell you that it is, yes.

A Okay.

Q And the second page, the check, E. Kenneth Twichell or Tamara Twichell?

A Uh-huh.

Q Could you read the payee of that?

A Presidential Trust.

9504367 6623

Q And the amount?

A $10,000.

Q And referring back to the first check, the amount of that check?

A $10,000.

Q And the payee?

A The payee?

Q I am sorry, the drawee, the person who the check is made out to?

A Presidential Trust.

Q And are these the contributions which you testified that you knew that Mr. Twichell and Mr. Cloud had made?

MR. KING: I must object, Counsel.

He can't tell from page 1 of Exhibit 10 who signed it, nor the name on the check. So he couldn't possibly answer that question.

MS. REILLY: But he agreed that if I told him that that was a check from Mr. Cloud that he would accept that, I believe.

Q BY MS. REILLY: Assuming that it is Mr. Cloud's check, does this refresh your recollection regarding the

9504367 6624

time period when you testified that Mr. Cloud and Mr. Twichell had both made $10,000 contributions?

A Yes.

Q And the date on the check?

A Date on both those checks were July 19th.

Q Do you remember the day that you received $20,000 in two checks from Mr. Twichell and from Mr. Cloud?

A Yes.

Q Can you tell me a little bit about that?

A They had both received sizable checks from the Association, and individually, not together, came into my office and said they would like to contribute to the Presidential Trust.

Q Now, how did they know about the Presidential Trust?

A I don't recall anything specific.

I could speculate that both Mr. Twichell and Mr. Cloud are what I would call friends, and I am sure I discussed my activity with both of them.

Q Now, we have testimony here that you were soliciting on behalf of the Bush for President Committee?

A Yes.

9504367 1625

Q Were part of your activities also soliciting on behalf of the the Presidential Trust?

A Yes.

Q And did you have a position with the Presidential Trust?

A Trustee, I believe.

Q You were a trustee of the trust.

How many other trustees were there?

A I am not sure.

Q And how did you come to be a trustee?

A I was asked to serve.

Q And when did that happen?

A I believe it was after the general fund-raising events of the Vice President, that the maximum amounts had been raised, and then the Presidential Trust opportunity came about.

Q This is sort of phase 2 of fund raising?

A You could call it phase 2.

Q And who asked you to be on the -- who asked you to be a trustee?

A I am not sure.

Q Was it Mr. Fred Bush?

9504367 1626

A I don't recall. I want to say no. I don't believe so.

Q Did the -- how many trustees were there?

A I have no idea.

Q Did you ever meet any fellow trustees?

A Yes.

Q And who did you meet?

A I don't recall.

Q Where did you meet them?

A In Washington.

Q When was that?

A During 1988.

Q And this would be, presumably, post general election financing time?

A Yes.

Q Would this be before or after you got these checks dated July 19, 1888?

A I don't recall.

Q So you don't recall whether or not you were a trustee at the time you received the $20,000 in contributions; is that correct?

MR. KING: No, I don't believe that is what he

9504367 6627

said.

MS. REILLY: Well, correct me then.

THE WITNESS: I was asked to serve as a trustee. I was asked to serve to raise some funds for the Presidential Trust.

I agreed to do that. And I don't recall when that was. Obviously, it was before I received the contribution.

Q BY MS. REILLY: Okay. So you were a trustee at the time you received the contributions?

A I can only assume that I didn't raise the money and then ran and got put on some list.

Q I am sorry, when did the meeting in Washington occur?

A I have no idea. During 1988. I assume not in the very first part of 1988, more like mid.

Q And this is when you were traveling to Washington on business?

A I have no idea when this meeting took place.

Q Where was it held?

A I don't recall. Mayfair Hotel. That's a guess.

Q Not the Old Ebbet's (phonetic) Grill?

9504367 6128

A No.

Q Did you receive any documents or manuals in your role as a trustee?

A I don't believe so.

Q Did you receive any oral instructions regarding your role as a trustee?

A No. I recall getting something in the mail.

Q You previously had testimony regarding the $1,000 limitation.

Did you receive any instructions regarding the maximum permitted contribution you could receive as a Presidential Trustee on behalf of Presidential Trust?

A Yes, I believe it was $20,000 a person.

Q Who told you that?

A I don't recall.

Q Did you receive any instructions regarding what corporations could do regarding the Presidential Trust?

A No, I don't recall.

Q I am sorry, no, you didn't or, no, you don't recall?

A No, I don't recall.

Q Did you receive any instructions regarding the

9504367 0629

fact that persons contributing were required to contribute their own funds?

A I don't recall.

Q You don't recall?

A No.

Q So tell me what happened when Mr. Twichell and Mr. Cloud made their $10,000 contributions.

A Well, with Mr. Cloud I recall saying, hey, you know, are you sure you want to do that, and him saying something like, yes, he did.

And I said, well, that's -- something to the order like that's a lot of money.

And I don't recall the exact comment from Tim, but something like a fool and his money or something like that, and I am happy to do it, and want to do it.

And he had earned the money from his work in moving the Association. I assume that's where the money came from. And moving the Association to the new building, and that was the end of that.

Mr. Twichell, I think, was a similar type conversation, other than Mr. Twichell indicated that he certainly wanted to stay involved in politics as much as

9504367 6630

and as long as he could.

Q And what was Mr. Twichell's involvement in politics?

A I have no idea.

Q How much was Mr. Cloud making at this time?

A I don't recall.

Q Was he making more than $25,000 a year?

A I think that would be a good number to use.

Q So he essentially gave you a little less than half his yearly salary?

A Well, that's not true in the sense that, as an example, he had earned $10,000. I am not sure if he had other bonuses that year or not, but he had -- the basics of fund raising is that a person contributes when they have the funds to do it. They don't contribute if they don't have the funds. And I think Mr. Cloud had the funds and wanted to do it.

And I don't -- looking back on it in this experience, I certainly would never take another check from an employee again, and I should have discouraged it even more so here. But at the time I don't think there was any discussion of Mr. Cloud's salary or anything.

9504367 6631

I don't know if he made 25,000. The 25 plus the ten would be 35.

Q So he was only giving you a little less than a third of his salary, I guess?

A Yes, uh-huh.

Q You said Mr. Cloud had earned some money moving?

A Uh-huh. The Association paid him $10,000.

Q And $10,000 for moving?

A Right.

Q And --

A It was a bargain.

Q Why was it a bargain?

A We had bids for -- 30,000 was the cheapest up to 50,000.

And both Mr. Twichell and Mr. Cloud relocated all the computer equipment, a lot of our files, everything else. And the Association, by paying each of them $10,000, literally saved $10,000 minimum, and may have saved substantially more than that.

Q What were Mr. Twichell's responsibilities in terms of moving -- no, I am sorry. Let's do Mr. Cloud.

What was Mr. Cloud's responsibilities in terms of

9504367 6332

McPATE REPORTING SERVICE, INC.

moving?

A In charge of the entire computer network, which included one day digging through old cable lines in the floor, getting out trash and things that had been left by the construction people, and running wires, things like that, physically moving the computers.

Q When did this happen?

A July, June-July-ish.

Q When you received the checks, were you in your new office or your old office?

A The new office. The move had been complete.

Q And we decided this morning that it was a fairly fast process in terms of perhaps a week or so; is that correct?

MR. KING: I don't remember that having been decided this morning. But go ahead.

THE WITNESS: I think it was a fast process versus a slow process, I mean like a two year move.

Mr. Twichell I can remember was spending evenings, Saturdays, Sundays at the construction site for months locating equipment, things like that.

Q BY MS. REILLY: Was there a contract with Mr.

McFATE REPORTING SERVICE, INC.

Twichell for how much his services would be?

A No.

Q No contract?

A No.

Q Nothing written?

A No.

Q And how did you come up with the $10,000 figure?

A Well, it was less than the $30,000 bid we had, and certainly I thought it was a substantial amount.

Q You didn't suggest to Mr. Twichell -- I am sorry, Mr. Cloud, that it might be a nice down payment on a house, for example?

MR. KING: Did he suggest that, is that what you are saying?

MS. REILLY: Did you?

THE WITNESS: No. If you know, Mr. Cloud, I don't think he is the type that's going to have a house.

Q BY MS. REILLY: And then the same day you received a check from Mr. Twichell?

A That's correct.

Q And the amount was also $10,000?

A Yes.

9504367 6334

McFATE REPORTING SERVICE, INC

Q And Mr. Twichell got the $10,000 for doing what?

A For what I just testified to, for moving, being in charge of the move --

Q Was --

A -- on his weekends, Sundays, Saturdays, evenings.

Q Was he in charge of the move exclusive of the computers?

A Yes. And, even more than that, I suppose he was in charge of just making sure that the construction was going well and that we could get in on time, stuff like that.

Q Did he have experience with construction?

A Ken?

Q Yes.

A I am not sure. He worked closely with our builder, I know that, and was the chief person in charge of orchestrating the move.

Q But you didn't know or you don't know whether or not he had any experience with construction?

A It wasn't necessary that he has any experience with construction. You know, I don't know what his

9504336761635

experience was or wasn't.

He did a great job and certainly was probably not rewarded enough for his efforts.

Q When did you decide that $10,000 would be the figure they would both receive?

A Oh, probably after considering the -- I don't think there is a particular day or hour or moment that I, you know, that it was decided.

I think as the bids came in that it was $30,000 was the cheapest, and I don't think it was 30,000 even, I think it was like 32,000. And I think if my memory serves me correct, I think the top was even $58,0000 for the move.

And I may have even discussed the move with Mr. Twichell, the cost and figures, and Mr. Twichell may have even discussed with Mr. Cloud, having Mr. Cloud take the move for the computer equipment, if he would be interested in doing that, and that certainly we would pay him for all his efforts. And I don't think there was a dollar figure that was established.

Q Until?

A I don't know when. Probably until we got the

9504367 6336

McFATE REPORTING SERVICE, INC.

bids sometime in early July maybe, maybe later, late June. I am not sure. I don't recall.

Q But prior to this time, apparently, Mr. Twichell was supervising the construction anyway; is that correct?

A Well, you know, he was not supervising construction.

Q Or overseeing it?

A Monitoring was probably the correct thing.

In building a new building you want to be sure that you time your move as quickly as you can so you don't end up paying rent in two different spots and trying to get us into the new expanded space, because we were in such small quarters previously.

Q Did you save any of the bids that came in?

A No. They were ridiculously high.

Q When did you tell Mr. Twichell that he was going to receive $10,000 for his efforts?

A I don't recall. I may have done it on the -- on or about the 19th.

Q And what about Mr. Cloud, when did he first hear that he was?

A Probably the same time frame.

9504367 6337

Q And this is July 1988?

A Well, I produced checks to you that the Association gave Mr. Cloud and gave Mr. Twichell. And if you would look at those checks, I don't recall what the date is, that will tell you the date that they got the good news. Because I think they were probably unaware prior to that date.

Q Okay. So the date that they received the checks was the date that they found out how much the amount of what they were going to be paid for moving expenses was going to be?

A That's right. There was no prior contract, as you characterized it earlier.

MS. REILLY: Well, I do have both those checks. Could you please mark them as Exhibit No. 11?

(Exhibit 11 was marked for identification by the reporter.)

Q BY MS. REILLY: I'll give you a moment to sort of review Exhibit 11.

(Brief pause.)

A Okay.

Q Have you had a chance to review Exhibit 11?

McDATE REPORTING SERVICE, INC.

9504367 1638

A Yes.

Q And turning to the second page of both copies, is that your signature?

A Yes.

Q And that's the checks for $10,000, one which went to E. Kenneth Twichell, and one which went to Timothy Cloud?

A That's correct. Tim Cloud, the check is written.

Q And the date on that is July 19, 1988?

A On both checks.

Q So on the same day that you gave them each $10,000, they immediately turned around and gave $10,000 to the Presidential Trust?

A Yes. Normally that's how contributions are done. When people have money, they give money.

Q And then you recorded it in your, both entries, in your check register; is that correct?

A Recorded what?

Q The $10,000 which you had paid to both of those in your check register?

A Yes.

Q And how did you characterize those?

9504367 6339

A Moving expense. Moving expense on both.

Q Looks like -- was it Mr. Twichell's, looks like there was a cross-out?

A Yeah, there is something crossed out.

Q Looks like it was reimbursement?

A No.

Q Can you figure out what it might have said?

A No.

Q Now, you have also testified that you know that some of your employees made contributions to the Bush Committee; is that correct?

A Yes.

Q And that would be Mr. Twichell, Mr. Schneck, and you believe your son may also have made a $1,000 contribution?

A Yes.

MS. REILLY: Could you mark this No. 12, please?

(Exhibit 12 was marked for identification by the reporter.)

Q BY MS. REILLY: I'd ask the witness to please examine Exhibit 12.

(Brief pause.)

9504367 6640

A Uh-huh.

Q Have you had a chance to review this document?

A Yes.

Q And can you describe it for us?

A It's a check from E. Kenneth Twichell or Tamara Twichell to the George Bush for President for $1,000.

Q And the date on it?

A I can't really read that. My guess would be January 26th.

Q And you knew of this contribution?

A Yes. Mr. Twichell told me he was making a contribution.

Q Can you describe how that occurred?

A No, I don't recall the situation at all. I don't recall if he gave me that or if he mailed it in or what the situation was.

Q Did he tell you that his wife was contributing, too?

A No, I don't recall.

Q Did you subsequently find out that Tamara Twichell had contributed $1,000 to the Bush Committee?

A Yes.

9504367 1641

Q When did you find that out?

A I believe it was when I received a printout from the Bush Committee.

Q When was that?

A I don't recall. They send them out regularly.

Q And the printout listed both Twichells?

A Yes.

Q Did it list Mr. Schneck?

A Gee, I don't recall.

Q What about your son?

A I don't recall.

Q Why do you recall the Twichells?

A Because it was startling that Tamara had also given a thousand.

Q Did you talk to Ken about it?

A Yeah, I think I probably did. I said, hey, what is your wife doing?

Well, she wanted to contribute.

That was very nice.

Q Do you know how much Mr. Schneck contributed?

A No. I believe $1,000.

Q And your son, you stated, you believe that was

95043671842

also $1,000?

A Yes. I am not sure, but it could have been 500. I am not sure.

MS. REILLY: At this point I am going to hand to the court reporter Exhibit 13 to be marked.

(Exhibit 13 was marked for identification by the reporter.)

Q BY MS. REILLY: Turning first to the Twichell contribution, which we previously have shown you the check for dated January 26, 1988, the actual contribution check, and then the document in front of you directly, could you describe that for us, please?

A It's a check to E. Kenneth Twichell for $2,400.

Q And the date of that?

A January 25, 1988.

Q Can you explain why Mr. Twichell contributed $1,000 to the Bush Committee, and January 26, 1988, that his spouse also contributed, and then he received a reimbursement for $2,400 from the National Association of Real Estate Appraisers?

MR. KING: You have mischaracterized that, Counsel.

9504367 1643

MS. REILLY: That is a bonus, I am sorry.

THE WITNESS: Bonus.

What was the question?

Q BY MS. REILLY: Can you explain the coincidence?

A I don't think it's any coincidence.

I think Mr. Twichell got a bonus. And if you know anything about campaign contributions, that's when people give. People give money when they have money. If they don't have it, they don't give it.

Mr. Twichell received over $30,000 worth of bonuses that year, and he did not give $30,000 worth of campaign contributions to Bush.

Q Now, you have testified that Mr. Schneck also contributed $1,000 to the Bush Committee?

A That's correct.

Q And if you look at the check before you from the Valuers --

A Yes.

Q -- could you describe that check for me, please?

A It was a check written January 26, 1988, for $1,150 to Stephen Schneck.

Q And what was the purpose of that check?

McFATE REPORTING SERVICE, INC.

9504367 6644

A It said reimbursement for seminar expense.

Q What sort of seminar was Mr. Schneck attending or planning at that point?

A Gee, I really don't recall.

Q Did he plan seminars regularly?

A Yes. He was the chief planner of seminars for, not only the International Institute, but for the National Association of Review Appraisers.

Q Do you keep a list of the seminars that you ran in 1988?

A No.

Q Do you have one currently for this year?

A I am not sure. I think we would have a list of those programs that are coming up over the next six months.

I am not sure whether -- because I testified earlier we're doing programs -- we're doing programs, seminars, at least every other week now.

Q And "we" being all of the Associations?

A That's correct. And I may have a list of those. We normally don't keep lists of past programs.

Q And how much did Mr. Schneck receive?

9504367 1645

A $1,150.

Q And the date of that?

A January 26th.

Q Did you know that Mr. Schneck made a $500 contribution to the Bush Committee on January 28, 1988?

A No.

Q Do you know that Mary Schneck made a contribution to the Bush for President Committee on January 28, 1988?

A I mean I know they made contributions, whether it was 500 or $1,000.

Q Specifically the question is directed to date and amount.

A Yeah, no. I am not sure when the date was.

Q And the amount?

A Yeah, or what were the amounts.

Q Can you explain the coincidence between the fact that Mr. Schneck received a $1,150 payment and then made a contribution and his spouse made a contribution to the Bush Committee?

MR. KING: It hasn't been established, first of all, that the wife made one.

MS. REILLY: Assuming --

9504367 6646

McFATE REPORTING SERVICE, INC.

THE WITNESS: I would assume that if Mr. Schneck had some extra money, I don't think he is a poor individual by any means, and I don't think there is necessarily any connection between the two.

And Mr. Schneck, I might add, had received numerous bonuses throughout the year.

Q BY MS. REILLY: And your son -- but this was, of course, the seminar reimbursement, I believe.

And then your son received a check from Todd Publishing as well?

A Yes.

Q And what was the date of that check?

A January 26th.

Q And did you sign that check?

A Yes, I did.

Q And how much was his?

A The reimbursement for printing costs. I believe he had put out some of his own money for some type of printing that we had ordered, received, and this was reimbursement for that printing cost.

Q When you say that he put out his own money --

A Probably my money, because I mentioned I gave him

9504367 1647

$20,000.

Q But did your son regularly put out money for those sort of costs?

A Yes.

Q And during 1988, how much would you estimate that to be?

A I have no idea.

Q And the printing costs were incurred from which vendor?

A I have no idea.

Q Can you tell me anything else about that contribution? I mean anything else about that check other than what is written on the check stub?

A Well, the check was made out to Todd Johnson for a reimbursement for printing costs that he had apparently put out for $1,150. And that was the only thing I can tell you about that.

Q Are you aware of the fact that your son made a contribution to the Bush for President Committee on January 29, 1988?

A I am aware that, I believe I am, as I testified earlier, that he made a contribution to the Bush campaign,

9504367 1648

yes.

Q Did you know it was in close proximity to the check that he received from you for the reimbursement?

A It may have been in close proximity to a lot of checks that I have given my son.

Q Did he tell you that he contributed to Bush for President Committee?

A After he did it he did tell me.

Q And what did you say?

A As best I recall, it was something like, well, it's better than spending your money in a bar. And, congratulations, I think, you will now follow the election and campaign more closely.

And, again, reflecting back on it, I think it was the best investment that Todd made in himself. Because throughout the entire year, he followed the campaign and is a little bit more aware of politics at this time.

Q Did he receive any invitations to fund-raising events as a result of his contribution?

A I have no idea.

Q He didn't discuss it with you?

A Never discussed it with him.

9504367 1649

Q Did Mr. Schneck give you the check to transmit to the Bush Committee which he made in January of 1988?

A I don't recall.

Q Did you have a procedure for transmitting checks to the Bush Committee that you received?

A The procedure was usually that I would hand somebody the envelope and the card and say, hey, if you can, I am out looking for funds for George Bush for President. And if you prefer to make a campaign contribution, it would be appreciated.

At that time the people would usually put their own postage on and mail it in and not return it to me.

Q Were there instances where people did return it to you?

A I believe there was.

Q And how many times did that happen?

A I don't recall.

Q More than once?

A Yes.

Q More than five times?

A I don't recall.

Q How did you transmit the contributions to the

9504367 1650

Bush Committee?

A When I was back in Washington I would bring them in.

Q And generally how much time would elapse between when you received that contribution and when you gave it to the Bush Committee?

A I don't have any idea.

Q Are you aware of the fact that there are time restrictions regarding how long you can hang onto a contribution?

A I am sure I did not hang onto the contribution for a month or something like that. But, no, I am not aware that there is a precise deadline for getting it in other than I would not hold onto a check for a month or something like that.

Q Did you ever use Federal Express to Federal Express it out?

A Never.

Q So you would bring it up with you to Washington when you went?

A As best I can recall, when I did receive some checks, I already had a commitment to be in Washington.

9504367 6551

And if I were going and I could beat the post office, I certainly feel a lot more secure dropping it off personally than trusting the U.S. Mail.

Q And so when you dropped the checks off personally, who did you talk to?

A I don't recall.

Q When you dropped the checks off personally, how much money were you bringing in with you in contributions?

A Money by checks?

Q Right.

A Gee, I don't recall.

Q Was it more than four or five checks?

A No, I don't think I ever had more than five checks during the entire campaign that somebody gave me.

Q Anyone give you cash?

A No, I don't think so. No.

If I recall, we were discouraged from accepting cash.

Q That was another thing that was in the manual?

A I don't know if it was in the manual or it was verbally told to us.

Q And how did you keep track of the contributions

9504367 6552

you received?

A How did I keep track?

Q Yes.

A I didn't.

Q You just forwarded them? Didn't keep a list of who had contributed?

A That's correct.

Q Did you your wife contribute?

A Yes.

Q How much did she contribute?

A Gee, I am not sure. I would say $1,000.

Q I am going to ask you to return your attention, please, to Exhibit 10, second page of that exhibit, and the second check that appears on that page.

A Yes.

Q Have you had a chance to look at that check?

A Yes.

Q And could you describe it for us, please?

A It's a check to Durenberger for U.S. Senate for $500.

Q And the date on that?

A I can't read that. Looks like March 4, '88.

9504367 6553

Q And the person who -- the persons' names appearing at the top left corner?

A Ken Twichell, Tamara Twichell.

Q Did Mr. Twichell tell you he was contributing to the Durenberger Committee?

A No.

Q Did Mr. Twichell attend the fund-raising event held in Minnesota?

A Yes, he did.

Q And when was that fund-raising event?

A I have no idea.

Q If Mr. Twichell didn't tell you that he was making this contribution, were you surprised to see him at the fund-raising event?

A Oh, no. He and I talked about going up together.

Q And did you receive an invitation to the fund-raiser?

A Yes.

Q And did you make a contribution to the Durenberger Committee?

A I probably did.

Q And did it occur to you that perhaps Mr. Twichell

McFATE REPORTING SERVICE, INC.

15 9504367 6654

might have made a contribution too if he attended the fund-raiser?

A I guess it was something that just never crossed my mind.

I assume if someone was going to attend they would be giving some contributions. That never crossed my mind.

Q Did you ever act as an agent of the Durenberger Committee in collecting funds?

A No, I don't think I ever collected much money.

Q Did you collect any checks at all on behalf of the Durenberger Committee?

A No, I don't believe so.

Q And the date on that check again?

A It's pretty hard to read, but it appears to be March 4th.

MS. REILLY: Mark that No. 14, please.

(Exhibit 14 was marked for identification by the reporter.)

Q BY MS. REILLY: And I would ask you to take a moment to examine that, please.

(Brief pause.)

9504367 655

A Yes.

Q Have you had had a chance to examine that document?

A Yes.

Q And could you describe it for me, please?

A It's a check register. The one highlighted is to E. Kenneth Twichell.

Q And the purpose?

A Seminar reimbursement.

Q And how much is it for?

A $520.

Q And the date of that check?

A Is 3-4-88.

Q Which is the same date of Mr. Twichell's check to the Durenberger Committee?

A Yes, it is.

Q And can you explain the coincidence where Mr. Twichell received a $520 check from the National Association of Real Estate Appraisers and then made a contribution on the same date to the Durenberger Committee?

A No.

9504367 6556

Q Did Mr. Twichell ever discuss any of his other contributions with you?

A No.

MR. KING: You haven't established that there were any. But go ahead.

MS. REILLY: Any other contributions?

MR. KING: I don't -- not that I remember hearing about.

Q BY MS. REILLY: Can you tell me a little about the printout you would get regularly from the Bush Committee?

A No. It's a printout of names and amounts, I believe, best I recall.

Q And did it come in the mail?

A Yes, I believe so.

Q And how many did you receive of them during the course of the campaign?

A Geez, I don't know. Monthly probably. Maybe more often than that. Maybe every other week. I am not sure. I never paid too much attention to it.

Q Did they have prizes for people who collected the most money?

9504367 6557

A Not that I am aware of.

Q And did you get a final figure from them of contributions that were made as a result of your solicitations?

A I am sure one exists, but I don't recall receiving one.

Q Did you receive a statement from the Bush Committee that they would -- that the Vice President would write thank you letters for people who contributed more than $500?

A Well, I think that was standard knowledge. I suppose it may have even been in the handbook for that matter.

Q Mr. Johnson, let me ask you this very directly: Did you reimburse or give funds to your employees so that they could make contributions to the Bush for President Committee and the other political committees that we have discussed?

A No. I have never given any money to any person to make a campaign contribution.

MS. REILLY: Okay. Let's take five minutes.

9504367 6558

(A recess was had off the record from 6:20 p.m. until 6:30 p.m.)

Q BY MS. REILLY: Just a few follow-up points, please.

I heard you describe today the fact that you have at various times given bonuses to your employees; is that correct?

A That's correct.

Q And you have also at various times paid them seminar reimbursement expenses; is that correct?

A That's correct.

Q In each case where an employee received a bonus, was that bonus only as a reward for work that he had performed as opposed to --

A He or she.

Q He or she.

A Yes, for work that they performed or exceptional duties or things like that.

Q And for seminar expense, when employees were reimbursed for seminar expense, was that only for expenses that they had incurred or would incur in relationship to a seminar run by one of the Associations?

9504367 0659

A Yes, and/or attending a seminar, as I said earlier.

Q Right.

A Right.

Q So these are two very distinct categories, bonuses as distinguished from seminars?

A Yes.

Q Did any of the Associations make any contributions to any political parties or candidates, including state political parties, state candidates?

A I don't recall. As best -- I don't recall.

As best as I remember, I thought it was illegal for corporations to contribute to candidates.

Q This is state we're talking.

A Oh, I don't recall.

Q Have you made any this year, corporations? Have any of the Associations made any contributions to any state candidates or state parties?

MR. KING: Of course, what has been done this year is totally irrelevant to this proceeding.

THE WITNESS: I don't recall.

Q BY MS. REILLY: But, of course, they would be in

9504367 1660

your check register, presumably?

A Presumably.

MS. REILLY: At this point I want to introduce what we hope is our final Exhibit marked as as 15.

(Exhibit 15 was marked for identification by the reporter.)

Q BY MS. REILLY: I am going to ask you to review that, please.

(Brief pause.)

A Yes.

Q Have you had a chance to review this document?

A I thumbed through it.

Q Do you recognize it?

A No.

Q Turning to the last page of it --

A Yes.

Q -- is that your signature?

A Yes, it is.

Q This document is headed National Association Of Real Estate Appraisers, Inc.'s Responses To Interrogatories And Requests For Production Of Documents MUR 2593.

9504367 0661

I direct your attention, please, to what has been marked as page 6 of this exhibit.

A Page 6?

Q Page 6.

A Yes.

Q I ask you to read, please, Request 16 and your response to it.

(Brief pause.)

A Yes.

Q And this question refers, of course, to the solicitation sent out by Mr. Twichell?

A Yes.

Q And I ask you if you have received any information regarding whether anyone had made any contributions as a result of this solicitation?

A That's correct.

Q And your answer is that "No; no contributions were received as a result of this solicitation."

A None that I was aware of.

Q And what steps did you take to answer this interrogatory?

A As best as I could recall, trying to remember

9504367 6662

what, you know, what contributors had given. And I don't recall any people sending any money in because of that.

Q I guess my question is: How do you know why people sent in money?

A I have no idea why people sent in money or how much money they may have or may not have sent in.

They may have sent in thousands of dollars directly to the President, you know, without using the cards or anything else. I have no idea. No one has any idea.

I am saying that I don't have any idea or any knowledge of any contributions.

Q So I guess I am confused.

How do you square that with your response to that, "No; no contributions were received as a result of the solicitation"?

A I do not know of any contributions that were received as a result of this solicitation. That's my answer.

Q Is your answer that "No contributions were received as a result of the solicitation"?

A That I know of.

9504367 6663

Q Not that you don't know whether any contributions were received?

A Well, come on. I mean how would I possibly know if somebody had sent in some money?

Q Didn't you receive a printout from the Bush Committee?

A I never checked the printout to this list. This was done after. I do not have a list, I believe, to check.

Q So you really have no basis for this statement at all?

A No, I had a very good basis. You know, I have looked at those lists. To my knowledge, no, no contributions -- I am repeating this -- no, no contributions were received as a result of Mr. Twichell's solicitation that I know of.

Q That you know of?

A That's right.

Q The only other issue I wanted to probe a little bit with you was in terms of the activities undertaken by Mr. Cloud in the mailing situation -- I am sorry -- in the moving situation.

9504367 0664

Approximately, how long did Mr. Cloud work in terms of relocating the computers?

A Long and hard.

Q And how would you describe long and hard?

A I would describe hard by putting his hands into drains that had such stench from sawdust and bugs, three inch bugs, to pull cables through, hours on end doing that, to long in terms of being at the office, the new office, before he went to work there after working his regular hours and on weekends, Sundays, stuff like that. I would consider that long.

Q And what's the time frame in terms of you moved, I believe, in July?

A Yes.

Q When did Mr. Cloud begin to work long and hard?

A Gee, I don't recall. It was shortly after we got the bids of the minimum of 30,000, shortly after that. And I think the bids came in late June.

Q And Mr. Cloud is a hard worker?

A He is a very hard worker.

Q What were his hours like in 1988 exclusive of the move?

McFATE REPORTING SERVICE, INC.

A Gee, I don't recall.

Q Does he get in in the morning before you do?

A Nobody gets in before I do.

Q What time do you get in?

A 6:30, 7:00.

Q Is he there when you leave at night?

A Well, quite often I leave late at night.

Q What time do you leave?

A 7:00.

Q So, essentially, he works sometime in between 6:30 a.m. and 7:00 at night; is that correct?

A At his regular job?

Q Right.

A That's correct.

Q Does he generally work an eight hour day?

A No.

Q How many hours a day would you estimate that he works?

A 10, 12.

Q When you received the $10,000 payments from Mr. Cloud and Mr. Twichell, when you called Mr. Twichell into your office and gave him his check from the Association,

9504367 6666

did he offer to make a contribution on the spot?

A No.

Q What did he do?

A He thanked me for the check and said it was totally unnecessary. And I said, no, you certainly earned it.

And, as best I recall, he said, no I am enjoying the new building, something to that, and it was a pleasure.

And at that time he left, as best I recall.

Q And did he come back with that check for $10,000?

A Yes.

Q When did he come back?

A I have no idea. Later in the day.

Q Same day?

A Yes, I believe so.

Q And did you have a conversation with him about that?

A I am sure I thanked him from the bottom of my heart.

Q Do you recall thanking him from the bottom of your heart?

9504367 6667

McFATE REPORTING SERVICE, INC.

A I recall thanking everybody that I know gave to the campaign in any way, shape or form.

Q Do you recall Mr. Twichell's specifically?

A I recall thanking -- no, not other than I am confident I thanked him.

Q Now, did you receive first Mr. Twichell's or Mr. Cloud's?

A I have no idea.

Q You don't recall getting a second one, thinking, gee, 20,000, what a day?

A Well, I think that's not characterizing it correctly.

But, no, I don't recall who gave it to me first.

Q And those two checks, did you personally deliver or did you mail?

A I don't recall.

Q Did you go to Washington at any time in July and August of 1988?

A I don't recall. I think it would be fair to assume that I did.

Q That you did go to Washington?

A Yes.

9504367 1668

Q Do you maintain a personal calendar?

A No.

Q What about a business calendar?

A For business appointments or something?

Q Uh-huh.

A No. I take that back. Let me clarify the answer.

I do keep a business appointment calendar for the month that I am in, perhaps even for the next month.

In other words, as I switched my calendar over this morning to November, there were a number of entries for appointments and things that I have to do this month.

Q So it would be like a two month running calendar?

A Yeah, perhaps the current month and something. I normally don't book anything out two months.

Q Mr. Johnson, have you given full and complete answers here today?

A Yes.

Q Is there any answer that you have given that you would like to clarify or modify?

MR. KING: After nine hours it's probably difficult to recall all of them. But --

9504367 1669

THE WITNESS: No, I don't believe so.

MS. REILLY: Would you like to ask your client any questions, Counsel?

MR. KING: Pardon me?

MS. REILLY: Would you like to ask your client any questions?

MR. KING: Well, given the lateness of the hour and the fact that both of us have other committments, I think I will reserve that right.

MS. REILLY: Okay. At this point we are going to continue the deposition, and what we do by that is continue rather than close it.

We don't anticipate at this point coming back and asking Mr. Johnson any more questions, at least at this time. But it's Commission policy that we leave them open and continued as opposed to closing it.

MR. KING: And I would put you on notice that I will object to your taking any additional testimony from Mr. Johnson.

MS. REILLY: Well, I hope that we will not be in a position that we have to discuss that.

But, in any event, we'll present Mr. Johnson with

9504367 1670

his witness fee check, which the Commission issues as a result of its subpoenas.

And we are given to understand that, though it is a December check, it is still good. So I trust you will be able to cash it.

If you want to go to the court reporter's office and sign the transcript, that's generally the policy that we follow.

I understand you have requested a copy as well, and that we won't object to you receiving the signed copy.

MR. KING: If I understand what you just said, yes, we do want a copy of the transcript. Yes, Mr. Johnson will review it.

And I would ask that he then be able to sign that before any notary rather than you said about going someplace to do it.

MS. REILLY: The court reporter's office.

Okay. Off the record. That's it.

(Whereupon, the deposition was concluded this date, November 1, 1990, at 6:45 p.m.)

9504367 1671

I, the undersigned, say that I have read the foregoing deposition, taken November 1, 1990, and I declare under penalty of perjury, that the foregoing is a true and correct transcript of my testimony contained therein.

EXECUTED this 8TH day of JAN, 1990.

ROBERT G. JOHNSON

SUBSCRIBED AND SWORN TO
BEFORE ME THIS_____DAY
OF_____, 1990.

_____

NOTARY PUBLIC

MY COMMISSION EXPIRES:

_____

9504367 1672

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

I HEREBY CERTIFY that the foregoing deposition was taken before me, JAMES J. STRAMAGLIA, RPR, a Notary Public in and for the County of Maricopa, State of Arizona; that the witness before testifying was duly sworn by me to testify to the whole truth; that the questions propounded to the witness and the answers of the witness thereto were taken down by me in shorthand and thereafter reduced to writing under my direction; that the foregoing 37 pages are a full, true, and accurate transcript of all proceedings had upon the taking of said deposition, all done to the best of my skill and ability.

I FURTHER CERTIFY that I am not a relative or attorney of any party, or a relative of any attorney of any party, nor in any way financially interested in the outcome of this litigation.

WITNESS my hand and seal of office this 15th day of December 1990

JAMES J. STRAMAGLIA, RPR
Notary Public

My Commission Expires:
July 29, 1992.

9504367 1673

TRANSCRIPT OF PROCEEDINGS

BEFORE THE

FEDERAL ELECTION COMMISSION

ORIGINAL

In the Matter of

MUR 2984

DEPOSITION OF E. KENNETH TWICHELL

Scottsdale, Arizona

Friday, November 2, 1990

ACE-FEDERAL REPORTERS, INC.
Stenotype Reporters
444 North Capitol Street
Washington, D.C. 20001
(202) 347-3700
Nationwide Coverage
800-336-6646

95043361674

44760.0

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of:)
)
) MUR 2984
)
)
)

DEPOSITION OF E. KENNETH TWICHELL

Scottsdale, Arizona
November 2, 1990
8:30 a.m.

COPY

KENT L. CARTER, RPR, CM
Court Reporter

4 3 0 2 7 1 6 7 5

I N D E X

WITNESS		PAGE
F. KENNETH TWICHELL		
Examination by Mr. Bernstein		4

EXHIBITS	DESCRIPTION	IDENTIFIED
No. 1	Checking Statements, Tamara and Kenneth	11
No. 2	Savings Statements, Tamara	11
No. 3	Check Register	24
No. 4	Subpoenas	40
No. 5	Check Stubs and NAREA Checks	166
No. 6	Twichell Checks and Disclosure Statements	202
No. 7	Check Stubs and NAREA Checks	227
No. 8	Letter, Twichell to Lair, 2-4-88	285
No. 9	Twichell Responses to Interrogatories	300
No. 10	Letter, Johnson to FEC, 4-4-88	300
No. 11	NAREA Supplemental Responses to Interrogatories	315

9504367 1676

The deposition of E. KENNETH TWICHELL was taken before Kent L. Carter, RPR, CM, a Notary Public in and for the County of Maricopa, State of Arizona, at the Clarion Hotel, 7353 East Indian School Road, Scottsdale, Arizona, on the 2nd day of November, 1990, beginning at the hour of 8:43 a.m.

APPEARANCES:

For the Federal Election Commission:

JONATHAN A. BERNSTEIN, ESQ.
Assistant General Counsel
and
PATTY REILLY, ESQ.
Attorney
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

For E. Kenneth Twichell:

MERCHANT, GOULD, SMITH, EDELL, WELTER & SCHMIDT, P.A.
1000 Norwest Center
55 East Fifth Street
St. Paul, MN 55101
BY: D. RANDALL KING, ESQ.

9504367-1677

E. KENNETH TWICHELL,

after being first duly sworn by the Notary,

was examined and testified as follows:

EXAMINATION

BY MR. BERNSTEIN:

On the record.

My name is Jonathan Bernstein, and with me here today is Patty Reilly for the Federal Election Commission; and we are here for a deposition of Kenneth Twichell in Matter Under Review 2984, which is an investigation conducted by the Federal Election Commission pursuant to Title II of the United States Code, Section 437g.

Q. Mr. Twichell, could you state your full name, please?

A. Edmund Kenneth Twichell.

Q. And are you represented by counsel here today, Mr. Twichell?

A. Yes, I am.

Q. Could you identify him, please?

A. Randy King from Merchant & Gould.

Q. Thank you.

9504361678

Have you had your deposition taken before, Mr. Twichell?

A. In regards to this case or ever?

Q. Ever.

A. Yes.

Q. So are you aware that in this deposition I will be asking you questions and you will be asked to respond, that a court reporter will transcribe the questions and answers, and that at the conclusion the transcript will be prepared and you will have the opportunity to review and sign the transcript?

Do you understand that?

A. I understand that.

Q. And do you understand that you are under oath this morning?

A. Yes.

Q. And that that means that in this deposition your testimony is of the same effect as if you were testifying before a Judge and jury.

Do you understand that?

A. Yes.

Q. If at any time during the deposition there is a

9504367-1679

question I ask that is unclear to you, please tell me and I will try to rephrase the question or explain myself. Also, please try to respond audibly so that the court reporter can transcribe your answers rather than nods or other gestures.

Is that okay?

A. Yes.

Q. Okay.

Can you please give me your home address and phone number, please?

A. 3867 East Everett Drive, Phoenix, Arizona 85032.

Q. And your phone number at home?

A. [redacted]

Q. And your work address and phone number?

A. 8383 East Evans Road, Scottsdale, Arizona 85260; International Association Managers, 602-998-2000.

Q. And that's the name of your employer, the International Association Managers?

A. Yes.

Q. Are you married, Mr. Twichell?

A. Yes.

Q. And what is your wife's name?

A. Tammy.

9504367 1680

Q. And is your wife employed?
A. No.
Q. Was she employed in 1988?
A. Yes.
Q. Where was she employed in 1988?
A. Shamrock Foods.
Q. And what did she do there?
A. She was what they call a buyer.
Q. Do you know what her job involved?
A. Buying.
She bought products that they sold. Kept an inventory.
Q. Is this a food wholesaler?
A. It's both a dairy and food and product wholesaler.
Q. Do you know what her salary was in 1988?
A. [redacted]
Q. Did she work full time?
A. Yes.
Q. Would you please tell me something about your educational background?
A. I have a high school diploma. I went to junior

9504367 16881

college for two years, I went to DeVry Institute of Technology, I have a bachelor's degree in computer information systems.

Q. Where did you go to high school?

A. San Marcos High School.

Q. And where is that?

A. In San Marcos, California.

Q. And where were you employed after you got your bachelor's degree?

A. National Association of Review Appraisers and Mortgage Underwriters.

Q. Is that an entity that's related in any way to International Association of Managers?

MR. KING: What do you mean by related?

Q. BY MR. BERNSTEIN: Does it have any connection of personnel, of offices, of any kind?

A. The International Association Managers now manages the National Association of Review Appraisers and Mortgage Underwriters.

Q. So that was your first job after finishing college?

A. Yes.

9504367 1682

Q. And when was that?

A. That was so long ago.

Q. Or it feels like a long time anyway.

A. It was. Time is -- a lot of things have happened between then and now. Two kids and married.

September of '86. It's a reasonable guess.

Q. Okay.

What sort of real estate experience did you have before you went to work for the National Association of Review Appraisers?

A. Well, my family is very involved in real estate, so I have a background in that area. Other than that, no true experience in real estate. Job-wise.

Q. Was that part of your junior college course work in any way?

MR. KING: That being real estate, you mean?

MR. BERNSTEIN: Yes.

A. No.

Q. BY MR. BERNSTEIN: And it wasn't part of your computer studies that you got your bachelor degree in?

A. Actually my degree is in management, computers; also I have a second degree in accounting. So I think

9504367 1683

that -- what I am getting to is no, no true studies in real estate.

Q. You have never been a real estate appraiser per se?

A. I have never been a real estate appraiser. Per se.

Q. What I'd like to do now is to ask the court reporter to mark two exhibits.

(Exhibits 1 and 2 were marked for identification by the court reporter.)

MR. KING: Are you going to interrogate the witness about these now? I'd like to see them before you start.

MR. BERNSTEIN: Not yet.

Q. BY MR. BERNSTEIN: What was your family's involvement in real estate that you just mentioned?

A. My grandfather and my father are actively involved in real estate in the state of California. Have owned shopping centers, residential homes, commercial buildings, since I was a very small child. As a matter of fact, my grandfather's been in the business for a very long time.

9504367 16884

Q. Your college studies were in California as well?

A. Two years were, then the other three years were here in the state of Arizona.

Q. So you went to college here and then started working here; is that right?

A. Yes.

Q. I handed to you two exhibits, Exhibits number 1 and 2. Exhibit 1 purports to be bank statements that have a name on top of Tamara Twichell or E. Kenneth Twichell; and Exhibit 2 are also bank statements that have a name on top Tamara Twichell. And I'd like you to look at them for a minute if you would, please.

(Conference between Mr. King and Mr. Twichell out of the hearing of the court reporter.)

Q. BY MR. BERNSTEIN: If at any time, Mr. Twichell, I ask you questions and you would like a little time to examine any of the exhibits to refresh your recollection, please take as much time as you need.

(Pause.)

Are these exhibits familiar to you, Mr. Twichell?

A. I've seen them because of this investigation. I would not regularly see these.

9504367 1685

Q. Are these bank statements for accounts that you and your wife maintained?

A. Yes.

Q. And these are statements that are regularly sent to you; is that right?

A. Yeah.

Q. So how is it that you don't regularly see them?

A. I really don't look at my statements that much.

Q. Does your wife look at your statements?

MR. KING: If you know.

A. I assume she looks at them, yes.

Q. BY MR. BERNSTEIN: Are you familiar with the accounts that these statements refer to?

A. Yes.

Q. So Exhibit 1 seems to be a checking account at Western Savings. Is that right?

A. Yes.

Q. And let me say that the entire focus of the questions that I am asking you in this area unless I tell you otherwise were really during the calendar year 1988. Okay?

A. Yes.

9504367 16886

Q. So if there are instances where something has changed in the meantime, I'm more interested in that time period. Okay?

A. Yes.

Q. Did you have a savings account in addition to a checking account?

A. Yes.

Q. Okay. If these two exhibits are bank statements from two accounts, one a checking account and one a savings account, I guess I'd like to know if during 1988 there were any other bank accounts that you and/or your wife maintained?

MR. KING: Do you understand the question?

A. I'm not sure.

Q. BY MR. BERNSTEIN: Well, who would know the answer to that?

A. My bank.

Q. Which bank are you referring to?

A. Western Savings.

I think I had -- to clear it up. I think I had some CDs and an IRA and some accounts like that that had some funds in them.

9504367 1687

Q. Did you have accounts in 1988 with any other financial institutions?

MR. KING: Believe he's already answered that he didn't know. Go ahead.

A. No.

Q. BY MR. BERNSTEIN: So you do know the answer is no.

A. Why don't you repeat the question again?

Q. During calendar year 1988 did you have accounts at any other financial institution? And when I mean other, I mean other than Western Savings.

A. No.

Q. Thank you.

Did you have another savings account at Western Savings?

A. I don't know.

Q. Is it possible that you had another savings account during 1988 at Western Savings?

MR. KING: He just said, counsel, that he didn't know.

A. I don't know.

Like I said, that was a long time ago.

9504367 1688

Q. BY MR. BERNSTEIN: Do you still have --

A. This bank doesn't even exist any longer. It's called Bank of America now. A lot of changes have occurred over the last --

MR. KING: Okay.

Q. BY MR. BERNSTEIN: Do you still have your accounts at this bank even if the name has changed, at the same institution?

A. I believe so.

Q. And do you and your wife maintain more than one savings account now?

A. Yes.

Q. Well, what are the names on those savings accounts?

MR. KING: Today?

MR. BERNSTEIN: Today.

MR. KING: I will object that it's irrelevant, but go ahead.

A. I have an account at Valley National Bank; it's a checking account, not a savings.

Q. BY MR. BERNSTEIN: When did you open that account?

9504367 1689

A. Eight months ago.

Q. And as far as the savings accounts at the renamed institution that you described, what were the names on those savings accounts? What are the names on those savings accounts?

A. Well, look at --

MR. KING: In '88?

MR. BERNSTEIN: Now.

MR. KING: It's irrelevant.

Go ahead.

A. I don't know. I'd have to look at the statements.

Q. BY MR. BERNSTEIN: Are they joint accounts?

A. I don't know.

Q. Well, in front of you is a savings account that has the name of Tamara Twichell on it; and so I guess my question is, if now you have two savings accounts and this represents one, do you know when you opened the second savings account?

A. What second savings account are you talking about?

Q. Well, I think I asked you if there was more than

9504367 1690

one savings account in the institution that is the successor of Western Savings, and your answer was yes.

A. I said I had some CDs and some IRAs. Do you consider those savings accounts?

Q. I'm trying to question you separately than the CDs and IRAs that you described.

A. As you can see here, this one's under my wife's name, Tamara Twichell. She opened accounts without my knowledge and she put them under her own name and her own account, and she did make her own money. So.

Q. When were you married, Mr. Twichell?

A. 1985.

Wait. Maybe it's later than that. '86.

I don't know my anniversary date.

Q. I won't ask you that.

Did your wife have her own bank accounts when you married?

A. Yes.

Q. And did she maintain those accounts after you were married?

A. To my knowledge, yes.

Q. Did you and/or your wife maintain more than one

9504367 1691

checking account during 1988?

A. No.

Q. So is it a reasonable inference that the statement, the bank statements that are Exhibit 1, was you and your wife's only checking account during 1988?

A. Yes.

Q. Did you and your wife both carry around checkbooks, Mr. Twichell?

A. In 1988?

Q. In 1988.

A. Yes. I assume my wife carried one.

Q. Did you carry around a checkbook in 1988?

A. Yes.

Q. And it was a checkbook containing checks that were written on the account for which statements are provided that are Exhibit 1. Is that right?

A. I'm assuming yes.

Q. And did you keep a check register of the checks that you wrote on that account?

A. No.

Q. Was any record kept of the checks written on that account?

9504367 1692

A. The way that our checkbook is set up is that when you write a check a copy is automatically made.

Q. The carbon?

A. Yes. And then when my wife is keeping track of her, you know, checking up the account, she rips it out of my checkbook; and I don't have any records whatsoever of what checks I ever wrote.

Q. Well, what does your wife do?

A. She checks them against the account, and I think she throws them away. I think, I'm not sure.

Q. Does she keep any kind of check register?

A. Yes, and I believe I produced that.

Q. During 1988 you didn't keep any kind of check register. Right?

A. No.

Q. Your wife you think recorded transactions in a check register from your tissue receipts?

A. My carbons, yes.

Q. Your carbons. And was there any other source of information that she had for the records that she made?

A. Just the carbons.

I'm not sure if I understand the question.

9504367-1693

Q. What else would she have looked at when she was making entries in the check register?

A. What else did she need? Just how much the check was written for.

Q. What about deposits?

A. I didn't make deposits.

Q. How did monies get into your checking account?

A. Think I gave them to my wife and she deposited them in the account. I might have made a few deposits and given her a deposit receipt.

Q. But you think in most instances you passed on checks that you received to her and she took care of it?

A. Deposited in the account during her lunch hour.

Q. Well, would you have told her what a check represented that was to be deposited? What it was for?

MR. KING: Ever? Did he tell her that? Is that the question?

Q. BY MR. BERNSTEIN: What your practice was.

A. I guess I don't understand.

Q. Well, when you hand her a check and she would deposit it, would she ever ask you what it was for to make a notation or to have a record of whether it was a salary

9504367 1694

check or anything else?

A. I don't remember. Yeah, I'd give her a check and say this is my paycheck.

Q. During 1988 did you have an automatic deposit of your paycheck?

A. My check? Paycheck? No.

Q. Yes.

So you were given a check and in most instances you handed them to your wife and she took care of it?

A. Deposited in the account, yes.

Q. How often did she enter checks in the check register, do you know?

A. No. I do not.

Q. Did you ever look at the check register?

A. No.

Q. Never?

A. Never.

Q. Off the record for a second.

(Discussion off the record.)

MR. BERNSTEIN: Back on the record.

Q. BY MR. BERNSTEIN: Do you think your wife balanced your checkbook?

9504367 1695

A. Not well.

Q. Why do you say that?

A. Well, we were both working at the time, very full time. I mean, I was working twelve hours a day. She was -- her father was Vice President of the company she was working for, which is a major corporation. And she was putting in a lot of hours as well. She did not dedicate herself to the checking account, and we had several problems at the time with our account.

Q. Do you mean mathematical discrepancies?

A. Just not spending the kind of time you should spend on the account and checks would bounce, we didn't get money in time, paychecks didn't go in right the same day. You know, those kind of situations.

Q. So you never saw the check register. Do you know where your wife kept the check register?

A. If you are asking if I had access to it, yes, I did. I would ask her and she would have told me, yes.

Q. No, actually my question is, just physically where was it kept?

A. I don't remember where it was kept now, but I'm sure I knew.

9504367 6696

Q. Well, was there a place in your house in 1988 where --

A. Yeah.

Q. -- your bank information was kept?

A. Yes.

Q. Where was that?

MR. KING: If you know.

A. I'm trying to remember what house I lived in then. I don't know.

Q. BY MR. BERNSTEIN: Well, why don't we back up. What house did you live in in 1988?

A. I think I lived where I am now, 3867 East Everett. Kept in a cupboard in the bedroom above the dressing area.

Q. Do you know for how long your wife maintained check registers in that place?

A. Still does.

Q. Going back how far?

A. Since the day we moved into the house.

Q. So she's never packed up any of the check registers and put them into storage?

A. We pack up the check registers and put them into

9504367216997

a file drawer in the garage.

Q. And that's where they all are now?

A. I would assume that's where they all are now.

Q. I will ask the court reporter to mark another exhibit.

(Exhibit 3 was marked for identification by the court reporter.)

Q. BY MR. BERNSTEIN: I am handing Exhibit number 3 to you, Mr. Twichell, and ask you to review it. Let me by way of explanation tell you that you had earlier described that you thought you had produced the check register to the Commission. And, in fact, your counsel produced parts of a check register in, I believe, three installments. And for the purpose of this deposition we have assembled the check register in chronological fashion and we have numbered it on the bottom there. So the handwritten numbers that you see are ones that were added by us.

(Conference between Mr. King and Mr. Twichell out of the hearing of the court reporter.)

MR. BERNSTEIN: Please take as much time as you need.

(Pause.)

9504360216998

Q. BY MR. BERNSTEIN: I see you've finished paging through it. Do you recognize Exhibit 3?

A. It's a record of the checks written by both my wife and I in 1988.

Q. Is that her handwriting?

A. Yes.

Q. You're sure about that?

A. Yes.

Q. I wonder if you can first answer one or two general questions and -- well, why don't you tell me first, can you tell me the times which you've seen any of these check registers?

MR. KING: I'm sorry, the number of times he's seen it?

Q. BY MR. BERNSTEIN: Number of times, yes.

A. In 1988?

Q. No, up to the present time. Before now.

A. Less than five.

Q. Did you ever look at this during 1988? When I say this, I mean any part of the check register that your wife maintained.

A. I don't remember if I did or I did not.

9504367216999

Q. On page 2 of the exhibit there are a list of checks, information is entered; and am I correct that the practice your wife apparently followed was to list the check number and then the date, the payee of the check, and then the purpose, the amount, and then a running balance along the right-hand side?

A. On this one page there are -- yes, that's pretty well the standard. Sometimes she did not explain what it was for.

Q. Do you see at the upper left of the page there is a capital T that's circled?

A. Yes.

Q. Do you know what that means?

MR. KING: Do you know? That's what he asked.

A. No.

Q. BY MR. BERNSTEIN: Don't know what that means.

Okay, down near the bottom in the same column to the upper right of check number 612 there is a capital K that's circled. Do you know what that means?

A. No.

Q. Is it possible that your wife used these initials to distinguish between the checks that you wrote and the

9504367 1700

checks that she wrote?

MR. KING: Counsel, he said he didn't know what these meant.

A. I don't know.

Q. BY MR. BERNSTEIN: Anything's possible. Okay.

And again, you don't know how often she entered checks either; right?

A. No.

Q. Wonder if you could turn to page 14.

Now, some of this is a bit difficult to read, Mr. Twichell; and should it prove desirable or necessary, perhaps you could even furnish the original check registers for us. But let's see if we can make do with these copies.

About halfway down the page there is a deposit listed on April 8th for $350. Do you see that?

A. Yes.

Q. Can you read your wife's handwriting as to the purpose of that deposit?

A. It says from Ken's savings.

Q. So in April of 1988 what account would that refer to?

A. I don't know if it referred to an account at all.

9504367 17 01

Q. Well, what else could it refer to other than an account?

A. I keep money in my top drawer in my bedroom.

Q. How much money do you keep -- or in 1988 how much money did you keep in the top drawer of your --

A. Anywhere from zero to $600.

Q. I'm sorry, that was the top drawer of --

A. My dresser.

Q. Of your dresser.

Where did the money come from, Mr. Twichell, that you kept in the top drawer of your bedroom dresser?

MR. KING: In 1988.

MR. BERNSTEIN: In 1988.

A. I don't remember. Leftover lunch money, gifts. Could be anything.

Q. BY MR. BERNSTEIN: Mr. Twichell, do you recall the Commission's subpoenas that were issued to you in this matter?

A. Yes.

Q. Do you recall that it required production of bank statements for all accounts that were maintained by you?

A. By myself, yes.

9504367 1702

Q. What inquiry did you make, Mr. Twichell, to make sure that you had identified all the accounts so that you could produce all the bank statements?

A. I spoke to my bank, spoke to my wife; and I've produced all the accounts that my name's on.

Q. So did you inquire about whether there was another savings account at Western Savings bank?

A. Yes.

Q. And what did you discover?

A. I did not inquire if there was another savings account because I didn't know that one -- if one even exists. I talked to my wife, talked to my bank; and I've produced all my accounts.

Q. Would you turn to page 17, please.

Do you see at the bottom of the page there is a deposit on May 9th for $550?

A. Yes.

Q. And can you read your wife's writing about what that deposit represents?

A. Deposit from savings.

Q. Do you know what account that refers to?

A. No.

9504367/703

Q. And if I told you that on that date there is no withdrawal from the savings account described in Exhibit 2, where else might that money have come from?

MR. KING: Well, he's already testified where it might come from.

A. That's maybe where it came from.

That Exhibit 2 has my wife's name on it. In actuality, I had nothing to do with that account. It's not my money. There might have been another account my wife held under her own name. It's her money. She controlled her own funds. I don't know.

Q. BY MR. BERNSTEIN: Just so I can be clear --

MR. KING: I want that clarified. So that the answer to the question is you don't know?

A. I don't know.

Q. BY MR. BERNSTEIN: And what I'd like to do is to as best as you can to exhaust your knowledge frankly of what the possibilities are. The process of elimination.

Now. We know that your wife had a savings account at Western Savings. Do you know if funds moved from that savings account to your joint checking account from time to time?

9504367 1704

A. I don't know.

Q. So it might have, but you don't know?

A. Yeah.

Q. And please tell me again where a deposit of $550 described as from savings might have come from if not that account.

MR. KING: Well, he's already stated where it might have come from, counsel. Need we go through it again?

Q. BY MR. BERNSTEIN: Well, let me then list my understanding and maybe you can tell me if you can add anything to it or not.

You didn't have another savings account at Western Savings during 1988. Correct? Or at least you don't think you did based on the inquiry you made.

A. Not to my knowledge.

Q. Okay. You think that this deposit from savings could either have come from cash that you kept in the top drawer of your bedroom dresser or from some other account that your wife maintained and which you have no knowledge. Is that fair?

A. Or we don't know. I -- that's fair.

Q. You're also not sure of what your wife means when

9504367 1705

she writes deposit from savings; are you?

A. That is true, I am not sure.

Q. You said that the cash that you kept in the top drawer of your bedroom dresser could have represented gifts?

A. Yes.

Q. What other sources were there for the cash that you kept in the top drawer of your bedroom dresser?

A. Leftover lunch money from the week.

Q. How did that work? When you say leftover lunch money. Was there a set amount that you had in your pocket for lunch for the week?

A. No. But if I was to write a check for $50 cash and I only spent $30 of it, I would take the extra $20 of it and put it in my top drawer.

Q. Okay. What other sources?

A. I don't recall the other sources.

Q. Well, what sources of monies did you have during 1988?

A. Paychecks, regular bonuses throughout the year, gifts.

Q. Gifts from who?

A. My grandparents and my father. They're rather --

9504367 17706

let's just say well off; and being in Arizona it was much easier for them to send me a 200 or $300 gift, you know, cash as a gift, a check, as a gift instead of -- so I would cash the check and keep it in my drawer.

Q. What other sources of receipts did you have during 1988?

A. Receipts?

Q. Money.

A. Oh. Talking about receipts, like paper receipts.

I think in 1988 I was helping out a friend working on some cars, I might have received a couple dollars for that. But basically that's the source of my income.

Q. How long did you have the practice of keeping cash in the top drawer of your bedroom dresser?

A. I've still got some in there now.

Q. When did you start doing it?

A. When I was about eight, I think.

Q. What's the most you ever had at any one time?

MR. KING: If you know.

A. I don't know.

Q. BY MR. BERNSTEIN: Would you ever have had a thousand dollars in there in cash?

9504367 17707

MR. KING: I suppose anything is possible. Do you know?

A. No. I really don't know. I never really counted it. I just kept it in there.

Q. BY MR. BERNSTEIN: What did you use those monies for?

A. Personal things.

Q. What kinds of personal things?

A. Gifts, buying things for the house, buying things for the cabin, buying my wife flowers. Things like that.

Q. It's good to buy your wife flowers.

Did you make large purchases with the cash in your dresser drawer?

MR. KING: Large as compared to what?

Q. BY MR. BERNSTEIN: Compared to what your ordinary transactions were.

MR. KING: Do you understand the question?

A. In other words, did I buy two or $300 worth of items? Yes. Christmas.

Q. BY MR. BERNSTEIN: Did you use this for regular spending money or only on occasion?

A. Just on occasion.

9504367 17708

Q. Did money ever go from your dresser drawer into your bank account?

MR. KING: He's already stated that it could have.

A. Yes. Could have.

Q. BY MR. BERNSTEIN: Well, how would it have happened?

A. I don't remember how it would have happened.

(Conference between Mr. King and Mr. Twichell out of the hearing of the court reporter.)

Q. BY MR. BERNSTEIN: Did you ever make deposits in your bank account from the cash in your dresser drawer during 1988?

MR. KING: Ken personally?

MR. BERNSTEIN: Yes, Ken personally.

A. I don't remember.

Q. BY MR. BERNSTEIN: Can I infer that it wasn't a regular practice of you to do that? If it were a regular practice you would have some recollection of it; right?

A. Yes.

Q. I'd like to turn to page 19 of the check register, and down near the bottom there is a deposit on

9504367 17709

March 17th, 1988 for $241. Do you see that?

(Conference between Mr. King and Mr. Twichell out of the hearing of the court reporter.)

A. 317?

Q. BY MR. BERNSTEIN: Yes. Do you see that?

MR. KING: Do you see it?

A. Yes.

Q. BY MR. BERNSTEIN: Can you read your wife's writing of what that deposit represented?

A. Deposit from --

MR. KING: No. Can you read it?

MR. BERNSTEIN: Well, I gather the answer was yes, and the witness is trying to read it. So I appreciate his efforts.

A. Deposit from little savings.

Q. BY MR. BERNSTEIN: Do you know what your wife meant by that?

A. No.

Q. You have no idea what your wife meant by that?

A. That is correct.

Q. Can you explain to me why there seem to be three entries of which that deposit is the middle one that are

9504367 1710

dated March, while the surrounding transactions are in May?

A. My wife kept a bad account?

Is that the question?

That would be my answer since she's not very good at this.

Q. When you say she is not very good, do you mean that she didn't always keep the check register regularly?

A. On a timely manner. Right.

Q. Did she ever record transactions inaccurately?

A. Not to my knowledge.

Q. Please turn to page 28. On that page there is an August 1 deposit for $280. Do you see that?

A. Yes.

Q. Can you read your wife's writing about what that represents?

A. Deposit from my savings.

Q. Do you know what that means?

A. No.

Q. Mr. Twichell, do you believe that you produced in response to the Commission's subpoenas the check registers for the entire year 1988 for this account?

MR. KING: To the extent they were available.

9504367171

A. Yes.

Q. BY MR. BERNSTEIN: The reason I ask is that there appears to be a period of time of about three months missing, and that is from mid August to December of 1988. And I refer you to pages 30 through 31 and 2.

MR. KING: Well, Exhibit 3 represents a compilation of documents compiled by you folks, so I'm assuming that those documents were never produced, although I don't know that.

MR. BERNSTEIN: Those documents were never produced.

A. Then the check register has been lost. Or I would have produced it.

Q. BY MR. BERNSTEIN: Mr. Twichell, did you go looking for these check registers after you got the subpoenas?

A. Yes.

Q. Did you and your wife look for them together?

A. I asked my wife where to look and she told me, and I went looking for them.

Q. And where did you find them?

A. In the garage in the file drawer.

9504367 1712

Q. Were the check registers for 1988 all in a single file, Mr. Twichell, or how were they kept?

A. They are in a file drawer in the garage.

Q. Well, do you remember looking to see whether the check registers covered the entire year 1988?

A. Yes.

Q. Do you remember when that was, Mr. Twichell?

MR. KING: Is that you remember looking? Is that what you just said?

A. I remember looking to see if I have all of 1988 statements. Or check registers.

Q. BY MR. BERNSTEIN: When did you do that? When did you go look?

A. Following the subpoena you produced.

Q. Well, let me show you the subpoenas, Mr. Twichell, and maybe that will help refresh your recollection about when you went to look.

I will ask the court reporter to mark the exhibit, please.

(Exhibit 4 was marked for identification by the court reporter.)

(Recess taken from 9:41 a.m. to 9:47 a.m.)

9504367 17713

MR. BERNSTEIN: Back on the record.

Q. BY MR. BERNSTEIN: The court reporter has marked as Exhibit number 4 three Commission subpoenas, and I'd like you to just have a look at them and see if you are familiar with them.

A. Yes, I'm familiar with these documents.

Q. Did you notice, Mr. Twichell, that the second subpoena of the bunch, and I am referring to page 3 of the document, subpoena dated November 29th, requires you to produce all your check registers for the year 1988, January through June?

A. Yes.

Q. Now, this subpoena was issued at the end of November of last year, Mr. Twichell. Does that refresh your recollection of when it was that you first went to look in your garage for the check registers?

A. Yes.

Q. Well, when do you think you did that?

A. I'm sure I did it a few days after receiving your subpoena.

Q. Well, do you have a specific recollection of when you did it?

9504367 1714

A. No.

Q. Was it the wintertime, to the extent you have winter here, when you did it?

A. It wasn't hot in the garage, so I think it was probably winter.

Q. Was it before Christmas of last year?

A. I don't remember.

Q. How many times did you go look in the garage for these check registers?

A. I don't remember.

Q. You know you did it once. Did you do it more than once?

A. I don't remember.

I remember going back more than once looking for documents.

Q. Was there any place else that you looked for documents?

A. I believe I searched the house upside down looking for the documents requested.

Q. Okay, back to the check registers. So once but probably more than once you think you visited the garage and looked in the file that held these check registers.

9504367715

A. Yes, I went to great lengths to make sure I produced all the documents that you requested.

Q. Well, would you be surprised to discover that in fact there are several months missing from the check registers that you produced?

A. I'm not surprised. It was some time ago. They got lost.

Q. How did they get lost?

A. I don't know.

Q. Well, the check registers that were kept in your garage, were they otherwise complete?

MR. KING: Do you understand the question?

A. Yeah, repeat the question, please.

Q. BY MR. BERNSTEIN: Was it your impression that all of the check registers maintained by your wife once they were no longer current were put in the file drawer in your garage?

A. Yes.

Q. So if you think all of them were put there, do you have any explanation of why it is that some portion of them might not have been there when you went to look?

A. Obviously one of them didn't make it in there. I

9504367 1716

don't know why, but they did not. My wife doesn't know why, I drilled her about it.

Q. Oh, did you discuss then with your wife the absence of some of the check registers?

A. I asked her where the check registers were kept and asked her if there was any other location. I remember specifically talking to her about it because I had the subpoena and I needed to adhere to it.

Q. But just so I can be clear about it, did you before think that you had produced check registers for the entire year complete?

MR. KING: Before when?

MR. BERNSTEIN: Before now.

A. I thought that I had produced everything, yes. Everything that I had, I produced.

Q. BY MR. BERNSTEIN: So you never discussed with your wife specifically the absence of several months of the year?

A. I don't recall.

Q. Well, if you thought you were producing all of them you wouldn't have had any occasion to ask her why some were missing, I suppose; huh?

9504367717

A. Yeah, my wife told me where all the check registers were and I went to that area looking for everything.

Q. And when you found the check registers did you take them out of the file?

A. Yes.

Q. And what did you do with them then?

A. Put them all into a paper bag and took them to the office.

Q. And what did you do with them in the office?

A. Sorted them out, and then I sent them to my legal counsel.

Q. How soon after you initially retrieved them from the garage did you send them off to your counsel?

A. That same morning that I did it -- well, within days.

Q. Did you send off the original check registers?

A. I don't recall.

Q. You brought the check registers to your office in a paper bag. Right?

A. I believe I still have the original check registers.

9504367 1718

Q. So you copied them and mailed the copies. Is that what happened?

A. Yes.

Q. And did you then put the originals back in the file drawer in the garage?

A. No.

Q. What did you do with them?

A. I believe they're still in my office.

Q. And are you certain, Mr. Twichell, that you copied all of the original check registers that you found for 1988?

A. Yes.

Q. And are you certain that you mailed all of those to your counsel?

A. Yes.

Q. Did you put in the paper bag any documents other than the check registers in your visit to the garage?

A. Yes.

Q. What other documents? Or what other types of documents?

A. Checks written in 1988, banking statements, and those carbon copies.

9504367 1719

Q. I'm sorry, the carbon copies?

A. From the checkbook.

Q. You are referring to something other than check copies themselves?

A. Yes, the carbon copies of the checks.

Q. Did anyone at the office help you sort these out and copy them?

A. No, I sorted them out myself and copied them.

Q. Off the record.

(Discussion off the record.)

MR. BERNSTEIN: Back on the record.

Q. BY MR. BERNSTEIN: Mr. Twichell, what further inquiry could you make to tell us with certainty what happened to the missing portions of the check registers and also to tell us with certainty if you had another savings account in 1988?

A. I'm certain I've produced everything that I was asked to produce that I have.

Q. Well, please answer my question. What could you do to check into those two points?

MR. KING: Today or what did he do --

MR. BERNSTEIN: No, I'm asking what he could do

9504367 1720

now or in the future to give us complete answers on those two points.

A. I've done that. I've gone through the drawer, the file drawer in my garage, and that's where all the records were kept.

Q. BY MR. BERNSTEIN: And your wife maintains the check register. Did she put them in the garage or did you put them in the garage? Whose job was it?

A. Both of us.

Q. So she kept the check register and she put them in the garage, but it seems reasonably clear by now from what you said that you haven't discussed with her that some of the check registers seem to be missing. Right?

A. I don't recall.

Q. Well, what you said was that it wasn't apparent to you before now that any of them were missing; so I think it follows that it's probably not an area that you pursued with her.

MR. KING: No. I object. I don't think that is what he said.

A. It was a long time ago.

Q. BY MR. BERNSTEIN: Well, it wasn't so long that

9504367-1721

you went to look for them, Mr. Twichell; was it?

MR. KING: About 11 months ago.

Q. BY MR. BERNSTEIN: Is that a long time?

A. That's a long time.

Q. Do you often get subpoenas from federal agencies, Mr. Twichell?

A. No.

Q. So this certainly must have stuck out in your mind as being a little out of the ordinary course of business; didn't it?

A. Yes. Yes.

Q. Now, just to be clear again, you don't remember your wife saying anything to you, do you, about a portion of the check register being missing or what might have happened to it?

A. No.

(Conference between Mr. King and Mr. Twichell out of the hearing of the court reporter.)

A. When I produced this information --

Q. BY MR. BERNSTEIN: Mr. Twichell, after conferring with counsel would you like to clarify your answer?

A. I want to clarify the situation.

9504367 17722

Q. Please do.

A. When I produced this information, I produced everything; I searched the drawers, and I produced all the information that I knew that I had. My counsel came back to me and told me I was missing certain things. And I went back and I searched again for that information. And I know I would have asked my wife where it is. And so I'm sure I discussed it with her and I do not have any more documents in my possession for the period that you're asking for.

Q. Well, when was it that you went back to look again after talking with your counsel?

A. After my counsel told me I was missing things, I went and looked.

Q. And what did you find?

A. No more documents.

Q. No more documents?

A. Not that I remember of. No more documents.

Q. Well, then, is it right that the personal financial records that your counsel produced to us were all sent to him in that initial mailing you did when you first put the documents into a paper bag and brought them to the office and copied them; is that right?

9504367 1723

MR. KING: No, that isn't right.

MR. BERNSTEIN: Then the witness can tell me.

MR. KING: You are asking what we produced to you? That took a course of a long time, because he was getting stuff from the bank; so your question isn't correct.

MR. BERNSTEIN: Let me make it more specific then. I apologize.

Q. BY MR. BERNSTEIN: Certainly what we have are the bank statements, your checking account statements for the period 1988. That was Exhibit 1. Okay?

A. Yes.

Q. All right. And we have your check registers, which, as I explained, we have put together from three different submissions your counsel made. And that is Exhibit 3. Right?

MR. KING: Right that that is Exhibit 3. He doesn't know whether it was three or more or how many we did.

A. I don't recall.

Q. BY MR. BERNSTEIN: Let me try to narrow the question to clarify that.

A. Good.

9504367 17724

Q. The check registers that are Exhibit 3, did you mail all of them at one go to your counsel?

A. I think the problem here is I'm trying to answer the questions and I just don't recall; and I don't want to answer that way, I'm sorry. But I might have gone back three times per my legal counsel's advice and looked for the documents, I might have found something new every time. But I looked in that drawer. That's where I found all that material.

MR. KING: And let's not lose sight of the fact that the subpoena only called for January through June. That we were then later requested by way of subpoena to do an additional time period. So obviously there was at least twice that he was looking for these.

MR. BERNSTEIN: And I'm trying to probe his recollection of exactly what activities he undertook.

Q. BY MR. BERNSTEIN: Now, Mr. Twichell, this surely was a rather unusual circumstance and you have admitted that you don't get subpoenas from a government agency all the time, and I assume it must have been a rather unusual inquiry you were making to look for your financial records. And my question is, if you went back more than once, did you

9504367725

find more documents?

A. Well, we know that I had to go back more than once because you subpoenaed me a second time. And I didn't even remember in the beginning that I went back twice. So so far we've learned that I don't remember very much about me going back and looking at my documents. And my memory is not very good about this. I run a very large association, you know, I have two kids. A lot of things have happened in my life. I'm sorry. It wasn't a big deal to go find some documents, and I didn't keep records of how I did it or how many times I went back.

Q. Well, all I'm trying to do is to probe your recollection about it, Mr. Twichell.

A. And we're learning that I don't have a very good recollection of it.

Q. And to clarify what information you got from your wife or didn't get from your wife, what you said most recently was that in your attempt to be exhaustive you think you would have discussed with her any check registers that were missing?

A. I don't recall.

Q. Mr. Twichell, let's get back for a moment again

9504367 17726

to your top drawer of your dresser.

You were listing for me sources of monies that you received in the course of the year 1988, and what I was trying to explore is the entirety of the source of the funds that found their way into that top drawer. And you said that you received gifts from your father and your grandparents. How frequently did you receive those gifts?

MR. KING: In '88.

MR. BERNSTEIN: In 1988.

A. My birthday and Christmas.

Q. BY MR. BERNSTEIN: When is your birthday?

A. May 22nd.

Q. Any other times?

A. I received gifts on other holiday occasions, yes.

Q. Did you always put those gifts when they were monetary gifts, did you always cash the checks and put them into that top drawer?

A. No, sometimes I spent them.

Q. Did you ever deposit them into your bank account?

A. I don't remember if I deposited them in my account.

Q. So you didn't have a regular practice one way or

9504367727

another what you did with these?

A. No.

Q. Now, you said that you received regular bonuses throughout the year from your job. Is that right?

A. That is right.

Q. And did you sometimes cash those checks and put the funds into your top dresser drawer?

A. I might deposit them into my checking account and keep some of the cash for my own personal use.

Q. When you would make the deposit you would cash some of it and deposit the balance?

A. Write cash received on the deposit slip and keep a couple hundred for myself.

MR. KING: As an example.

A. As an example.

Q. BY MR. BERNSTEIN: Did your wife do that for you?

A. In 1988 probably not, I probably did it myself.

Q. So then the proceeds of those bonuses didn't find their way into the top dresser drawer; is that right? Is that what you're saying?

MR. KING: No, that isn't what he said.

Q. BY MR. BERNSTEIN: Well, I asked you if the

9504367728

bonuses that you got from work, if those monies ever found their way into the top dresser drawer; and I think what you said was that you deposited them in your checking account but occasionally you kept some cash.

MR. KING: And therefore, I presume that that cash may have found its way into the drawer.

Q. BY MR. BERNSTEIN: Well, did that cash sometimes find its way into the top dresser drawer?

A. High possibility of that, yes.

Q. So the money that you kept was not a small amount for spending money, but you would occasionally get cash back from these checks that were in large amounts? Is that what you mean?

A. I'm not sure if I understand. Can you repeat that again, please?

Do you want him to do it or do you want to do it?

Q. I'll do it.

A. Okay.

Q. Let's go at it this way. When you deposited bonus checks during 1988, what's the largest amount of cash that you remember withdrawing at the time you made the deposit?

9504367729

A. I'm sorry, I don't remember the amounts.

Q. Would it have been more than $100?

A. It might have been.

Q. More than $500?

A. I don't remember the amounts. So I don't really want to guess.

Q. Do you have a specific recollection about putting any of these monies, the monies you got from the bank, cashing part of the check you were depositing into your top dresser drawer?

A. I still do that today; so yes, I do remember doing something like that.

Q. What other sources were there for the monies that were in the top dresser drawer?

A. I think we talked about that before. Bonuses, gifts, leftover lunch money, friends paying me back for something that was in cash and I just put it in the drawer. I think that's probably the basics of that top drawer.

Q. Can you think of anything else?

A. No.

Q. Were there any other payments from work other than bonuses that might have found their way into the

9504367730

drawer?

A. Not that I recall.

Q. Did your wife ever take money from that drawer?

A. Not to my knowledge.

Q. Could you please tell me, Mr. Twichell, about your first employment after you received your bachelor's degree?

A. I worked for the National Association of Review Appraisers and Mortgage Underwriters as a computer operator.

Q. And where was that?

A. 8715 Via De Commercio, Scottsdale.

Q. And when was that?

A. Date of my first employment? I don't recall the exact date, I think we discussed September '86, something like that. I can't remember.

Q. And what were your duties?

(Conference between Mr. King and Mr. Twichell out of the hearing of the court reporter.)

A. I believe a clarification is necessary, because I don't remember when I first started for the firm; but it was probably more like '85 and maybe even before that. But I don't remember.

9504367317

Q. BY MR. BERNSTEIN: Were you married, Mr. Twichell, when you first went to work for the National Association of Review Appraisers?

A. No, I was not; and that's what we were discussing before when I started with the firm. Because a few of my people that I worked with were at my wedding, so it makes sense that I got married after I started there.

Q. Do you remember how long after you started you got married?

A. Couple months.

And I think I was married in May. So maybe I started before.

MS. REILLY: Previously sometime?

A. Yeah.

Q. BY MR. BERNSTEIN: What were your duties?

A. I operated the computer department.

Q. What does the computer department do?

A. We handled correspondence to the members, kept the addresses, ran solicitations for members for joining the association, keyed information, solicited people for seminars, educational seminars, I ran the envelopes.

Q. I'm sorry, you said you --

9504367732

A. Ran the envelopes, ran stationery, ran it all.

Q. And when you said soliciting members or communicating with members, you are referring to members of the National Association of Review Appraisers and Mortgage Underwriters?

A. I am talking about people to potentially join our organization, our company, our association.

Q. Were there any other associations that you had any involvement in when you initially went to work for what I am going to refer to as NARA/MU?

A. I might have run some other things for other associations. Possibility.

Q. Well, what other associations were housed in the same offices in the same building when you first went to work there?

A. The International Real Estate Institute.

Q. Is that the only one you can remember?

A. Yes, that's the only one I can remember.

Q. How many members did NARA/MU have when you first started working there?

A. Four to 5,000.

Q. And for how long did you serve in the capacity as

9504362 17733

a computer operator?

A. I quickly moved up the corporate ladder and moved out of the computer department and started doing educational seminars for the national -- NARA/MU and the international group.

Q. And how long after you started work there did you change jobs?

A. Eight months.

Q. And for how long did you run seminars for NARA/MU and IREA?

A. E-I.

Q. E-T.

A. My job duties quickly expanded over the next six months to handle daily correspondence and supervise and start handling a lot of different things with both of those organizations.

Q. Who was your boss when you first started working for NARA/MU?

A. Bob Johnson.

Q. And did you report directly to him throughout this period?

A. Yes. This period being 1988?

9504367 17 34

Q. No, actually from the beginning of your employment.

A. Yes.

Q. And did you have any other new duties after moving out of the computer room?

A. I need to make a clarification. Also Steve Schneck was working in the building at that time. He actually did my original interview. So he was also my boss.

Q. In the beginning?

A. In the beginning.

Q. What were his responsibilities at the time?

A. Since I was just in the computer room I was very unclear about that.

Q. Did you report to him?

A. On things that affected him, yes. Jobs that he would give me to do, yes.

Q. Okay. So what other duties did you undertake after you moved out of the computer room?

A. I started handling all the daily correspondence, putting together all the educational programs, handling phone calls, handling all the business within the Association.

9504367735

Q. And you are referring now to JREI and NARA/MU?

A. Yes.

Q. And for how long did you perform those duties before your duties changed again, if they did?

A. Well, they changed again when I was asked to go to New York and handle the move of NAREA out to our headquarters in Commercio.

Q. When did that take place?

A. April of '85. Around then.

(Conference between Mr. King and Mr. Twichell out of the hearing of the court reporter.)

A. April of '86.

Q. BY MR. BERNSTEIN: And what exactly did you do to effectuate that transition?

A. I met with the owner and helped box up the material and put it into a truck and flew back and unpacked it and moved it into our office.

Q. Who was the owner?

A. Of?

Q. Were you referring to the New York owner of NAREA?

A. Yes, I was. Herbert Newman. And I think he was

9504367736

a shareholder; I was a little unclear on all that, but I don't think he held all the shares.

Q. Was it your impression that he controlled the organization?

MR. KING: Counsel, what in the world does this have to do with this? Can't we proceed with this? What does the purchase of NAREA have to do with this?

MR. BERNSTEIN: Your objection is noted, counsel.

MR. KING: We will allow it a little longer, and then we are going to move to another topic.

A. Is there a question standing?

MR. BERNSTEIN: Yes, there is.

Q. BY MR. BERNSTEIN: Was it your impression that he controlled the organization?

A. That was my impression.

Q. And so the record is clear, we just introduced a new acronym. What does this stand for?

A. National Association of Real Estate Appraisers.

Q. Did Mr. Johnson buy the stock in NAREA?

A. I don't know.

Q. Your part of it was relocating, physically relocating the files. Is that the crux of it?

9504367 17737

A. That's the crux of it.

Q. And then what happened once you returned?

A. My duties changed to Managing Director of the National Association of Real Estate Appraisers.

Q. So you were the Managing Director of NAREA from the outset of its relocation from New York to Scottsdale; is that right?

A. That is correct. However, my duties with the other organizations didn't just discontinue overnight.

Q. Well, what duties did you continue to have with respect to the other organizations?

A. I basically did everything I did before and started to managing the NAREA.

Q. Did you at that time, Mr. Twichell, become a member of the Board of directors of NAREA?

A. I've never been a Board of Director of NAREA.

Q. You have never been a Director of NAREA?

A. No, I'm not an officer of the corporation.

Q. How many members of NAREA did it have when you first become Managing Director?

A. Between -- approximately 12 hundred.

Q. And you think that was in 1986 sometime. Is that

9504367 17738

right?

A. Yes.

And today we have 27,000. So a lot of growth has occurred between then and now.

Q. So at that time you were the Managing Director of NAREA and you had continuing duties with respect to NARA/MU and IREI. And for how long did that situation persist?

A. It still continues.

Q. So essentially your title and your duties haven't changed since then. Is that right?

A. Only got bigger.

Q. More responsibility?

A. More responsibility.

Q. Now, you've now described three organizations or associations. Did there come a time that you had involvement in any other associations that were housed at the same address?

A. In 1988?

Q. Well, did there come a time, is what I'm asking.

A. I'm not sure if I'm clear. Did you want me to say what I am involved in now, 1990?

Q. Actually what I was asking you was you had

9504301739

earlier said when I asked you with other associations you had involvement in, you had listed NARA/MU and then TRRT and then we had moved on the NAREA; and I was asking you, did there come a point in time when you had involvement in any other associations that were housed at the same office?

A. I believe that's all the associations that were housed in the building at that time.

Q. Did there come a time that other associations were housed there?

A. Yes.

Q. And when was that?

A. I don't recall the exact year, but I would guess 1989, Professional Women's Appraisal Association. PWAA.

Q. Was that a newly-formed association?

A. Yes, it was.

Q. And who formed it?

MR. KING: Do you understand the question?

A. Not really.

Q. BY MR. BERNSTEIN: Whose idea was it?

A. I don't recall.

Q. What was your first knowledge of it?

A. I think we were in a meeting, a staff meeting,

9504367 17740

and we said there was a need for a women's group; and so we started one. Women appraisers.

Q. When you say we, who are you referring to?

A. Bob Johnson, myself, Steve Schneck, the rest of the staff.

Q. And you're not sure exactly when that took place?

A. No. I'm not.

Q. Well, if you tried to say about how long PWAA has been in existence, does that help you at all?

A. No, not really. Because I'm not sure how long PWAA has been in existence.

Q. Were there any other associations or entities that you were involved in at those offices?

A. No.

Q. Well, I think you first testified that you were employed at International Association Managers. So when did that come into being?

A. I think your question said associations.

Q. Or entities.

A. I'm sorry, entities. Okay.

International Association of Managers, I don't remember when it began. If it happened at 8715, the

9504367 1741

Commercio address, then that's the way it is.

Q. You don't think of International Association of Managers, TAM, as an association though; do you?

A. I think of it more of a management company.

Q. And it manages associations. Is that what it does?

A. Manages associations, yes.

Q. Can you think of any other associations or entities that were housed in those offices?

A. What offices? The Commercio one?

Q. Yes.

A. Not that I recall.

Q. Are you familiar with an entity called Robert Johnson and Associates?

A. Yes, it's a firm in Minneapolis, an appraisal firm that I believe Bob owned.

Q. It was never housed at the office where you worked, that you know of?

A. Not that I know of.

Q. Do you know when Mr. Johnson owned it?

A. No, I do not.

Q. Are you aware of an organization called

9504367742

International Society of Meeting Planners?

A. I'm aware of that group.

Q. Well, when did you become aware of that group?

A. That was established at our Evans address, our current address.

Q. Well, when did the offices move?

A. Two -- almost two years ago. Two and a half years ago.

Q. Do you remember when?

A. No.

Q. Remember what season?

A. I don't even remember when I was married, what year. So you're asking the wrong guy for years.

Q. You're certain that association, though, was not housed at the old address?

A. I'm reasonably certain of that.

Q. Okay, how about National Surgical Assistants Association?

A. It's housed in our new office.

Q. How about an organization called Appraisers Common Cause?

A. That might have been at the Commercio. You know,

9504367 17743

I don't know.

Q. Does it ring a bell to you?

A. Yes.

Q. Well, what can you remember about it?

A. It was an entity that was watching out for appraisers and watching legislation to make sure that legislation that was introduced and passed was in the best interests of the appraiser. And I was one of the representatives of Appraisers Common Cause.

Q. Did you do legislative work as well?

A. What's legislative work?

Q. Watching over legislation?

MR. KING: On behalf of whom?

Q. BY MR. BERNSTEIN: On behalf of any of these organizations?

A. On behalf of the National Association of Real Estate Appraisers that's one of my responsibilities as Managing Director.

Q. I'm sorry, maybe I misheard. I thought you said that you did activities on behalf of Appraisers Common Cause as well?

A. No, I said I was representative of Appraisers

9504367 17744

Common Cause. And the reason why I was a representative was because I was Managing Director of a very large appraisal association. So when I did things, I did it on behalf of the real estate appraiser group, NAREA.

Q. So this Appraisers Common Cause was an umbrella organization; is that what you remember?

A. I don't know how it was handled, but I did not receive monies from the Appraisers Common Cause. I received monies from NAREA, and that's for whom I did the work.

Q. How about Travel Agency Owners, are you familiar with that?

A. Travel Agencies and Owners -- Travel Agency Managers and Owners Association. And that is housed in our new building.

Q. How about the National Surgical Assistants Association?

A. You asked about that earlier.

Q. Todd Publishing?

A. I think that was at the Commercio, yes.

Q. What do you remember about that entity?

A. They are a book publisher, published books.

Q. Do you remember who worked for them?

9504367 1745

A. No. In when, 1988?

Q. Yes.

A. No, I don't remember.

Q. Did any of the associations publish books or materials through Todd Publishing?

MR. KING: This was in '88?

MR. BERNSTEIN: Yes, 1988.

A. I don't recall.

Q. When I say the associations, Mr. Twichell, I realize there is some ambiguity; but let me tell you that ordinarily what I am referring to is IAM, International Association Managers, NAREA, NARA/MU, IREI, and perhaps PWAA, although you are not certain whether they were around in 1988 or maybe later. Okay?

A. Okay.

Q. Are there any other organizations that we haven't touched on that were housed at the Commercio address?

A. Not that I can remember. Might have been another one, but I don't remember.

Q. Now, you were the Managing Director of NAREA, and perhaps you could go into a little more detail about what that involved.

9504367 17 46

A. Well, I handle the entire operation of the Association; and I am responsible for all the record keeping, all the telephone calls, all the correspondence, all the solicitations that go out looking for new members. I run -- I run the place in regards to NAREA.

Q. Is there any publication or mailing or other communication that goes out to members that you don't see and approve?

A. In 1988 I saw everything that went out to the members, including newsletters, guideline booklets; all mailings, yes.

MR. KING: Go ahead.

A. Excuse me. I need to go to the rest room.

MR. BERNSTEIN: Off the record.

(Discussion off the record.)

(Recess taken from 10:43 a.m. to 10:52 a.m.)

(The previous portion of the record was read by the court reporter.)

MR. BERNSTEIN: Back on the record.

Q. BY MR. BERNSTEIN: Were you a supervisor of any employees in 1988, Mr. Twichell?

A. I had some others working with me, I don't know

9504367 1747

if supervisor is probably the right topic. Maybe we worked as a team. Same level.

Q. Well, who were those people in 1988?

A. I don't recall their names.

Q. Did anyone report to Mr. Johnson through you?

A. Repeat that again?

Q. Did anyone report to Mr. Johnson through you?

A. People came to me for decisions, yes.

Q. And what authority were you delegated by Mr. Johnson?

A. I ran the National Association of Real Estate Appraisers.

Q. Well, did Mr. Johnson see and approve all of the publications and guideline booklets and communications to the members?

A. He did not approve everything, no.

Q. So you had the authority to send things out without his direct say-so; is that right?

A. That is so. There was a thin line. I mean, if I felt I needed his consulting, I mean, he had been in the business a long time, I would go to him for advice.

Q. Did you have the authority to hire and fire

9504367 17748

employees in 1988?

A. I believe I did.

Q. Did you fire anybody in 1988?

A. I probably did.

Q. Do you know how many people?

A. No, I do not.

Q. How many employees of the associations were there in 1988, roughly?

A. Roughly? 10.

Maybe more than that. Very rough.

Q. Well, can you give a try at listing them for me?

A. No, I couldn't.

Their names?

Q. Yes.

A. No.

Q. Let me read you some names and maybe that will refresh your recollection about some of the individuals who worked there.

A. During 1988?

Q. Yes, during 1988.

A. I'd have a very difficult time telling you exactly what years they worked. We've had a lot of

9504367 17749

employees over the last five years. A lot.

Q. There has been a lot of turnover?

A. Yes. I am a very demandful person. So is Bob. If they can't produce, then they don't work at our office.

Q. So you think you fired a lot of people in 1988?

A. I think a lot of people quit, yes, due to pressure.

Q. Because of the demands of the job?

A. Because of their demands.

Q. Well, there weren't so many employees during 1988 that you wouldn't recognize the names; were there?

A. I don't recall.

Q. Let's try some names and see what you do remember.

A. If I can't remember when I -- that's fine, you want to try some names. But I'm telling you, I don't know. Even if you were to mention their names, all those names are going to be very familiar to me. What years they worked, you'd be asking me to make a guess. I don't know if I should really do that.

Q. Are you familiar with the name Susan Alexander?

Just for your information, and I don't intend to

9504367 1750

make this an exhibit, but in order to refresh your recollection I am reading from a payroll list of NARA during 1988.

A. Okay. Susan Alexander sounds like a short-term employee.

Q. Well, what did she do?

A. I don't -- don't even remember her.

Q. And you think you don't remember her because she probably wasn't there long?

A. Probably.

Q. Now, you had already described that Steven Schneck was the individual who had interviewed you. During 1988 what were his responsibilities?

A. There was a period of time there where Steve quit and then I got Steve's desk, and when Steve came back he got my old desk. So when all that occurred I'm not sure, but there was a change in hierarchy there somewhere where I became over Steve.

You are reading for me the 1988, so these names you are mentioning to me are from 1988; correct?

Q. Correct.

A. Great.

9504367 17 51

Q. Well, maybe even if you are not sure of the time frame, what were his responsibilities before the turnaround and what were his responsibilities after the turnaround?

A. Steve's responsibility is for the NARA/MU educational seminars.

Q. That was before or after?

A. I think he did -- after he came back he still did it.

Q. Oh, you are saying his responsibilities didn't physically change, but his --

A. Level in the hierarchy was diminished.

Q. So was he fired or did he quit, or what?

A. Think he quit.

Q. Do you know why?

MR. KING: What relevance is that? What relevance is Steven Schneck's quitting to this case?

Q. BY MR. BERNSTEIN: Can you answer the question?

MR. KING: I want to know what the relevance of that is to this case.

MR. BERNSTEIN: Mr. King --

MR. KING: I will advise the witness that it is his right not to answer that question till we know what the

9504367 1752

relevance of it is.

MR. BERNSTEIN: Mr. King, what I am not going to do, we are trying to proceed in the ordinary course here. And what I am not going to do every time you have a question what the relevance is, is attempt to make an explanation of why it's within the scope of the Commission's investigation; because I think, as you are aware, the latitude that we are allowed to explore matters in the course of Commission investigations is broad indeed, is not limited by the standards of relevancy under the Federal Rules of Civil Procedure; and I am happy to note your objections for the record. I'd just like the witness to answer the question.

MR. KING: And I want you to understand that we are not going to have a freewheeling deposition here today or a fishing expedition into things totally irrelevant to this proceeding.

MR. BERNSTEIN: I appreciate your statement, counsel.

Q. BY MR. BERNSTEIN: Can you answer the question?

A. I'm not going to answer the question per my counsel's advice. To the relevance.

MR. BERNSTEIN: Counsel, are you instructing your

9504367175 3

client not to answer the question?

MR. KING: I am not; I am telling him it's his right whether he answers it or not.

Q. BY MR. BERNSTEIN: Are you refusing to answer the question, Mr. Twichell?

A. It's my right.

MR. BERNSTEIN: Mr. King, why are you advising your client that it is his right not to answer the question?

MR. KING: Because it has absolutely nothing to do with this proceeding.

MR. BERNSTEIN: And I have explained to you that relevance is not an objection; and as I'm sure you understand, even under the Rules of Federal Procedure relevance is not a ground for instructing the witness not to answer.

MR. KING: I disagree with that. If you want to have it later determined that it's relevant, we will come back and do this again, so be it.

(Conference between Mr. King and Mr. Twichell out of the hearing of the court reporter.)

Q. BY MR. BERNSTEIN: Mr. Twichell, why did Steve Schneck quit? If you know.

MR. KING: I will note my objection. Go ahead.

9504367 1754

A. He quit because of the pressure in the office. He couldn't perform. His job performance was low and he was under a lot of pressure to perform, and he couldn't do it.

Q. And how long was he away from the Association?

A. I don't recall the exact length of it.

Q. There was a time when he came back?

A. Yes.

Q. Do you know why he came back?

A. I have a guess, yes.

Q. What is your guess?

A. He was a car salesman and wasn't doing very well.

Q. What did Mr. Schneck do in his capacity or as part of his responsibilities for NARA/MU seminars?

A. He had to find the hotel, he had to find the speakers, had to put together a flier, had to get it typeset, you have to get it printed, you have to market it, you have to work with handling all those phone calls, taking all the registrations, sending a letter back saying thank you for registration, going to those seminars, handling the registration, working with the experts, working with the hotel. And soliciting of people for membership that were non members for joining the Association, making sure that

9504367755

all those records are kept accurately, and then returning back to the office.

Q. Was he involved in any publications that were put out?

A. Believe he was involved in the Appraisal Review and Mortgage Underwriting Journal.

Q. And what was that publication?

A. That was a journal on reviewing appraisals and underwriting.

Q. Was that a regular newsletter that was put out by NARA/MU?

A. It's a journal, more of a magazine type, went out three times a year.

Q. And did Mr. Schneck provide any services for any other association or entity? In 1988.

A. I'm not sure if he did or not. I know those were his main responsibilities, the ones that I mentioned to you. I believe so.

Q. How about Patty Davidson, Mr. Twichell, do you recognize that name?

A. I recognize that name.

Q. And what did she do?

9504367 1756

A. She handled the NARA/MU educational seminars as well.

Q. She did the same thing as Mr. Schneck?

A. Only did a lot of programs, as well as she was handling Executive Director of the Professional Women's Appraisal Association.

Q. And do you have a specific recollection that she was employed by the associations in 1988?

A. You're telling me she worked in 1988; so yes, I am going to say I believe you and that she was.

MR. KING: He is asking you whether you have specific recollection.

A. I do not have a specific that she worked from 1988 -- you know, during 1988.

Q. BY MR. BERNSTEIN: Well, does she still work at the Association?

A. No, she was fired from the company.

Q. Oh, and when was that?

A. I don't know how long ago. It was a rather traumatic situation. But a year and a half maybe.

Q. Can you just tell me briefly the circumstances of Patty Davidson being fired?

9504367 1757

A. Well, there was a lead up to it. Her educational programs were -- her job performance was getting worse and worse. And I had learned that her husband was being transferred to Texas and she knew she was going to Texas, had not given us any kind of notice or anything; and when I found that out it explained why her job performance was going down. Then she started coming in late all the time and she wasn't handling things properly, and you could just tell something, you know, when an employee's going down.

And I think it finally came to head one morning when she was 30 minutes late or something for no excuse at all, and that's when her and Bob were -- he was in her office and they got into a bit of an arguing, you know, yelling match; and, you know, Bob said hey, you're fired.

And they got -- I had to go over and sort of break it up and separate them; and when she left she was like hey, you'll be sorry for that, for, you know, firing me; and I'll tell you, that was certainly true.

Q. What did she mean when she said you'd be sorry, do you know?

A. She started going back to all of our clients and people we had done business with and some of our hotels and

9504367 1758

just really causing a ruckus and saying oh, we're a horrible group and those kinds of things, you know, vindictive past employee. And it finally got so bad we had to hire an attorney to go after her and tell her to, you know, be quiet, move on.

Q. How long did she work for the Association?

A. I don't recall the exact length of employment.

Q. Well, was she at the Association when you first came?

A. No.

Q. Approximately how long were you there before she did?

A. I think she worked for our firm for like a year and a half, two years. But I take a lot of phone calls over the year, you know, asking for referrals on past employees, and I have to go back to the records and pull those records; so I just don't know when employees started and either quit or we fired them.

Q. Okay, you said she was responsible for NARA/MU seminars and you also said that she was Executive Director of PWAA.

A. Yes.

9504367 17759

Q. Did she have any other responsibilities?

A. Well, certainly she handled all the phone calls and handled daily correspondence, and she had a lot of responsibilities because she had her own secretary, so.

Q. But do you mean for other associations?

A. No, just within that one association. Within those associations, to my knowledge.

Q. Do you recognize Lisa Steimer?

A. Yes, her name sounds familiar.

Q. And what can you tell me about her?

A. We had several Lisas over the last five years, but I think Lisa Steimer is the one that worked in the computer department as like a keyer or an operator or something like that; but can't remember exactly if that's the right Lisa.

Q. If it is the right Lisa, was she a relatively low level employee?

MR. KING: What do you mean by that?

Q. BY MR. BERNSTEIN: Did she have any managerial responsibilities?

A. I'll tell you everybody in my office has managerial responsibilities. They are responsible for their

9504367 1760

jobs and getting it done. As far as I'm concerned, we are one big team.

Q. I thought you said that she was a key punch person?

A. No, I said that she was a computer operator, data entry.

MR. KING: Well, what he said was he wasn't sure what she was.

A. I'm not even sure if Lisa Steimer -- if that's the right Lisa.

Q. BY MR. BERNSTEIN: Maybe I can help. Do you also recognize a Lisa Rossegrol?

A. Who.

Q. R-O-S-S-E-G-R-O-L?

A. Ross egg low.

Q. Not quite, but close.

A. No, I think it was Rogignol. That Lisa could have been the computer person and this Lisa, I don't. I don't remember their duties, I remember their names.

Q. So you don't really have a specific recollection of what either of those two Lisas did?

A. No.

9504367 17761

Q. How about a Deborah Johnson?

A. At that -- Deborah Johnson, yes. That does sound familiar.

Q. Who is that?

A. That was an employee of our office, handled all of our accounting. Wrote the checks.

Q. And did she have a relation to Rob Johnson?

A. I believe that was his wife.

Q. She wrote checks, you said?

A. Yes.

Q. Did she do bookkeeping?

A. Looked like that's what she did.

Q. And how about Shaun Fitzgerald?

A. She worked on educational seminars with Patty.

MR. KING: Patty who?

A. I'm sorry, Patty Davidson.

Q. BY MR. BERNSTEIN: For which organization?

A. NARA/MU. And assisting with the administration of the PWAA.

Q. Was she a colleague of Patty Davidson's or did she --

A. They worked as a team to put on -- to run

9504367 17762

those -- their duties.

Q. How about Andrea Russo?

A. That name sounds familiar. I don't remember her duties.

Q. Was she a long-time employee or short-time employee?

A. Don't remember.

Q. How about Lynn Harden?

A. I remember Lynn Harden. I'm unclear on her duties.

Q. How long did she work for the Association?

A. I don't remember.

Q. Can you remember anything about her at all?

A. No. I really can't.

In response to duties?

Q. Or anything else about her.

A. Think she had blond hair. But other than that, no.

No.

Q. Nothing?

A. Nothing.

Q. How about Kelly Rossi?

9504367217763

A. I remember Kelly Rossi.

Q. What can you tell me about her?

A. She was an employee of -- actually I hired Kelly Rossi to be my administrative assistant. And she said she could type and handle phone calls and do all those other administrative-type duties that are necessary for, you know, someone that's basically going to take over my job, be my number one; and she couldn't perform. She would -- you know, ask anyone in my office, she just wasn't a very nice person.

She just didn't know how to treat people. She couldn't write her own letters; so I made a decision, a bad one now, but her husband was doing some work for me at my house, building a laundry room, and I didn't want to let her go because he was half done; so I gave her the position of membership processing for NAREA, handle all the processing and all that; and she couldn't handle that either. She just kept falling further and further and further behind.

And she wanted to go on a vacation, and I told her you've got to get your job done. She didn't get it done, so she took all her personal things on Friday evening and left the building. She even had sicked the Department

9504367 17764

of Labor on me because she was pregnant, did it saying I fired her.

Well, she took all her personal things on Friday night. She quit. But we finally settled that, and I think I had to pay like her medical or something, you know. But she quit. And then she was a thorn in my side for some time.

Q. So she didn't leave on good terms, it's fair to say?

A. Well, let's just say that over the five years I have learned that when you get the signals you should end it then and not try to extend the length of an employee.

Q. Did you say that she was at the outset your administrative assistant?

A. She was for a short term, yes.

Q. About how long, do you remember?

A. Geez, just a month or something till she drove me crazy.

Q. And then you put her in charge of membership processing for NAREA?

A. Right. She didn't have a lot of responsibilities except on the phone; and I think that was one of her major

9504367 17765

weaknesses, she couldn't deal with people.

Q. How long did she do that?

A. I don't recall the exact length, maybe -- I don't even remember.

Q. How long approximately was her total employment?

A. I couldn't even guess.

Q. Was it a year?

A. Probably a year, somewhere in there.

Q. How about Jean Johnson?

A. Yes, we had a Jean Johnson.

Q. And what do you remember about her?

A. Well, she handled -- she handled a lot of the correspondence between the members and herself. Situations come in the office, you know, they need supplies, they need this, they have a problem with a lender or whatever the section, association, you can't imagine the amount of complaints or problems, not necessarily complaints but problems and they need attention; and basically I think that's what she handled. Other than that she handled other duties, I just don't remember.

Q. Well, for what associations did she perform the duties you described?

9504367 17766

A. NAREA.

Q. And it's mostly correspondence with members, you think?

A. Yes, I believe so. I think she even did some calling on some legislative issues about appraisal licensing. Like all my staff does that, even including myself; but she did some of that as well.

Q. And do you know for how long she was employed by the Association?

A. I don't recall the length.

Q. Is she still working there?

A. No, her husband has his own -- he's a meeting planner, so she went to go work for her husband. Actually we left on very good terms.

Q. How about Ginger Helms?

A. I remember the name; I'm sorry, I don't remember all the duties that she had. Any of the duties that she had.

Q. None of the duties?

A. None of the duties, I'm sorry.

Q. Do you know for how long she was employed?

A. No, I do not.

9504367 17767

Q. How about Maria Flangos?

A. Maria sounds familiar, but probably a short-term employee.

Q. I wish I had a picture to show you, but I don't.

A. Yeah. Sorry. No pictures.

I don't remember.

Q. How about Todd Johnson?

A. I remember him.

Q. Who is he?

A. Todd Johnson ran the International Real Estate Institute.

Q. And did he have a relationship, a relation with Bob Johnson?

A. I believe he's his -- Bob is his father.

Q. So what did he do for IREI?

A. He ran the International Real Estate Institute like I did for NAREA, handling all the getting new members, handling processing, making sure everything is handled. I think he worked on the journal that was put out by them, also the newsletter, and ran it throughout the year.

Q. Did he have a title with IREI?

A. I don't know his title, but I'm sure it was

9504367 1768

something like Associate Director.

Q. Was it Managing Director?

A. Could have been one of those type.

Q. Executive Director?

A. Could have been one of those topics -- I mean titles.

Q. And did he do work for any of the other entities? During 1988.

A. I don't -- don't remember.

Q. Maybe I should at this point ask you the general question to make sure that I understand. For each of the people who we have discussed -- and I have a number more to go over -- all of them seem to be largely connected to one organization or another. Is that right?

A. If 1988 duties were more specified at that time, yes. I think you worked with one or two groups and that was about it. We didn't have that many groups at the time like we do now.

And the other thing is that as I have been telling you, Todd's duties, that was more '89-ish than '88; I really don't remember exactly what he did in '88 because he came on to us, I mean he wasn't with us the whole time.

9504367 17769

I was there before he was there, so there was a time when he even ran the mailing machine. So I don't know exactly when he took on the duties of handling the International Real Estate Institute duty, that could have been 1988, 1989.

Q. I'm sorry, did you say he was working the associations when you first got there?

A. No, he was not.

Q. He was a more recent arrival than you?

A. Yes. No. Did you say that right?

Q. He was a more recent arrival than you to the associations?

A. I was there first.

Q. Yes. Thank you.

A. Okay.

Q. So do you know if during 1988 Todd Johnson might have done work for one of the other entities rather than TREI?

A. I think all the employees there could have been -- done work for the other associations that I am unaware of. Handled a letter, handled something else, handled a phone call.

Q. Let me pursue that, actually that point getting

9504367 1770

back to it. You described that during 1988 that was a time when there were fewer associations and you thought individual employees were more or less connected, more or less responsible for one rather than others, although they may have had overlapping duties. Has that changed? Is it different now?

A. I think with more associations, 1990, more associations, certainly my -- I wear more hats now than I ever wore before, and the 14-hour days are becoming 15 and 16-hour days; but yes.

Q. Is the structure any different as far as what organizations the individuals are connected with?

A. I'm still mainly connected with NAREA, but I am becoming -- I'm always active with all the other organizations. I watch everything very, very closely.

Q. Do you remember a Kim Reid?

A. Name sounds familiar, I don't remember her duties or how long she worked for us.

Q. How about Tim Scher?

A. Believe Tim handled the mail room, ran the mail through the meter, kept the back room going, handled some of the gofer projects.

9504867172

Q. During 1988?

A. I believe -- again, I'm believing you because you are reading the 1988 list.

Q. Assuming he was employed by the associations during 1988, do you think the duties you are describing were what he performed during that period?

A. I believe so.

Q. Is there anything else he did?

A. I don't recall if he did any other duties or not.

Q. How about Cathie Rispoli?

A. Cathie Rispoli does -- is a part-time employee, does night keying with us.

Q. She is still employed by the Association?

A. Yes.

Q. When you say night keying, can you tell me what that means?

A. She enters names and addresses into a computer system at night.

Q. How long has she worked for the associations?

A. Long time. I don't know the exact years, but she's been with us, she's still with us now, so.

Q. Well, was she at the associations when you first

9504367 1773

got there?

A. No.

Q. How about Kristen Simke, S-I-M-K-E?

A. Kristen in 1988 was our receptionist.

Q. She still work there?

A. No, she does not.

Q. And about how long was she employed there?

A. I don't remember the length of employment.

Q. Did she have any duties other than receptionist in 1988?

A. I don't believe so. But a receptionist in our office, you know, handles not only phone calls, but stuffing and doing other miscellaneous duties like that.

Q. Does the receptionist open the mail?

A. Yes.

Q. And route it?

A. Well, what she does is see that that mail is put into different stacks per association right, and then she slices it and puts it into stacks, and like you said, routes it.

Q. Does the receptionist physically carry the mail to its destination in the office?

9504367174

A. It depends on how busy the office is. If the phone's ringing a lot, no.

Q. How about Patti Hocking?

A. Patti Hocking was a cleaner at our office, nighttime, part-time.

Q. How long did she do that?

A. It was not very long.

Q. Why do you remember her?

A. She was really nice. And I remember that she wasn't with us very long. Something happened and she wasn't able to stay with us.

Q. How about Elaine Murray?

A. I don't remember Elaine Murray.

Q. And Molly Rygelo?

A. Molly is a stuffer. Stuffs envelopes.

Q. And how about Kristen Jo Mills?

A. I remember the name; I'm sorry, I don't remember the duties and/or her length of employment.

Q. How about Kimberly Laurisch?

A. I remember Kimberly's name, I don't remember her duties and/or length.

Q. Maybe it will be helpful if you could describe

9504367 1775

what different sort of types of employees there were for the associations during 1988.

MR. KING: Do you understand the question?

A. In regards to types, what did they do?

Q. BY MR. BERNSTEIN: Well, for example, were there secretaries?

A. Well, we were a very expanding company, and so we were constantly adding on new staff; and I think with that growth we had a lot of turnover. And those duties, we didn't have any secretaries, and we still don't have any secretaries. Everyone is responsible for handling their own correspondence, phone calls, coordinating affairs. Even my own administrative assistant puts together educational seminars now. And always has since the day she began. So there are no secretaries in my office. We're very, very management orientated, everybody is a piece of the company. Sort of like America West. Everybody owns the airline, you know, it's the same thing in my office.

Q. I guess what I am trying get at is there are people who organize seminars. Yes?

A. Yes.

Q. And are there people whose responsibility is

9504362177 6

entirely dealing with the computer system?

A. In 1988?

Q. Yes.

A. I assume the computer operator, whoever that was in 1988, his sole responsibility was making sure that those things that went in got out of that computer room, yes.

Q. How many people were there? I think you mentioned one of the employees who was a key punch person. How many such people do you think there were?

A. I think I said she was either a computer operator or key punch whatever. But key punch computer operator, they handle more than just entering data all the day. We have never had a person who just did keying all day. That's why we have night keyers. They handle running things out, envelopes, running out letters, handling everything involved in association with computer operation. I have never had just a key puncher.

Q. Fair enough.

How many people did that sort of work for the associations in 1988?

A. Guessing, I would say two back there. Maybe three.

9504367 1777

Q. When you moved out of the computer operator job was there someone who replaced you?

A. Yes.

Q. Who was that?

A. I don't remember her name. But I taught her how to do the system. Which meant I still had to supervise that and make sure she was doing everything correctly.

Q. But you are not sure if Kimberly Laurisch was someone who might have worked on computer or had other responsibilities?

A. I don't recall.

Q. How about Joan Dame, D-A-M-E?

A. Again, Joan sounds familiar, I don't remember the last name very well. I don't remember her length of employment and/or her duties.

Q. How about Theresa Zadra?

A. The name sounds familiar, again I don't remember her duties and/or her length of employment.

Q. Mr. Twichell, were you aware of how much the employees who worked for the associations were paid?

A. In the beginning, since I did the staffing, I would talk to them about salary. So in the beginning, yes.

9504367178

And then after that, no. I never saw their paychecks.

Q. During 1988?

A. And/or until -- I've never seen an employee's paycheck.

Q. Never?

MR. KING: Well, to the best of your knowledge.

A. Yes, to the best of my knowledge.

Q. BY MR. BERNSTEIN: Other than your own, of course?

A. Of course.

Q. How about Lecie or Lecie Kennedy?

A. Lecie was an employee at our office. She -- I don't remember her duties. And/or her length.

Q. What can you remember about her?

A. Nothing.

Q. Nothing?

How about Lauri Loveridge?

A. I remember Lauri Loveridge, yes.

Q. What did she do for the associations?

A. I believe she handled some things with the International Real Estate Institute, but she was -- as I like to say -- didn't have the fire in her eyes, and she

9504367 1779

didn't make it.

Q. How long did she last?

A. I don't recall, but it was not a very long period, I'm sure.

Q. How about Irene Keefer?

A. Irene Keefer. Yes, I remember the name; I believe she was one of the administrators in the office. I think she handled correspondence and phone calls and things like that.

Q. Did she have a title?

A. I don't recall her title.

Q. For which association did she work?

A. Think she worked for the National Association of Review Appraisers, but I can't recall if she had her other duties responsible for other associations.

Q. How about Richard Mohon, M-O-H-O-N?

A. Richard, I remember the name. I don't remember his exact duties. I think he worked for NAREA.

Q. Would you have a better recollection of the people who worked for the organization that you were in charge of than maybe for other folk?

A. A little, yes.

9504367 1780

Q. Well, can you remember anything about what he did for NAREA?

A. Guessing, I was going to say that he handled education. But then I thought maybe he was working with me as an administrative person. But I'm not sure.

Q. How about Kathy Whalen?

A. Name sounds familiar, I don't remember her duties.

Q. How about Heather Combs?

A. Heather is a computer operator and still is at our office.

Q. And what does she do?

A. Computer operator.

Q. She's not a night keyer?

A. No. Full time salaried employee.

Q. How many computer operators are there now?

A. Three.

Q. Do you know if there were three in 1988?

A. I don't remember.

Q. So, for example, if there were mailings that you were going to send out, would the computer operators play a big role in those?

9504367 1781

A. Very much so, yes. They run out all the mailings, all the envelopes, labels, et cetera, letters.

Q. And so would they work with whatever staff person was responsible for that particular mailing?

A. Yes.

Q. How about Karen Tylmeland, T-Y-L-M-E-L-A-N-D?

A. No, it doesn't -- doesn't hit me.

Q. How about Anna Cook?

A. That name is familiar with me. Don't remember her duties and/or length of employment.

Q. You know, I think I omitted to ask you, Heather Combs, who is still there, how long has she been employed by the Association?

A. Well, we know she worked in '88, '89, and, of course, this year, '90; so we know it's been longer than three years.

Q. You are not sure how much earlier though?

A. No, I am not.

Q. Okay. Rhonda Depesa, D-E-P-E-S-A?

A. Rhonda is familiar to me. She worked in the computer room as a computer operator. I think she even handled some different correspondence for us and even some

9504367 17782

phone calls.

Q. She doesn't still work there?

A. No, she does not.

Q. Did she do anything else that you can remember?

A. Not that I can remember.

Q. How about Lisa Harkless? Oh, there's another Lisa.

A. It's actually Lisa Morgan now, she has been married since 1988; and she is still employed, and she is one of the three operators, computer operators.

Q. So Heather Combs is one of the operators, Lisa now Morgan is another. Who is the third current computer operator?

A. Tim Cloud.

Q. How long has he been employed by the Association?

A. I do not know the length of his employment. Guessing, two years. Maybe longer.

Q. And he's a computer operator, you said?

A. Yes.

Q. Does he have any other responsibilities?

A. Tim is in charge of that entire operation, and that's a big operation due to our number of companies we

9504367 1783

have in the building. I look to Tim for a lot of things. He is in charge.

Q. So he doesn't have a distinguishing title, but does he in fact supervise the two other people you mentioned?

A. He is the Manager of that division, yes. He tells the -- gives those people guidance. He also handles all the ordering of all the envelopes and makes sure my stock is kept up. I mean, he has just a lot of duties. Handles a lot of phone calls, everything. Just dealing with the staff alone and making sure all the projects are taken care of is a job in itself.

Q. When you say the stock, what are you referring to?

A. Well, you've got to have -- with all these letters that I run you have to have enough stationery for each association, you have to have enough envelopes, Number 10s, Number 9s, big envelopes, first class, I'm sure those supplies that you need to run your agency.

Q. Does Mr. Cloud have the authority to hire and fire employees?

A. Mr. Cloud does, yes.

9504367784

Q. Did he in 1988?

A. Did he have that responsibility or did he hire and fire?

Q. Well, I'm actually interested in both. Did he have the authority and did he do it?

A. I don't remember. We had some night keyers go through at that time, he did interview those people; so he might have let a few go and hired some new ones.

Q. Was there a lot of turnover in the computer room as well as elsewhere in the associations in 1988?

A. We've had Lisa and Heather for a long time, but I think the night keyers, you know, they're just not reliable and you find somebody and you get somebody new.

Q. How about Barbara Hemmerick?

A. Barbara Hemmerick's name sounds familiar. Can't remember her exact responsibilities and/or length of employment.

Q. How about Andrea Brown?

A. I remember Andrea's name. Again, I can't remember her exact responsibilities and/or duties. Or length of employment.

Q. And Jeff Johnson?

9504367 1785

A. Jeff Johnson worked in our mail room. I do not remember his exact length of employment, but he did exactly what Tim Scher had done, which is running the mail and making sure the inventory is kept physical and tidy. Gofer projects.

Q. Is he related to Bob Johnson?

A. There's no relationship. Relation.

Q. Just so I can be clear, we have Todd Johnson who is related, that's Bob's son.

A. Yes.

Q. And we have Deborah Johnson who is related, she's Bob's wife?

A. Yes.

Q. Is Jean Johnson, she's no longer with the associations, was she related?

A. No relation.

Q. Okay, so Jean Johnson, Jeff Johnson, no relation to Bob Johnson?

A. No relation.

Q. Thank you.

A. You're welcome.

Q. How about Lisa Lejeune?

9504367 1786

A. The name sounds familiar. Again, I don't remember her responsibilities and/or length of employment.

Q. And how about Troy Johnson?

A. Troy is Bob's son. I don't remember what his responsibilities were in 1988.

Q. Is he older or younger than Todd?

A. You know, I've never asked him; but in looking, I believe he's younger.

Q. Is he still employed by the associations?

A. He is employed by the International Association of Managers, I believe, yes.

Q. What are his responsibilities now?

A. He runs our travel agencies.

Q. So you are not sure what he did back then?

A. I don't remember, no.

Q. How about Alison Moore, M-O-O-R-E?

A. I remember Alison Moore, and I believe she was the administrator, handle correspondence, telephone calls. I don't remember her length of employment, which association. I don't recall which one. If there was more than one at all.

Q. What travel agencies were you referring to when

9504367 17787

you said that's what Troy Johnson now does?

A. Three travel agencies, Travel Plans One, Travel Plans Two, and we have one at the Registry Hotel, we have a booth there. And we have staff at all those offices; Troy has the responsibility for staffing and selling tickets and making money.

Q. Does this have connection to the Travel Agency Managers Association?

A. Travel Agency -- can't remember the name of the group.

Q. Travel Agency Owners and Managers.

A. There is no connection.

Q. For how long have the travel agencies been operating?

A. Guess we're going on about a year.

Q. Are they also run out of the offices, your current offices?

A. No. They have their own offices.

Q. How about Marie McCabe?

(Conference between Mr. King and Mr. Twichell out of the hearing of the court reporter.)

Q. BY MR. BERNSTEIN: What about Marie McCabe?

9504367 1788

How about if I tell you this is the last name?

MR. KING: Okay.

A. The name sounds familiar, I do not remember her responsibilities and/or her length of employment.

Q. BY MR. BERNSTEIN: You said you were not aware of the salaries of the employees, so you wouldn't have been aware of what employees were more highly compensated than others?

A. That is true.

MR. KING: Can we take a couple minute break?

MR. BERNSTEIN: Yes.

(Recess taken from 11:46 a.m. to 11:50 a.m.)

MR. BERNSTEIN: Back on the record.

Q. Mr. Twichell, what I'd like for you now to do, if you can, is to explain to me as best as you can recall during 1988 how the organizations basically did business. And let me ask you a series of questions relating to that.

First off, did each of the organizations have separate checking accounts?

A. Each association was totally separate. I am going to assume that they had their own checking accounts. I'm not able to write checks and/or have never looked at a

9504367 17789

checkbook.

Q. So you never had authority to sign checks for the associations; is that what you're saying?

A. That's true.

Q. Now, during 1988 when you say that you think you assumed each of them had a checking account, which organizations are you referring to?

A. In 1988? All the groups that we have indicated that were in the building in 1988.

Q. So that would be IAM, maybe, you're not certain of that. NAREA, NARA/MU, IRET, PWAA, maybe.

A. Maybe.

Q. Appraisers Common Cause?

A. Maybe.

Q. Todd Publishing?

A. Okay.

Q. I think that's about it.

A. I think you're right.

Q. Who did have authority to sign checks that were issued by these organizations?

A. I don't know.

Q. Well, did you receive checks from these

9504367 1790

organizations?

A. Yes.

Q. Who signed them?

A. I think in 1988 Deborah Johnson was signing some of those checks. Again, I'm unknowledgeable on who has the right to sign the checks. Sometimes you couldn't even read the signatures at the bottom. You know, I never paid attention to that.

Q. So you're not sure who signed your paychecks, the paychecks you got?

A. No, I -- no.

Q. Do you know if Bob Johnson had authority to sign checks?

A. I do not know.

Q. Are there any other candidates who could have had authority to sign checks in 1988?

A. I don't know.

Q. Well, during 1988 who else was there who had the authority to hire and fire employees? You mentioned yourself, presumably Mr. Johnson, you also mentioned Mr. Cloud. Was there anybody else?

A. Not that I recall.

9504367 1791

Q. You don't know if Mr. Cloud had authority to sign checks?

A. I don't think there is any connection between staffing and signing checks.

Q. From what organization were your paychecks?

A. When the International Association of Managers took over, that's where my check came from.

Q. Did IAM exist before that?

A. Before?

Q. Before it took over paying your salary?

A. I don't believe so. Maybe it did. I don't know.

Q. Well, what organization paid your salary before that?

A. National Association of Review Appraisers and Mortgage Underwriters.

Q. Did you receive checks from any of the other associations?

MR. KING: Paychecks, salary checks?

MR. BERNSTEIN: Any checks.

A. Yes.

Q. BY MR. BERNSTEIN: Did you receive salary checks from any of the other associations?

9504367 1792

MR. KING: I'm sorry, is this in '88 now?

MR. BERNSTEIN: Yes, in 1988.

A. I might have received a bonus check from another association.

Q. BY MR. BERNSTEIN: So when you say bonus check --

A. Not salary.

Q. Not salary.

So, Mr. Twichell, did you ever see anyone signing checks at the Association?

A. Not that I can remember.

Q. You mentioned you think you received bonuses from the other associations. During 1988 do you know from which associations you might have received bonuses?

A. I don't remember.

Q. And what services did you provide these other associations that accounted for the bonuses you received?

A. Some other educational programs, attending some of their educational programs. I oversaw the operation of the office at all times. So I made sure that things were happening in the computer room, made sure things were happening in the mail room, made sure journals were getting out, schedules were being adhered to.

9504367171793

Q. Well, were the bonuses that you received, were they periodic?

A. I received bonuses --

MR. KING: Periodic meaning what?

Q. BY MR. BERNSTEIN: Did they occur on a regular basis? Periodic as opposed to episodic.

A. I received bonuses throughout the year for my job performance.

Q. You worked a lot of hours; didn't you?

A. Yes, I did.

Q. Consistently, huh?

A. Consistently.

Q. What other payments besides salary and bonuses did you receive from any of the associations during 1988?

MR. KING: Payments meaning something that would be reportable as W-2 income?

MR. BERNSTEIN: Payments of any kind.

A. Other than bonuses and salary?

Q. BY MR. BERNSTEIN: Yes.

A. None. That I can -- to my knowledge.

Q. Did you receive travel reimbursement, that sort of thing?

9504367 1794

A. Well, that's not a salary or bonus. Are we still in that same situation?

Q. Right. What I was asking you was what other payments did you receive from the Association.

MR. KING: Sources of money.

Q. BY MR. BERNSTEIN: What other sources of money, checks did you receive other than salary and bonuses?

A. That was unclear. I thought you meant with regards to in my pocket go-home pay.

I received monies for seminar expenses. Traveling expenses.

Q. When you say seminar expenses, are you using that --

A. As travel. Usually I went to seminars or handled some association business.

Q. And these seminars were out of town; is that right?

A. Some of them were in town, some of them were out of town.

Q. Well, were there ever any expenses that you would incur for in-town seminars?

A. Lunch, something like that. Gas, whatever. I

9504367795

usually didn't charge the Association for my gas in town.

We had so many seminars going on in 1988, we were doing at least one every other week; so I was in and out of the office a lot then and trying to do my job as well, so I was doing a lot of traveling. Sometimes I would forget to ask for a check prior to my travel so I would have to submit an expense sheet and get reimbursed for it. Where other times I would ask in plenty of time, saying I am going to be out of town for this amount of days, I would like this amount of money; then I would keep a good account and then I would return the money back with the expense sheet.

Q. Well, in the instances where you got -- you said sometimes you got travel advances; is that right?

A. Yes.

Q. So when you got a travel advance what would you do with it? A check for travel advance what would you do with it?

A. I would usually cash it and use it for association travel expenses.

Q. Did you write your own personal checks for those sort of expenses?

A. If I did not receive funds prior, yes. Then I

9504367171796

would be reimbursed.

Q. Did you sometimes carry large amounts of cash with you on these trips in lieu of having to write personal checks for expenses?

A. You mean money that I would have received from the company?

Q. Yes.

A. Yes.

Q. What sort of expense sheets did you use to keep track?

A. I would type out the date, the dates of my departure and when I came back. Then I would put my name, and then I would say expenses, and then I would put on the top right -- well, actually the amount received, then all my expenses; and then whatever was left over I would put returned monies, and then I would return those dollars with the expense sheet. Oh, yes, of course, and I would sign it and date it.

Q. Well, I'd like to pursue with you probably a little bit later after we come back from lunch in a little more detail how expense reimbursements were handled, but let me ask you a series of questions that will bring us up to

9504367 1797

time we will break about the membership of the associations.

Can you please recall for me as best you can roughly how many members each of the associations had during 1988?

A. These are rough numbers, but I'll do my best. Do you want to list them for me and then what I will do is tell you what they are.

Q. Okay, how about TAM?

A. Well, TAM is a management group, they are not an association. They don't have any members.

Q. No members. Okay. NAREA?

A. 12,000. Twelve to 14,000.

Q. Were there any members who were not US citizens?

A. Yes.

Q. Mostly Canadians?

A. We have some members from Zimbabwe and Ireland, and I think we even have one now from the Soviet Union. Not in 1988 though.

Q. Well, in 1988 roughly what proportion of the total membership lived outside the US?

A. One percent. Maybe less than that.

Q. Okay. How about NARA/MU?

9504367 1798

A. 5,500.

Q. In 1988?

A. I believe so. 5,500, 6,000. These are very rough.

Q. And non resident members, non US resident members in 1988?

A. One, two percent.

Q. And IREI?

A. 2,500 members.

Q. And the proportion non US members?

A. 35, 40 percent.

Q. And PWAA?

A. 500. Maybe less than that, I'm sorry. Three to 500.

Q. How many members of that organization today?

A. 800 and something.

Q. It's the smallest of the associations, the smallest of the associations then in existence anyway?

A. No. Travel Owners and Managers organization has less. So does the International Society of Meeting Planners.

Q. And were there non resident members of PWAA?

9504367 17799

A. I don't know.

Q. And how about Appraisers Common Cause?

A. I don't know.

Q. I guess I'm not clear. Was this a membership organization?

A. I don't believe so.

Q. Not really?

A. No.

Q. In 1988 was there an annual renewal date for membership in all these associations?

A. Yes.

Q. Was it the same date for all members for all associations?

A. Not -- it's the same date for specific -- every association has different dates. We do not bill all five groups at the same time.

Q. Well, in 1988 what was NAREA's renewal date?

A. June 1st, 1988.

Q. And NARA/MU?

A. November 1st, 1988. Well -- yeah.

Q. And IREI?

A. I believe it's February.

9504367 1800

Q. And PWAA?

A. August or September.

Q. Do you remember what the annual membership fee was for each of these associations during 1988?

MR. KING: Counsel, what does the membership size and membership fee have to do with this case? Can you explain that to me?

MR. BERNSTEIN: Well, it's relevant background, Mr. King.

MR. KING: Going to be here for a week with these ridiculous questions.

Go ahead.

A. Each association has its own fee, yes. Do you want those fees?

Q. BY MR. BERNSTEIN: As best as you can recall for the year 1988.

A. NAREA, 85. NARA/MU, hundred and twenty-five, hundred and fifty. PWAA, I think it was a hundred and a quarter and then it went down to 85. TREI, hundred and twenty-five.

Q. Okay, let me just ask you briefly. You had testified that you're not sure who had authority to sign

9504367 1801

checks or who signed checks, that other than your own you didn't see any paychecks, you weren't sure how much people were paid. Are you familiar with financial statements that were prepared for the associations by its accounting firm?

A. I know they are prepared, I am not familiar with them. If you mean by familiar I review them, no, I do not.

Q. Have you ever had the opportunity to review those sort of statements?

A. No, I don't believe so. As since I am not an officer of the corporation, my job is to manage the group.

Q. So you are not familiar with expense categories that might be used in financial statements; are you?

A. No, I'm not.

Q. With that Mr. Twichell, I think that we will break for lunch.

Off the record.

(Recess taken from 12:10 p.m. to 1:40 p.m.)

MR. BERNSTEIN: Back on the record.

Q. BY MR. BERNSTEIN: We are back on the record after the lunch break; and Mr. Twichell, there are a number of details that I'd like to go over before I get back to the payments, various kinds of payments that you received from

9504367180 2

the associations and how you handled travel and that sort of thing.

First, you said that the associations moved to new offices, the offices where you are currently located, it's been what, a couple of years, I think?

A. Yes.

Q. And is it true that you were the Managing Director of NAREA in the old building as well?

A. Yes.

Q. And what were the quarters like in the old building?

A. What do you mean?

Q. How did it compare in size, for example, to the new offices?

A. Think we had about 3,000 to 3,500 square feet as compared to 10,000 now.

Q. And how were the offices laid out in the old building?

Let me ask you a direct question. Did anybody have a private office in the old building?

A. Yes, Bob Johnson had a private office.

Q. Anybody else?

9504367 1803

A. I had a big office, but it didn't have a door. But I mean everybody had their own private area.

Q. Did you use those office separators?

A. Partitions, right.

Q. So it was a large common area but divided with those partitions?

A. Yes.

Q. Was it a collegial office in 1988?

A. What's a collegial office?

Q. Well, did people talk a lot?

A. While they worked?

Q. Yes.

A. No.

Q. No?

A. No.

Q. Did people have a lot of occasions to talk to other co-workers in the course of their work?

A. Regarding work?

Q. Yes.

A. Yes.

Q. Were there a lot of team projects?

A. No.

9504367 1804

Q. Did everybody have their own desk in the old offices?

A. Yes.

Q. And there was a separate area where the computer was located in the old office?

A. Yes, it had its own room.

Q. So Mr. Johnson had an office and the computer sort of had its own room, and then everybody else was in a common area with dividers?

A. The mail room. The kitchen. Those were all separate rooms.

Q. Was it in one story of the building or more than one story?

A. Two stories.

Q. So what was upstairs and what was downstairs, or what was on floor one --

A. Kitchen and mail room were upstairs.

Q. And everything else downstairs?

A. Yes.

Q. In 1988, Mr. Twichell, did you have an assistant who helped you do your job?

A. No.

9504367 1805

I guess I don't recall. Don't remember.

Q. So that was maybe a role that was played briefly by Kelly Rossi?

A. That wasn't at the old building.

Q. That was in the new building?

A. I believe so. Don't remember. There was a time period -- I can't remember if Kelly was at the old building or not.

Q. You don't have a firm recollection though of her having that role with you in the old quarters?

A. Right.

Q. So did you do all your own typing in the old building?

A. I didn't do a lot of typing. No, I didn't -- as a matter of fact, I had my own computer. I did my own letters. Just trying to remember back that far. But I did have my own computer and I did my own stuff then. I type pretty good.

Q. Well, was there ever occasion where other people typed things for you?

A. There were times as I moved up the ladder and became more and more busy with my duties I didn't have time

9504367 1806

to type specific letters, and I think there was somebody that was responsible for getting them out.

Q. And who would that have been?

A. I've been through several secretaries over a period of five years. I don't know. Don't recall.

Q. Then were there times then there was a secretary who worked entirely for you?

A. No, there's never been a time that's ever occurred, they've always worked doing other things as well.

Q. Now, when you said you had a computer at your desk, do you mean a PC, a personal computer?

A. Yes, and my own printer.

Q. That you were able to do word processing on?

A. Yes. Maybe we should get away from that word secretary, too, because they would be responsible for the same duties that I would do. You know, I'd hire a person and say here's my desk, you know, take it; so I never thought of anybody being a secretary. Even if they were the one that typed a letter, they had other responsibilities that were much more than a personal secretary.

An administrative person just like I am.

Q. In the old building can you describe for me how

9504367 1807

it was -- and from what you've said, the organization had a lot of mailings. Right?

A. To get members you must send out mailings. Yes.

Q. Well, were there also in 1988 regular communications to the membership of the organizations?

A. Monthly.

Q. Monthly newsletters?

A. We send -- well, newsletters, guideline booklets, a letter telling them the latest updates, whatever they might be. They'd be between a month and two months, we'd always send the members something.

Q. Well, is it fair to say that during that period there was always some kind of mailing being worked on?

A. I think that's fair to say.

Q. And maybe you can just take me through from the beginning how mailings were put together and sent out.

A. In 1988?

Q. Yes.

A. What kind of mailing, I guess? Depends on the job. If it's a newsletter, then someone, I would write the newsletter, we would get it typeset, we would get it printed. Then we would have it stuffed, then we would get a

9504367 1808

request for postage and we'd get the postage, and then we'd run it out.

Now, usually the mailings that went to the members went bulk, so we'd figure out how much a bulk account we'd need and then we'd cut a request for a check to be cut on the bulk account, and then along with the job being submitted to the post office a check would be given to the bulk account under that association's name for paying for that mailing.

Q. When you say sent in bulk, what do you mean?

A. Well, there's two different ways -- well, several different ways you can do mailings. The two ways we do is either first class mail or it's bulk, and that's when the members are in zip code order and you submit it to the post office in bags in zip code. It makes it a lot easier for them to handle the mail.

Q. So you presort it and it costs less to send?

A. Well, computerized, yes.

Q. Then you said send a request for a bulk payment?

A. Well, you keep an account at the post office and you don't put money right on the envelope like you regularly would, like a stamp or something; it just says bulk account

9504367 1809

permit number, whatever it might be, I don't remember the number. And so you request, you know, how many pieces it is and you call the bulk office, and they say it's going to cost 12.5 each; so you take 12,000 times 12.5 and you times that out and give that number to the accountant, and they cut you a check; and when you deliver the project to the post office you also give them a check, and that covers for that mailing.

Q. Who would you hand the piece of paper to or the figure to inside the organization to get a check cut?

A. Well, I wouldn't do it that day, it's always done way ahead of schedule, five days or so; and I would put it in the accountant's bin. They usually had an incoming bin like all employees do, and you throw that in their bin; and that's how we did that.

Q. Who was the person who would have done that job in 1988?

A. Well, I think we determined Debbie was cutting some of those checks, Debbie Johnson. But don't recall if we had somebody else either in 1988. I know she had a baby and left. So there was -- could have been another person.

Q. She might have filled the bill during some of

9504367 1810

that period anyway?

A. Could have.

Q. So you would bring a check made payable to the post office to the post office when the mailings were all set to go?

A. Yes.

Q. The bulk mailings?

A. With the project, yes.

Q. What precise tasks would be involved from the point where there was a product ready to go, and by that I mean either a letter or a newsletter, and where everything was packaged for the post office?

A. I'm not sure if I understand. What are you asking?

Q. Why don't we try a newsletter?

A. Well, what are you asking? I just went through the whole scenario.

Q. Okay. The newsletter was written by you.

A. Or someone else would write stories. I mean, I'd get the whole thing together. Okay.

Q. And the newsletters were always typeset?

A. Yes. I mean, that's what we just went through a

9504367 1811

second ago, get them typeset, got them printed, you know, all that.

Q. And were there regular vendors the associations used for typesetting?

A. No, I would bid it out and we would get the cheapest vendor and also a time deadline so that I could get the job done quickly.

Q. How did you bid it out?

A. I told them the number of pages it was and how many pictures and the basic content, and then they would give me a price per page.

Q. Did you call them up?

A. Yes. Or they'd meet me in the office.

Q. Did you have a list of people that you called?

A. Yes.

Q. Well, how many roughly, if you can remember, how many different typesetters were there that you used during this period?

A. Probably had five or six of 'em.

Q. Can you remember any of their names?

A. No. Not right now.

Q. Okay. So once they were typeset, then you would

9504367 1812

have them printed. And would you go through the same process for the printing?

A. Same process.

Q. So you'd have a list of vendors who provided that service, you'd call them up and then select one to do the job?

A. Yes.

Q. And how would they be paid? The typesetter and the printer.

A. I assume by check. I'm not sure. What do you mean how would they be paid?

Q. Did they bill the Association?

A. Yes.

Of course, I never saw a bill.

Q. The bills wouldn't come to you?

A. No.

Q. How would the vendor know for which association the job was to be billed?

A. Because first it's probably on the mailing piece itself, so they know which association. But we tell them what association we are dealing with. That was always a very important thing, to make sure that they billed it to

9504367 1813

the right vendor -- right company.

Q. So the person whose job it was to be in charge of the mailing of the project, is that who would call up the vendors and bid the jobs as you were describing?

A. Different people handled it. I handled it, other administrators in the office might handle the job.

Q. Did the invoices ever come back to you for any kind of approval after projects went out?

A. I might be asked for an approval, but regularly I would not see those.

Q. Okay. Once the newsletter is printed, then what would happen?

A. It would be stuffed.

Q. And who did that?

A. The same process as the typesetter and the printer.

Q. Were there vendors who provided that service?

A. There are several.

Q. And were these commercial mailing services?

A. That's what they do for a living, they stuff envelopes.

Q. You also mentioned, I believe, one of the

9504367 1814

employees was a stuffer. So did employees on premises stuff envelopes, too?

A. One of the employees was a stuffer.

When did we talk about that?

Q. Molly. Part-time stuffer. Rygclo.

A. I remember now.

Q. Thank you.

A. She was an off-the-premises stuffer. Part-time. She only handled small jobs. The kind of stuffers we're talking about here like a newsletter, they need a machine. Those machines that open envelopes and insert the stuff. Big jobs we never give to people like Molly. She gets 300-piece jobs or less than a thousand easy.

Q. So newsletters you would always classify in the category of big jobs?

A. Well, depends how many people it went to. You consider it a big job by the amount of pieces.

Q. I'm sorry. For example, if a newsletter was going to PWAA, which had very few members, is that something that might be handled --

A. Right in house by our own staff. I've been known to do stuffing. Whatever it takes to get the job done.

9504367815

Q. And would you also bid out the stuffing for the big jobs?

A. Yes.

Q. And so you also had a list of companies that did that?

A. Yes.

Q. Did you use the same companies, typesetters, printers, stuffing companies in 1988, same group of ones?

A. Well, we always bid it out; it just depended on, I guess, their work load and if they are willing to give us the right price and get it done as quick as what we need.

Q. Depending on their other work they might have been --

A. Willing to handle more work. Pretty competitive.

Q. You said that the vendors sometimes visited you?

A. They'd come into the office. Sure, if you are going to give the printer a job, you need to go over with him what colors and everything else.

Q. Well, would the typesetters visit as well?

A. Yes, go over a job.

Q. And the mailing services, too?

A. Yep, they have to come and pick it up, so.

9504367181816

Q. Were these people that you all then interacted with on a regular basis?

I'm sorry, I say people, I mean the people that worked for these vendors.

A. I don't know what you consider regular, but I did see my printers and typesetters and mailers, you know, stuffers on at least once a month.

Q. Were the newsletters always sent out in bulk?

A. No.

Q. What determined whether something would be sent out bulk or first class?

A. Well, bulk mail gets thrown away. For a long time we did everything first class, we wanted to make sure the members received it and looked at it. As we got bigger and bigger, bulk was the only option, because, you know, postage fee kept going up and up.

Q. Well, if you had to guess during 1988 would you guess that most things were sent out first class?

A. That's probably a good guess.

Q. But it wouldn't depend on the size of the job, the judgment about whether something was sent out --

A. You're asking for a judgment that happened way

9504367 1817

back in 1988. I don't remember, but some stuff went first class and some stuff went bulk. I do know that some stuff went bulk.

Q. Went bulk?

A. Yeah.

Q. Let's move back for a moment. You were describing the process by which newsletters were put out. Were a lot of letters sent to the membership as well?

A. Letters usually went with -- I have a policy at the office that a letter goes with anything we ever send.

Q. So every newsletter would have a letter accompanying it?

A. Most of the time it would, yes.

Q. And how were the letters produced?

A. The same way the newsletter was. Typeset, printed, and stuffed with the newsletter.

Q. Letters to the members were typeset?

A. Yes. Because you're not going to do 12,000 letters personalized on a computer system, it takes too long. At the time we had a slow computer. So you'd have it what they call shot, and then they put it on a piece of paper and the printer gets it and he prints it up. Probably

9504367 1818

says dear designated member or dear appraiser, whatever it might say; and that would go with the newsletter.

Q. So they weren't personally addressed, these letters?

A. On the letterhead, no. Of course, on the envelope, yes.

Q. Did you run the envelopes in your computer room?

A. Yes.

Did I personally or did the office?

Q. Did the office?

A. Yes.

Q. Did you ever use address labels?

A. We've been known to use address labels, but not usually to members. We've only recently been starting that only because we are so big, but usually it was done personally.

Q. Were letters to members ever run in the computer room in 1988?

A. Yes. I'm sure.

Q. In what instances would that have happened?

A. Not the regular instance where we sent letters to members. Like, for instance, NARA/MU and TRET, they're

9504367819

smaller groups, you can afford to run them off the computer system and have them personalized; so that was a regular occurrence.

Q. How about for NAREA?

A. I'm sure we did some things, yes. Maybe not to the whole association, but I don't remember.

Q. Well, what letters would you send to the members that wouldn't accompany newsletters? What other sorts of communications would you make to members other than newsletter packages?

A. Could be anything. Anything from guideline booklets to latest updates on what's happening in the marketplace, send them a Christmas card, whatever it might be.

Q. In instances where the computer room would generate the letters, in other words, personally address letters rather than the letters being typeset and printed, how did that work, what was the procedure for having that done?

A. I'd write the letter or one of my staff would write the letter, transfer it over to the computer room, computer room would run the letter.

9504367 1820

Q. Well, could you transfer letters via the computer?

A. The whole system is interconnected, yes.

Actually in 1988 it might not have been. We might not have been quite that sophisticated as we are today.

Q. Well, were you connected in the old building? Were the computers interconnected?

A. I don't remember if they were or were not.

Q. Well, if they weren't connected presumably --

A. Then the computer room would just key the letter. You know, it only takes five minutes to key a letter.

Q. Or you would use computer disks; right?

A. No. Just type it in again.

Q. So you didn't use floppy disks?

A. Not for transferring a letter, no.

Q. Did a person requesting that a letter be generated by the computer room have to fill out a form?

A. No.

Q. Who would they talk to?

A. Well, most likely the whole job has already been agreed upon, the letter's already been approved; I mean,

9504362182 1

everybody's looked at it and said yeah, that is the kind of letter we want to send out, and give it to the computer operator and they key it in and they run it. Employees were responsible for that.

Q. And who would be involved in the approval of it, depending from letter to letter? I think you said there were some letters that you sent out, you know, on your own and other ones for whatever reason of such consequence that Mr. Johnson would be involved in it?

A. Yeah; I think I was ultimately responsible for the NAREA letters, but if one of the NAREA staff put it together they were ultimately responsible for that letter and getting it done right. Even if I looked at it, it doesn't necessarily mean that it's okay to go. I mean, it was their responsibility to make sure there is no typos and that it was a good letter.

Q. How did the computer room keep track of the different jobs that were in their hands?

A. I don't know.

Q. Did the computer room, for example, charge each association for the time involved of producing letters?

A. I don't know.

9504367 18822

Q. Who would know the answer to that?

A. You know, I really don't know that either.

Q. Surely someone would know the answer?

A. The accountant probably would know that answer. Bob might know that answer, Bob Johnson. I don't know that.

Q. But it was not the responsibility of any of the employees working on the project to specify, for example, what account computer time should be charged to or anything like that?

A. Well, I don't know what the other employees did in the sense of every job that they did. Remember, in 1988 I was not as high as I am today on the hierarchy level. I was still a lot lower than what I am today. I know a lot more now what goes on in our corporation than I ever did. Back in '88 I was still pretty low key, and I know what my job was and I didn't submit anything myself.

Q. Now, the mass mailings you were describing that were sent to printers for typesetting, would the signature be printed as well?

A. Send it to typesetter, then you send it to a printer.

Q. The signature on the letter. Would that be

9504367 1823

printed as well, typeset and printed?

A. Yes.

Q. So none of the letters that were printed needed personal signatures? Right?

A. Not if they were printed, that is correct.

Q. And how about the ones generated by the computer room?

A. They would need a signature.

Q. Whose name did those letters go out over?

A. NAREA had my name on them.

Q. How NARA/MU?

A. Probably Bob Johnson, Robert G. Johnson's name.

Q. And how about TRET?

A. I know that NARA/MU had more than just Robert G. Johnson's. I know that Steve's name appeared on a few.

Q. Steve Schneck?

A. Yeah.

TRET, I don't recall what name might appear on there. I don't remember.

Q. How about PWAA?

A. Depending whoever was in charge of PWAA in 1988. Don't remember who that was.

9504367 18824

Q. I think you said Patty Davidson was Executive Director of PWAA?

A. Yeah, we were sitting here as I said this answer, I think it might be. But I didn't look at the letters that close.

Q. Well, what involvement did you have in, for example, letters that went out to NARA/MU members or PWAA members?

A. Well, we only had 4,000 square feet, so I was around the office. I mean, you know, sort of what's going on throughout the company; but I didn't know all the policies and procedures. I mean, you just see things, that's all.

Q. So you are aware of everything that is going on actively at least, is that what you mean?

A. No. I guess what I am saying is if a mailing was going out and the computer room was generating a bunch of letters that was NARA/MU, hey, I would see it, I probably wouldn't even know who it was going to; but I might even read the letter and see if it had any errors in it. I regularly caught errors that way.

Q. This was before spell check?

9504367 1825

A. No, actually this is with spell check. People just make mistakes. You know.

Q. Now, the letters generated by the computer room, who stuffed them?

A. A stuffer. And I don't have a special name for you. Could have been -- depends who was best. Whose bid was best.

Q. Well, were the letters generated by the computer room usually given to an outside vendor?

A. I don't remember. I mean, if it was a small job, probably done right in house.

Q. I'm sorry, you said that smaller jobs would be given to people in house?

A. Yeah, if you got a job for less than 300 pieces or something; besides, Kristen was the receptionist, she could stuff a 300-piece job. Anything above that usually went outside because it took too much time to do.

Q. How long would it take to stuff 300 envelopes?

A. I don't know. When we're done here we'll stuff 300 and see how long it takes.

Q. I only asked because you said you had done some stuffing yourself.

9504367182826

A. Oh, yeah.

You can get done, I mean, just thinking about it here, you could probably get done maybe two or 300 in an hour if you do it, you know, depending how many inserts you have and if you have to sign it and then burst the things off the side.

Yeah, we've done some stuffing. It's not my favorite of all duties, but you do what you have to.

Q. In 1988 were all the letters generated by the computer room on computer paper?

A. Can't remember when we got our first laser printer; but yes, probably with the perfed edges, yes.

Q. So if in-house people were doing it they'd have to separate the perforations, separate the pieces as well?

A. Yes.

Q. I think you also said that the envelopes in all cases of membership mailings were generated by the computer room; right?

A. Yes.

Q. And I think actually also you just said did the stuffers sometimes sign the letters generated by the computer room?

9504367 1827

A. Yes.

Q. What does that leave? In instances where the computer room generated letters that required an original signature and you contracted out to a mail house, did they sign the letters?

A. Yes.

Q. And they signed whoever's name was --

A. If you run a five or 10,000 job, it's a lot of time; so that was the responsibility of the stuffing company.

Q. Well, in jobs of any size did the person whose name is listed on the letter ever sign them?

A. I don't know. I know I didn't sign any of mine that were big.

Q. Well, have you ever signed any of the letters that went out over your name to the membership of NAREA?

A. I do letters to members all the time and I sign those letters.

Q. So it just depends on the size of the mailing?

A. Well, if the member has a question or a situation where I need respond in writing, I always send a letter.

Q. I apologize, I wasn't making myself clear. For

9504367 1828

mass mailings to the membership, whether or not to the entire membership, that went out over your name, did you ever sign those?

A. I've never sat around for hours signing. That's what it would take. Literally hours.

Q. In 1988 did you use signature stamps at all?

A. We've never used signature stamps.

Q. Or an auto pen?

A. No auto pen.

Q. Did employees ever work overtime stuffing envelopes?

A. I don't remember if they stayed after work to stuff. I don't remember.

Q. Well, can you tell me what you think was the rough cutoff in number of pieces between the mailings that would have been stuffed by employees and the ones that would have been sent to a mail house?

A. Probably around two or 300.

Q. So anything larger than that would have been contracted out?

A. Not always.

Q. Well, what other variables are there that were

9504367 18829

considered?

A. Something's got to get out tonight. I might halt -- the whole office might have to be halted and we might have to stuff for an hour or two. I remember one year we did a mailing statement, probably wasn't '88, but where it had to get out. There was like 4,000 of them needed to get out that day, and we halted the office for an hour and stuffed. So there are, I think, circumstances that go beyond that two or 300 where it doesn't always go to a big house or to a stuffer.

Q. But unusual circumstances?

A. (No audible response.)

Q. Let me ask you this. Would there be any reason other than press of time for some reason where the people in the office would be charged with stuffing a large job? Larger than, you know, several hundred?

A. It wasn't a regular thing, but I don't know why in the six years but everything always seems like it's in a hurry. Everything.

Q. Is the processing of mailings the largest activity of the computer room? Or was it in 1988?

A. Processing of --

9504367 1830

Q. Mailings.

A. That's what they do. Generate mailings. Yes. Also update -- keeping the member records updated is a very, very important part.

Q. Is any other part of -- we talked about the initial drafting of the letters or the newsletters and typesetting and printing and stuffing. Is there any other activity in the course of getting out a project that we've left out?

A. I don't believe so.

Q. Well, when a decision was made to send a mailing out first class, how was that paid for?

A. We figured out how many pieces it was, figure out how much it cost, put it on this little scale and it would tell you that each piece is worth 45 cents; and then you take 45 times -- let's just say 5,500 members, and then you would submit that to the accounting department and get a check; and that check would be put into the meter in the machine, and that money would be used for that mailing.

Q. What do you mean when you say the check would be put into the meter?

A. You have to make the check out to the Scottsdale

9504367 1831

Postmaster and take this little meter into the post office with your check, and they put the money into the meter.

Q. How much postage could the meter hold at any one time?

A. I don't know.

Q. But you'd go recharge the meter for any sizable mailing; is that it?

A. Right. I've seen the meter have up to, you know, eight, $10,000 in it, just one mailing, you know; so it will at least handle up to 10,000.

Q. And again, where you wanted to have a check generated, what documentation would you submit to accounting?

A. You'd just indicate what association it was and what it was going to be used for, you know, mailing piece or newsletter, the date that it was going to go out, and just submit that information to accounting. You know, the dollar amount per piece. Sometimes I think I even gave them a sample of what was going out.

Q. Was there any form that you used?

A. No, it's just all done. We're not very form-ish over at the office. I mean, we do have a small office.

9504367 1832

Q. Apparently.

A. Yes.

Q. I think we have exhausted this subject.

Please tell me, Mr. Twichell, you were the Managing Director of NAREA. Was part of your job deciding what the qualifications for membership would be?

A. Part of my job, but really that was more the responsibility of the Board of Directors. We decided at the Board of Directors meeting what kind of qualifications would be best.

Q. And what were the qualifications for membership in 1988?

A. Think we required two years of appraisal experience, submit two appraisal reports, submit a resume and a completed application.

Q. Then was there an application fee?

A. Yes, there was an application fee, which I think we discussed before, it was like $85 or something. It's gone up over the years, but I think it was 85.

Q. So the application fee was the same amount as the annual membership fee?

A. Yes.

9504367 1833

Q. There was no separate application fee, is what I mean.

A. There was also a processing fee of like $10, so if someone submitted an application, 85 plus 10 would be $95 they'd submit with their application and all the supporting data.

Q. Are what you have described as qualifications what the current qualifications for membership are?

A. No.

Q. What you were describing was in 1988?

A. Yes.

Q. For the entire year?

A. I don't recall if that was for the entire year. They might have changed in between.

Q. Well, what were the qualifications in 1987?

A. Probably the same what they were in 1988. I think in 1989 they were upgraded and then to where we stand today, I believe. I think we added something else in 1990.

Q. Well, maybe I can ask it this way. How many changes in the qualification standards have you presided over in the time you have been Managing Director?

A. We have probably had three or four changes over

9504367 1834

the last five years. You know, with our substantial growth in the associations, I don't know what way to put it other than the fact we just had so much growth and everything: it was just necessary for credibility reasons to continue to raise those standards.

Q. So in the earlier times it was rather easier to become a member?

MR. KING: Easier than what?

MR. BERNSTEIN: Easier than now.

Q. BY MR. BERNSTEIN: I think that's what you just said, that the membership standards have become more stringent.

A. Yes.

Q. Well, was there a time before the time you described when there was not a requirement for having two years of experience, for example?

A. Not to my knowledge.

Q. It was always required?

A. To my knowledge.

Q. Can you tell me what CREA stands for?

A. Certified Real Estate Appraiser.

Q. And what does that mean?

2671835

A. What does it mean? It means they are -- well, I'm not sure if I understand the question.

Q. What is the significance of that term?

A. We have the designation CREA, and that is the professional designation that we award to those members that meet our requirements.

Q. Are those the people who complied with the qualifications that you described?

A. Yes.

Q. Are there any classes or in 1988 were there any classes or types of members who didn't have this designation?

A. I don't understand. What do you mean?

Q. Let me ask the question more broadly.

In 1988 were there any different types or classes of members?

A. Within my own association or within the entire industry?

Q. Within NAREA.

A. Candidate status.

Q. And what was that?

A. It's when they didn't have all the qualifications

9504367 18336

necessary for obtaining the CREA.

Q. So they would still pay the application fee and they would get all the membership mailings?

A. They'd receive the membership mailings but not the designation.

Q. And would they be awarded the designation upon complying with the standards?

A. Sure.

Q. So can you estimate in 1988 what proportion of the total membership were candidate status and what were CREA?

A. I don't remember the exact numbers, but I think candidate status was probably less than 500 candidates at the time.

Q. Were there any instances where you would communicate in a mass mailing to only one of those two groups rather than both?

A. No, I think they were always run out together. Other than a certificate and membership card, because a candidate member wouldn't receive a certificate or a membership card.

Q. Is there any other reason why you might at times

9504367618837

communicate in a mass mailing with less than the entire membership?

A. Oh, special mailings. We get FHA bulletins or VA bulletins that only cover a specific region, so you'd only send that to specific members.

Q. So there might have been geographical based reasons for --

A. You bet. We had all sorts of ways to breaking up the computer system and picking out specific names.

Q. What other reason would there be other than a geographical reason?

A. I don't recall now, but I know there was ways of doing it. I don't know if we ever did do it in 1988.

Q. When you say ways of doing it, you mean you had a database program and you could call up any active list you like; is that what you mean?

A. Correct.

(Conference between Mr. King and Mr. Twichell out of the hearing of the court reporter.)

Q. BY MR. BERNSTEIN: Would you give me an idea of what sort of -- I think computer sorts is what you're talking about with the database program -- what sort of

9504367 1838

sorts would you do of the membership?

A. You can do zip code, you can do last name, you can sort by anything you want; you can pick randomly, pick state by state, pick by last name order, do it in sequential, non sequential, you can do anything you want.

Q. What sort of things --

MR. KING: Jonathan, my God, what does this have to do with this? How long is this going to go on?

MR. BERNSTEIN: Well, Mr. King, it will go on until we're satisfied that we have complete information; and we are proceeding as quickly as possible.

MR. KING: It's absolutely nothing to do with this proceeding.

Go ahead.

A. Is there a question? I'm sorry.

MR. BERNSTEIN: Yes, there is.

Would you read the question back, please.

(The previous portion of the record was read by the court reporter.)

Q. BY MR. BERNSTEIN: What different ways did you pull up membership records? You described to me what ways are possible. What I am asking is in the course of your

9504367 1839

communicating with members what different sorts would you use?

A. Almost all mailings to the members are done in zip code order due to the reason that you might go to a bulk project, and so it always had to be drawn in zip code order.

Q. Okay, but as far as doing a sort that would not include all of the members, can you think of any other reasons other than geographical reasons that you would not send something to all the members?

MR. KING: In 1988?

MR. BERNSTEIN: Yes, 1988.

A. I don't remember.

Q. BY MR. BERNSTEIN: Can't remember.

Who would know the answer to that question?

A. I don't know if anyone would know the answer. That was a long time ago.

Q. Well, then, maybe you can answer the question for me today.

A. Since I don't remember, no, I can't.

Q. What I mean is, are there any occasions where you would communicate with less than the entire membership of NAREA for other than geographical reasons?

9504367 1840

A. In 1988, do I at any time remember. '85 to '90, yes.

Q. And what would those reasons be? Today.

A. I have done sorts where my members don't have a telephone number. And I will send them a letter saying we don't have your telephone number, and I sorted by the fact they didn't have telephone numbers. I mean, there's all sorts of things that you could do. Missing title. I mean, we run different stuff all the time.

Q. Okay, thank you.

A. You're welcome.

Q. What I'd like to do now, Mr. Twichell, is to have the court reporter mark as an exhibit this document.

(Exhibit 5 was marked for identification by the court reporter.)

(Conference between Mr. King and Mr. Twichell out of the hearing of the court reporter.)

Q. BY MR. BERNSTEIN: What I am handing you are a series of check stubs and checks. All the checks are made payable to you, Mr. Twichell, during 1988. And what they are is other than your regular salary payments. They are a series of things that have different descriptions on the

9504367 1841

check stubs, and what I am doing is asking you a general question to find out what occasions you would have to expend funds and be reimbursed for certain expenses or what other reasons the associations would have for making payment to you apart from salary.

Could you look through the exhibit, please?

Do you recognize the checks that are part of the exhibit, Mr. Twichell?

A. Such as 1-A?

Q. Yes.

A. Yes.

MR. KING: Do you want him to look at all these, is that what you want?

MR. BERNSTEIN: Yes, please.

MR. KING: And you want to know whether he recognizes the check; is that the same question?

MR. BERNSTEIN: I will ask specific questions after he's had a chance to look at all of them.

MR. KING: He's already looked through it once. Haven't you?

A. (No audible response.)

Q. BY MR. BERNSTEIN: Let me ask you first, Mr.

9504367 1842

Twichell. The check that is on page 1-A of the exhibit is made payable to you, dated January 5th, 1988, for $25; and it has an entry in the memo line that says for office supplies. Do you remember this check, by any chance?

A. No.

Q. Well, what occasion would the Association have for writing you a check for office supplies?

A. I probably went and bought some toilet paper and some towels and things like that and we needed them the next day, so I handled it personally and they just paid me back.

Q. So in the usual course the office itself would procure the supplies that you needed; wouldn't it?

A. Well, actually we've never had anybody that supplies toilet paper; so it's usually done by one of the staff.

Q. Do you think that's what this was for?

A. I'm sure it was something just like that.

Q. Why don't we turn to the next one, Mr. Twichell, check number 8691. And while there isn't an entry on the memo line of the check, there is a note in the check stub. Can I ask you first, Mr. Twichell, do you recognize the handwriting on that check stub, page 2 of the exhibit?

9504367 1843

A. You mean up here?
Q. Yes.
A. You mean do I know whose it is?
Q. Yes.
A. Not a hundred percent. I mean, I -- no, I don't. I would be guessing.
Q. Well, do you think you know who it is less than a hundred percent?
A. It's probably the accountant's.
Q. You mean Deborah Johnson?
A. Well, whoever the accountant was at that time, yes.
Q. Well, please turn to the next page, page 3. Do you recognize the signature on that check?
A. Yes.
Q. And whose signature is that?
A. Looks like Robert Johnson.
Q. Mr. Johnson's signature, your boss?
MR. KING: Are you asking him if this is Johnson's signature?
MR. BERNSTEIN: Yes, I'm asking if he recognizes it.

9504367 1844

MR. KING: Do you know that?

A. No, I don't know if that's definitely Robert Johnson's signature.

Q. BY MR. BERNSTEIN: Does it look to you like it's Robert Johnson's signature?

A. I can sign like that. I mean --

Q. Have you had occasion to see Mr. Johnson's signature on things?

A. Yes.

(Conference between Mr. King and Mr. Twichell out of the hearing of the court reporter.)

Q. BY MR. BERNSTEIN: Do you sign Mr. Johnson's name on occasion, Mr. Twichell?

A. No.

Q. You just can sign like that, is that what you're saying?

(Conference between Mr. King and Mr. Twichell out of the hearing of the court reporter.)

Q. BY MR. BERNSTEIN: After consulting with counsel do you want to say something?

A. Well, I don't -- that's supposed to be -- say Robert Johnson, I don't think that that's his signature.

9504367 1845

And, in fact, I have signed Robert Johnson before on a letter that he might be sending out, he might be out of the office and his secretary might come in to me and say you do it pretty good, just like Bob would, you do it; and I would sign it for him.

Q. So looking at the signature on the check on page 3 of the exhibit you think that that is not actually Mr. Johnson's signature?

A. No, I do not.

Q. Okay, do you notice that on page 2 in the memo line of the check stub the explanation of that $125 check to you is expenses for Sacramento Chapter Meeting?

A. Yes.

Q. Did you travel to Sacramento in January of 1988 on Association business?

A. From this memo I would assume that I did, yes.

Q. Do you have a memory of doing that?

A. I have been to the Sacramento chapter four times, five times over a period of four to -- three to four years.

Q. Can you tell me, is this an instance where the Association was giving you essentially a travel advance?

A. It could be an advance or it could be that I had

9504367 18846

money, spent money and then I'm being reimbursed.

Q. What sort of expenses would you incur in travel for the Association?

A. Tips, taxis, food, buying something to give away at a chapter meeting, things like that.

Q. Did you use a credit card on travel?

A. Yes.

Q. In 1988 did you have a company credit card?

A. I don't remember if I had one at that time.

Q. Do you have one now?

A. I have one now.

Q. Well, did you ever write personal checks for travel expenses?

A. Yes.

Q. With travel advances of this size, $125, if it was a travel advance, would this be the size that you would be more likely to cash and bring cash with you?

A. Yes.

Q. Mr. Twichell, the next one, which is page 4, check number 8818, and this is a check for $200 with the same signature as on the prior check, and an explanation of the $200 check is for office supplies.

9504367 18847

Do you know what this was for?

A. I don't recall what this one exactly was for, but it was probably for something very similar to the first one. You know, I could have gone out and bought a lamp or bought a vacuum cleaner or whatever; I just did that the other night, bought a vacuum cleaner and glasses for the entire staff. So it's not unusual for me to handle those kind of things.

Q. In instances where a payment is indicated for office supplies, is it your testimony that this would be a payment to you after the fact, reimbursing you for something you had expended?

A. I am testifying that it could be either way. They could have asked me to go out and do those things and given me $200 and said hey, give me back the money you don't use with the receipt.

Q. So if we look in the check register would we be able to find your check for whatever goods or services were provided?

A. I might have used cash. Might have used my credit card.

Q. What credit card did you have in 1988?

9504367 1848

A. Well, I was just thinking the one time I was in Vegas they didn't accept American Express, so I used my own MasterCard. So -- and that's what they could have been. It could have been anything like that.

Q. I'm sorry, do I understand the American Express card is what your company card is now?

A. Yes.

Q. But in 1988 you had a personal MasterCard?

A. I think I did.

Q. Did you have any other credit cards in 1988?

A. I think I have some gas cards and some other cards like that, yes.

Q. Any other general charge card?

A. No, I think I just carried the MasterCard. I might even have a Visa, I'm not sure. In 1988.

Q. Well, what credit cards do you have now? General credit cards.

A. MasterCard, Visa. You want my gas cards?

Q. No, thanks. Let the record reflect the witness took his wallet out of his pocket and consulted his credit cards.

So that's apart from your company American

9504367 1849

Express; correct?

A. That is true.

Q. So do I gather that in instances where you are paid for some expense or other from the company and there is no reflection of that in your check register, your testimony is that that is an instance where you either used cash or your credit card?

A. Yes.

Q. If you turn to page 6, Mr. Twichell, check number 7850, and if you notice this is a check from a different organization. Now, am I correct, Mr. Twichell, that International Institute of Valuers, Inc. is in essence the old name of IREI?

A. You are correct.

Q. Well, if you consult the check stub notation on this check, Mr. Twichell, as well as the notation on the memo line, pages 6 and 7 of the exhibit, do you remember what this had to do with?

A. Yeah. I went to London twice in 1988, if I remember correctly.

Q. When did you go to London in 1988?

A. Looks like I went at the end of March.

9504367 1850

Q. You don't have a specific memory though?

A. No, not of those exact dates that I went to London.

Q. Well, you said there were two separate visits?

A. Yeah, I had to go there for the American Real Estate Investment show, and then I think I had to go back like a month later or two weeks later for another show. I can't remember what association it was for.

Q. Who went with you on those visits?

A. I went to London by myself.

Q. Both times?

A. Yeah, I believe I was both times by myself.

Q. What did you spend $1,600 on that this check was paying for, Mr. Twichell?

A. Well, London's exchange rate is like half of American dollars. So really that's $800, and when you are in London for a week and you have to get cabs and you have to pay for your food and you have to pay for all that, it's very easy to go through $800. I probably had some leftover funds as well.

Q. When you traveled for the company, the company bought your airline tickets?

9504367 1851

A. Yes.

Q. And did it pay for your hotel as well?

A. Yes.

Q. So then the advances that you were given, expenses that you were reimbursed for were all travel expenses excluding air fare and hotel?

MR. KING: You are asking that in all cases?

MR. BERNSTEIN: In 1988.

A. That might not be the case under always. I mean, I might have -- this money might have gone toward a hotel room under unique situations or towards something else.

Q. BY MR. BERNSTEIN: Now, Mr. Twichell, if we consulted your check register and we didn't find any checks that you wrote that seemed related to a London trip, then --

A. You can assume that I got the money prior to my departure.

Q. Perhaps we could consult the check register. And maybe you could turn to page 12, please. And I refer you to a deposit on March 30th, which is the day after this March 29th, 1988 check was written, where your wife noted that there was a deposit of $1,600.

Do you see that?

9504367 1852

A. Yeah, I do.

Q. And did you give this check from the International Institute of Valuers to your wife to deposit, Mr. Twichell?

A. I don't think I did. No. That was for an expense for London.

Q. Well, let me back up a little bit. Does this March 30th deposit of $1,600 correspond to the $1,600 check made payable to you dated March 29th?

A. Say that again?

Q. Is the $1,600 that was deposited on March 30th the same $1,600 that the company check was written to you for dated March 29th?

A. I don't think so.

Q. You think it's a different $1,600?

A. I don't recall. I don't remember.

Q. What makes you think that it might be a different $1,600?

A. Well, because this was an expense for the London seminar.

Q. Well, what do you think you would have done with the $1,600 check if not deposit it in your account?

9504367 1853

A. I probably would have cashed that.

Q. When you made deposits to your checking account would you give a deposit slip to your wife so she could keep track of it?

MR. KING: I think that's a mischaracterization of his testimony. If I recall correctly, he said he didn't make deposits to that account.

MR. BERNSTEIN: No, he said he did it both ways; sometimes he did it and sometimes his wife did it.

A. If, in fact, if I made a deposit, I would give my wife a deposit ticket.

Q. BY MR. BERNSTEIN: Would you tell her what the deposits were for? That's how she would know that it was a Ken deposit? I am looking at the check register now on page 12.

A. Say that again?

Q. Would you tell your wife what a deposit was for?

A. No, I'd probably just give her the slip.

Q. So that $1,600 is dated March 29th, Mr. Twichell, and let me go back to this one more time to make sure I'm clear.

Why is it you think that the $1,600 on March 30th

9504367 1854

is not the $1,600 that the company wrote you the day before?

MR. KING: He stated that the $1,600 represented by check 7850 was for travel expense.

Q. BY MR. BERNSTEIN: Right; but what I have been trying to explore is how did you incur those travel expenses?

A. You are assuming there is some type of connection. I am saying that no, there isn't, and that this is seminar expense.

Q. I'm sorry, do you mean a travel expense?

A. Well, yeah.

Q. In connection with a seminar?

A. London seminar. Right. It's a travel expense.

Q. Well, Mr. Twichell, do you know where the $1,600 that your wife noted as deposit Ken came from if not from this company check?

A. I don't -- I don't know.

Q. Couldn't have come from your top dresser drawer; could it?

A. Not that much.

Q. Well, if it's not the same $1,600, you think that you cashed the $1,600 check from the company?

9504367 1855

A. I don't recall if I cashed it or not. I assume -- that's what I usually do with an expense check, so I'm assuming that that's what I did with this one.

Q. Well, for a trip like this would you have gotten traveler's checks, for example?

A. No.

Q. Why are you so certain?

A. Because I've never received -- never got traveler's checks.

Q. Well, would you have carried $1,600 in cash over to London?

A. Yes.

Q. Do you remember doing that?

A. I've carried large amounts of cash before.

Q. Well, do you have a specific recollection about this particular expense and your first trip of the two trips?

A. No.

A long time ago.

Q. Well, have you traveled to London frequently for the Association?

A. I've been to London five times. Six times.

9504367-1856

Q. You mean since 1988?

A. Since the day of my employment. First day.

Q. So you might go once or twice a year?

A. I haven't been this year.

Oh, wait. I was in London this year.

Q. Did you use your credit cards in London, Mr. Twichell?

A. My personal credit cards or the business credit card?

Q. Well, actually whatever will help you remember, if you had a company credit card in this period?

A. I'm not remembering this exact situation, but I can tell you that I've always kept my personal separate from my business. The business expense I would use the American Express. If it was a tie or a gift for my wife, it would be on the -- my own credit card.

Q. And how about before you had the company credit card?

A. I would have used cash.

Q. So then you didn't ordinarily use your personal credit card for company travel?

A. No.

9504367 18857

Have we established that earlier that I did?

Q. No, it was something that wasn't clear at all.

But you are certain there were no instances where you were on company travel where you would have used personal credit card?

A. I'm not certain of that. I might have under unique circumstances.

Q. But it was definitely not your usual practice?

A. Yes.

Q. Please turn to the next check, Mr. Twichell, of 8971, and this is check number 8. A check made payable to you on April 14th, 1988. And please have a look at the check stub and that check.

(Pause.)

Have you had a chance to look at it?

A. At check 8971?

Q. Yes.

A. Yes.

Q. Do you remember what that was for?

A. Trip to London.

Q. Same trip you were describing or a different trip?

9504367 1858

A. No, I believe it was the second trip that I made to London during 1988. I had to handle getting together some speakers for the International Institute.

Q. And was this a travel advance or an after-the-fact payment?

A. I'm sure it's a travel advance.

Q. And, Mr. Twichell, if we consulted your check register and didn't find a corresponding deposit of this amount, would we assume that you would have just cashed this check and carried the cash with you to London?

A. That would be a good assumption.

Q. Do you ever remember depositing travel advances in your checking account?

A. I don't know why I would do it. So no.

Q. Mr. Twichell, page 10 of the exhibit is check number 9041 of NAREA, dated April 29th to you, and there's an indication on the check stub expenses dash LV for $80. Do you know what this check was for?

A. Well, our national conference is held every year in September in Las Vegas. LV stands most likely for Las Vegas. I probably went up for the day to handle setting up the program in Las Vegas.

9504367 18859

Q. And the program is in September?

A. Yes.

Q. And this was a check in April.

A. Yes. You have to go up and make sure you get all the meeting room space all set up, get all the catering, go over the entire program.

Q. Would you go to Las Vegas just for the day or just overnight, Mr. Twichell?

A. I'd leave the office, probably catch a 6:00 o'clock flight, and be back in the office by 2:00 or 3:00.

Q. Mr. Twichell, the check register, and this is page 15, has on April 29th a $2,000 deposit.

A. Page 15?

MR. KING: You have given us the wrong page.

MR. BERNSTEIN: On the check register. I am referring now to Exhibit 1, the check register.

MR. KING: I'm sorry. We were confused. Now could you start over?

MR. BERNSTEIN: Exhibit 3, the check register.

MS. REILLY: You are in the right thing, it is the check register. That's where you want to go.

MR. KING: Okay.

9504367 18860

Q. BY MR. BERNSTEIN: Page 15 you will notice there is a deposit of $2,000 on April 29th.

A. Yes.

Q. Can you read your wife's notation there, Mr. Twichell?

A. Yes, it says two of Ken's checks. Which probably means she didn't deposit my check from the one before, so she held onto two of them and finally got to the bank and deposited my monies.

Q. Do you think that was two paychecks of yours?

A. I'll bet you that's exactly what it was.

Q. Well, does that seem the right amount to you, $2,000, to be two paychecks?

A. No, but I think at the pay period at the time I was making -- I think it was a thousand something, so it would not be unusual for my wife to, let's say, deposit the -- let's just say if they both came to 2,060, then she kept the $60 for expenses for, you know, our day-to-day lunches and things like that.

Q. Let's go on to the next one, please. The next check, that is.

A. This is page --

9504367 18861

Q. Which is page 12.

A. Thank you.

Q. Check number 9298. Please look at that check stub and check, Mr. Twichell.

A. Yes.

Q. Do you remember what that was for?

A. Well, we hold our Board meeting every year in June, so that's a Board of Directors expense for me to attend that Board of Directors meeting.

Q. You are referring to the check stub saying Board of Directors expense and the memo line that reads Board of Directors on the check itself. Right?

A. Yes.

Q. Where are the Directors meetings held?

A. Different locations throughout the country each year.

Q. Well, in June of 1988 where was the Directors meeting held?

A. We held it in several different locations, I don't remember which location it was that year.

Q. Given the amount of the advance is it fair to say that it wasn't held in Phoenix or Scottsdale?

9504367 18662

A. Not necessarily.

Q. Well, what would the company be paying you $380 for if the Directors meeting was here?

A. Well, if you were going to a very, very fancy restaurant, such as the Scottsdale Conference Center, it might be a $50 tip just to get a halfway decent table and get the kind of service that you need to impress the Board of Directors; so you can easily go through those kinds of funds when you are trying to make an impression on your Board.

Q. Well, if it was an in-town expense like that that you were describing, would you still in 1988 have followed the same practice of cashing the check and carrying the cash around with you?

A. Yes.

MR. KING: Counsel, we'd like to take a break.

MR. BERNSTEIN: Off the record.

(Recess taken from 3:01 p.m. to 3:12 p.m.)

MR. BERNSTEIN: Back on the record.

Q. BY MR. BERNSTEIN: Mr. Twichell, when you got travel advances, was there a bank near your office, your old office in 1988 that you went to to cash them?

9504367 18863

A. Deposits were put in every day; so if, in fact, I had a check that needed to be cashed, I could just give it to the runner with my driver's license and they could get it cashed.

Q. Someone else who was going over to the bank?

A. Right.

Q. What bank was that?

A. Valley National Bank.

Q. Is that where the associations had their accounts?

A. Yes.

MR. KING: Do you know?

A. Well, these checks are from Valley Bank, Valley National Bank, so I'm going to assume that at least NAREA's is at Valley National Bank.

Q. BY MR. BERNSTEIN: Does that correspond to your recollection, too?

A. Yes.

Q. On page 14 of the exhibit do you see check number 9320, which is a $150 check made out to you, Mr. Twichell, and on the memo line of the check it reads, Seminar Expense Dallas, and the same entry is on the check stub?

9504367 1864

A. Yes.

Q. Do you remember this check?

A. I don't remember the check, but I believe I remember the trips to Dallas.

Q. Did you cash this check, Mr. Twichell, rather than deposit it?

A. I've never deposited a check that was given to me for a seminar expense.

Q. Maybe we can just clarify that. We have been talking mostly about travel expenses, seminar expenses in connection with seminars held elsewhere. Are you saying that other expense reimbursements or other expense checks like office supplies or other things, similarly you would never deposit those in your checking account?

A. No, that's not what I was saying. I might deposit that check. Reimbursing me for my expenses.

Q. But travel ones you wouldn't? Travel related advances you wouldn't?

A. If they were paying me back for my expenses that I had incurred, I might have deposited that check.

Q. Well, can you tell from the amount of the check whether it was a travel advance versus an after-the-fact

9504367 1865

reimbursement?

A. Most of mine were done before.

Q. Travel advances?

A. Right.

Q. Mr. Twichell, do you remember getting a $20,000 bonus from NAREA in 1988?

A. I believe I received several bonuses during 1988. I don't know if I remember -- I think I received 20,000, yes.

Q. Well, just to refresh your recollection, Mr. Twichell, an NAREA financial statement dated July 31, 1988, indicates that a check was paid to you on July 5th of that year for $20,000. Does that correspond to your memory?

A. That corresponds pretty typical bonus plan that I'm on, other than I receive them throughout the year. We bill the NAREA members in May, and by July we know how many are going to pay; and basically by the amount that is paid sort of determines my bonus amount.

Q. So you regularly get a bonus at this time of the year, in July?

A. I got one this year and got one in '89 in July.

Q. How much was the amount in 1989?

9504367 1866

A. I don't recollect the exact amount.

Q. Was it more than $20,000?

A. Yes.

Q. Was it more than $30,000?

A. I don't believe so.

Q. And how about this year?

A. I received a $5,000 raise and a $20,000 car, and I believe I also had a $10,000 bonus, I think. So really, I got $30,000 worth of bonuses in July, $10,000 plus I received a -- received a car.

Q. What was your salary in 1988?

A. I don't remember.

Q. Do you remember roughly how much it was? Apart from bonuses, I mean.

A. Oh, 35.

Q. Think it was about $35,000?

A. I'm guessing.

Q. When you get a bonus of this size, Mr. Twichell, and I am referring to a $20,000 bonus in July of 1988, what would you do with that?

A. It would probably be deposited in like a CD account or something like that. IRA.

9504367 1867

Q. Well, I'd like to if I could point you to page 25 of the check register, which is Exhibit 3. And there is a $4,000 deposit on July 9th, which is several days later than the company check to you for $20,000.

Can you read your wife's note on that entry?

A. Yes, this deposit from savings, Ken's bonus.

Q. Well, do you think the $4,000 was part of the $20,000?

A. Anything is possible.

Q. Well, what do you think your wife is referring to when she says deposit from savings?

A. I'm not sure.

Q. Well, I can tell you that it doesn't appear to be a withdrawal from the only savings account statements that you have produced in response to the subpoena.

A. The subpoena did not ask for my wife's savings account, and I made the mistake of producing you with that; so you are not even supposed to have that at all. That's not part of the subpoena. Now, there might have been other accounts that my money was in, and I am unaware of that.

Q. Well, do you think you might have deposited a $20,000 bonus into another savings account of your wife?

9504367 1868

A. I probably gave the check to my wife. What she did with it, I'm not sure. She probably took care of it.

Q. Well, did you two make an attempt to keep your finances separate at all in 1988?

A. Not necessarily, but she had her own money.

Q. Well, is it likely that she would have deposited a $20,000 bonus of yours in an account that was only in her name?

A. That is possible.

Q. Are there any instances where that happened that you know of?

A. No.

Q. Did other employees get bonuses in July ordinarily, Mr. Twichell?

A. Some employees received bonuses. You talking about 1988?

Q. Yes.

A. I don't remember 1988, but -- I don't remember 1988.

Q. Is it a time when other employees are given bonuses for the same reason you described, that it was right after the influx of membership renewals in June?

9504367 18869

A. In 1988?

Q. Yes.

A. I don't remember if other staff were given bonuses.

Q. Turning to page 18 of the exhibit containing the company checks, Mr. Twichell. What can you remember about number 9983, an NAREA check to you for $280 described in the check stub as sem expense. Does that say Palm Springs?

A. Looks like it could be Palm Springs.

Q. And did you travel to Palm Springs in 1988?

A. I believe I did, yes.

Q. What seminar was in Palm Springs that year?

A. I don't remember the exact seminar, but I was in Palm Springs. Think I met with some members, don't remember the exact reason.

Q. Mr. Twichell, let me just show you one or two more of these. Please look at pages 20, 21, and also 22 and 23.

(Pause.)

Have you had a chance to look at those?

A. Yes, I have.

Q. Do you know what those are for?

9504367 1870

A. It isn't written down here, but I'm sure that I went to a seminar and these are advances for attending those.

Remember that --

MR. KING: What isn't written down?

A. The location of where I might have gone. Again, we were doing seminars every other week, it was not uncustom for me to go out to these seminars and handle the registration, train new employees, whatever it took to run the seminars.

Q. BY MR. BERNSTEIN: So you think then these were travel advances for your travel to different locations for seminars?

A. Yes.

Q. And these like the others you would have cashed and taken cash with you?

A. Yes.

Q. Mr. Twichell, were bonuses that you were given ever described as seminar expenses?

A. Not to my knowledge.

Q. Mr. Twichell, let's try to pick things up a little bit maybe. Were you a supporter of George Bush in

9504367 1871

the 1988 Presidential campaign?

A. I believe I sent George Bush a thousand dollars for his campaign.

Q. Can you tell me what involvement you had in any political campaigns prior to that?

A. My family is active in the political arena. My father and my grandfather are both active.

Q. Is that in California?

A. Yes.

Q. And what have they been involved in?

A. Oh, I think they have been involved in mostly State and little local races, things like that; they have been involved with that, fund raisers, things like that. They might be involved with some of the Presidents in the past.

Q. So were you active politically when you lived in California?

A. No.

Q. What was the first political activity or involvement you remember having?

A. This was probably my first official political involvement with the Presidential campaign.

9504367 18872

Q. Do you think it was the first political contributions you made?

A. I don't remember. I might have made some before, but I -- I know it's the first Presidential.

Q. Well, can you list for me as best as you can remember the activities that you undertook to support George Bush's candidacy?

A. What did I do?

Q. Yes. What did you do?

A. I sent him a thousand dollars. That's probably the first thing that I did, you know, what I did for George Bush. You know, the beginning of my getting involved in politics.

Q. Well, what else did you do? Besides sending a contribution.

A. I sent some letters to some members.

Q. That's, of course, the page that was the earliest subject of this matter; isn't it?

A. It is.

Q. What else did you do besides that?

A. Oh, I spoke to friends about the President and voting for George Bush.

9504367 1873

Q. And what else?
A. I think that's about it.
Q. Did you knock on any doors?
A. No. No door knocking.
Q. When you say talk to friends, did you solicit contributions from friends?
A. No, I mean I, you know, in conversation at parties or get-togethers. Just political chat.
Q. Did you attend any fund raisers?
A. No, I don't believe so.
Q. No political fund raisers?
A. Not that I recall.
Q. Are there any other kinds of activities that you engaged in to support George Bush's candidacy?
A. I gave $10,000 to the Presidential Trust.
Q. So that was another campaign contribution you made?
A. Well, I think the Presidential Trust is more of a, you know, trust that goes to a candidate directly to helping him out; and I don't know if that's directly to George Bush himself, but I guess you could say yes to that question.

9504362 1874

Q. Anything else you can remember?

A. Not that I can remember right now.

Q. Can you tell me first what involvement Bob Johnson had in George Bush's campaign that you were first aware of?

A. I don't recall when I first learned that Bob was involved, but I knew that Bob was involved politically with George Bush doing some things in that area, yes.

Q. Well, try to remember how you first became aware of it.

A. It was -- I guess his being involved in politics, you know, people like to brag about those kind of things; I'm sure he said something along the way, you know; Bob and I talked to each other 10 times a day, you know, in the course of business. I'm sure I learned about it that way. I don't remember when I first learned about it.

Q. Well, what activities did Mr. Johnson engage in to support George Bush's candidacy?

A. I think you should ask Mr. Johnson about that.

Q. Well, I'm interested in what you're aware of.

A. I'm not aware of his activities.

Q. Well, you just said you talked to him 10 times a

9504367 1875

day.

A. But not about the Presidential campaign or anything to do with that. It had to do with business stuff.

Q. Do you know if Mr. Johnson was a fund raiser for George Bush?

A. I really don't know. I think he was.

Q. You think he was, but you are not sure?

A. I'm not sure.

Q. And do you know if Mr. Johnson had any kind of fund raising title within the George Bush campaign?

A. I know now that he was on the National Finance Committee.

Q. Did you know that in 1988?

A. I don't believe I did, no.

Q. What I'd like to do now, if I could, is to try to refresh your recollection about the specific contributions that you did make in that time.

Mr. Court Reporter, could you please mark this and type at the same time.

(Exhibit 6 was marked for identification by the court reporter.)

Q. BY MR. BERNSTEIN: I'm handing you a four-page

9504367 18876

exhibit, Mr. Twichell, and it consists of photocopies of checks; and the last two pages are copies of a public financial disclosure report filed with the Federal Election Commission.

MR. KING: Are you asking him to identify this document as being that?

MR. BERNSTEIN: No, I haven't asked him that, Mr. King.

Q. BY MR. BERNSTEIN: Turning to page 2 of the document, do you recognize that check, Mr. Twichell?

A. That's my check to George Bush for President for a thousand dollars. Check number 625.

Q. What's the date on it?

A. The date on it is the 26th of January, 1988.

Q. Please describe for me as best as you can remember the circumstances that led to your making this contribution.

A. Well, I wanted to get into politics more and more. I'm a young executive, I just thought that George Bush would be the best candidate, I'm a Republican, I decided to give a thousand dollars.

Q. Well, did anyone solicit you to make this

9504367 18877

contribution?

A. You know, I don't remember how I got the -- the little, you know, where to even send it. I might even have been contacted.

Q. Who contacted you?

A. I said I might. I mean I don't recall.

Q. I think you weren't certain, but I think you said that you thought this was the first campaign contribution that you'd ever made. Is that right?

A. I think I've made a contribution to Senator McCain before as well.

Q. And when was that?

A. Probably '86 or '87, I'm not sure.

Q. Okay, so this was the second campaign contribution that you've made.

A. Yes.

Q. It was the first contribution to a Presidential candidate that you had made.

A. Yes.

Q. So how was it that you came to write the check on this day for a thousand dollars?

A. I don't understand. What you do you mean how was

9504367187 8

it?

Q. Did the idea pop into your head? Had you seen an ad on TV? How did it come about?

A. It was three years ago, I don't recall. I mean, it was a long time ago. I prefer not to answer when I don't recall, because a lot of things have happened. But like I said, I might be contacted by someone and asked to donate a thousand dollars and said hey, that's a good idea. And I did so.

Q. Well, if you were contacted, was it someone known to you or a stranger?

A. Since I don't remember even if I was contacted, I can't remember that at all.

Q. Well, let's back up a little bit. Were you ever contacted by anyone on behalf of the Bush for President campaign?

A. I have been contacted, yes.

Q. And when was that?

A. I've received phone calls at home, I've received phone calls at the office. In regards to contributing.

Q. Do you mean before you contributed?

A. Yeah. I believe so.

9504367 1879

Q. So then you think somebody solicited you over the phone?

A. I --

MR. KING: I believe he said he doesn't know.

MR. BERNSTEIN: Well, I'm trying to plumb his memory and refresh his recollection, Mr. King.

A. I've had a lot of time to think about this, and I just don't recall.

Q. BY MR. BERNSTEIN: Well, why did you write it for a thousand dollars, Mr. Twichell?

A. My understanding is that's the max contribution that you can give to the President of your own personal funds.

Q. Where does that understanding come from?

A. I don't recall how I learned it, except I did learn it for sure later from that woman at your agency named Janet Hess.

Q. But are you reasonably certain that you had that understanding when you wrote the check, that you were writing it for the max amount an individual could contribute?

A. I think I knew that at the time, yes.

9504367 18880

Q. What discussions had you had with Robert Johnson about Bush's candidacy before you made this contribution?

A. Well, we certainly talked about the fact that George is the better candidate. And I knew he was politically involved, but I -- I think that's probably about as far as those conversations were. Again, back in 1988 Bob and I were not as connected as we are today.

Q. You're closer to him now today than you were then?

A. Yes.

Q. You were still Managing Director of the Association then?

A. Yes.

Q. And you were still hiring and firing employees then?

A. We like to call it staffing.

Q. You were still staffing then.

Did you get the understanding that a thousand dollars was the max from Mr. Johnson?

A. I don't recall.

Q. One way or another?

A. You mean yes or no? If I don't remember --

9504367 1881

Q. You don't recall one way or another?

A. Right.

Q. What did you do with the check, Mr. Twichell, once you wrote it out?

A. I mailed it to wherever I mailed it to.

Q. Did you put it in an envelope and mail it yourself?

A. I believe I did, yes.

Q. And how did you know where to mail it?

A. I assume I had an address on something, a piece of paper or some kind of a -- don't you have to fill out some kind of a form or something when you do these things?

Q. Did you fill out a form as well as write the check?

A. I might have, yes.

Q. Well, do you have a specific memory of filling out a contributor form?

A. No, I don't have a specific memory; but I do know in my involvement in politics over the last five years that you do have to fill out some kind of an information sheet that these are your personal funds and sign it, and I don't know, give your social security number or something like

9504367 18882

that. So probably did that for this.

Q. Did you attend a fund raiser in connection with this contribution?

A. No.

Q. Did you talk to anybody that you can remember about this contribution?

A. Oh, I'm sure I bragged about giving money to Bush. My neighbors know. My friends know.

Q. So after you made the contribution you think you talked about it?

A. I might have talked about it before.

Q. Mr. Twichell, how did you know how to make out the check?

A. Again, it's probably on that little form or whatever. Usually you get these little, you know, I get those in the mail, solicitations all the time looking for money from the -- and I think that, you know, it's always up there who to make the check payable to and all that.

Q. Were you solicited in the mail for this contribution?

A. I don't recall. Might have been.

Q. Well, do you remember with particularity any

95043671883

particular solicitation you received?

A. No. I do not.

Q. Did you discuss this contribution with any of your co-workers, Mr. Twichell? At the time I mean, at the time you were making it.

A. You mean at the time that I was writing out the check or do you mean -- I don't understand.

Q. I mean in the vicinity, the vicinity of time in which you made the contribution, shortly before and shortly after.

A. I just -- I don't remember.

Q. Did you discuss this contribution with your wife, Mr. Twichell?

A. I'm sure I did.

Q. What was the substance of those discussions?

A. I don't recall the absolute discussion, but I'm sure I told her that it would be a good thing for me to get involved in. At one point I wanted to be -- I was really thinking about getting into politics. I've been a little soured since then, but at one time I did want to get into politics.

Q. Well, what did your wife think about it?

9504367 1884

A. She didn't say no, because she gave a thousand dollars to him as well.

Q. Oh, she did?

A. Yes.

Q. On the same day?

A. I don't know if it was on the same day.

Q. Well, did she write out a check at the same time as you?

A. I don't recall.

Q. You don't remember?

A. No.

Q. Did she hand you a check that she wrote?

A. She probably sent it in just like I did.

Q. You think she sent it in separately from you?

A. Probably.

Why do you think that's so funny?

Q. I think what you were detecting, Mr. Twichell, is that, you know, plainly this happened some time ago, though not in the distant past, and yet here you are writing out a thousand dollar check to the Bush campaign and your wife is, too, and there are details which it seems to me would come to mind; and I'm trying to probe you for those details.

9504367 1885

A. I almost remember writing this at the office, putting it in an envelope and sending it. And my wife, I probably took it home that night and said honey, I'd like for you to give a thousand dollars, too; and she did it at night. Probably mailed it the next day. Not in the same envelope. And that's -- I think.

Q. You're explaining the basis for your recollection that it was done separately rather than together?

A. Right. Right.

Q. Are you reasonably certain that you mailed off your check?

A. I'm reasonably certain, yes.

Q. Were there any other checks in the envelope when you mailed it off?

A. I don't believe so. Just mine.

Q. And was your wife a supporter of George Bush as well?

A. In regards to money?

Q. Well, you've told me she contributed, so I guess she supported him financially.

A. Yes.

Q. Is she a political supporter of George Bush as

9504367 18886

well? Was she in 1988?

A. Yes. Do you mean did she want George Bush as President?

Q. Yes.

A. Yes.

Q. Was she interested in getting into politics, too?

A. Never know what. She might want to be First Lady.

Q. Please turn to page 1 of the exhibit, Mr. Twichell. There are two checks on the page. Do you see the lower one?

A. Yes.

Q. And do you recognize that check?

A. Yes.

Q. So this was another contribution that you made in 1988?

A. Yes.

Yes.

Q. And this check is made payable to Durenburger for US Senate, looks like it's dated March 4th, '88, for $500, and the memo line reads -- is that your handwriting, contribution?

9504367 18887

A. Yes.

Q. Please tell me the circumstances of this contribution.

A. I've met with Senator Durenburger before, think he's a good candidate. Second of all, he is a supporter of -- of my Association. He's a supporter of appraisal licensing, and I thought it would be in the best interests of my company as well as myself personally as a Republican to recommend to give Durenberger $500.

Q. Well, what were the circumstances of that contribution? You've explained your motivation why you wanted to support Senator Durenburger. But now how did you come to make the contribution?

A. There was a fund raiser being held, and I went to that fund raiser and gave the $500.

Q. So you did attend a fund raiser in 1988; but it wasn't for George Bush, it was for Senator Durenburger?

A. That's true.

Q. Do you think that was in connection with this contribution, Mr. Twichell?

MR. KING: What was?

MR. BERNSTEIN: Fund raiser that you are

9504367 1888

discussing.

A. I don't recall if I gave the check prior or if I gave it at the fund raiser.

Q. BY MR. BERNSTEIN: Well, maybe we can help a little bit. Please turn to the last page of the exhibit.

I'm sorry, the next to the last page. Try that.

Do you recall making another contribution to the Durenburger campaign in May of 1988, Mr. Twichell?

Let me explain briefly that this is a page from an FEC report in which the Durenburger campaign reports receiving a contribution from you in the amount of $500 in late May, and I show this to you just to see if it can refresh your recollection about an additional contribution that you may have made.

MR. KING: And, of course, we have no reason to disbelieve what you just said, but we have no idea whether really that's what this is. We've never seen this before.

A. I've only given Durenburger $500, so I can tell you that their accounting is two months behind.

Q. BY MR. BERNSTEIN: So you only made one contribution to the Durenburger campaign in 1988, Mr. Twichell?

9504367 1889

A. I believe so.

Q. When you made your March contribution to Mr. Durenburger, Mr. Twichell, why didn't you make it out for a thousand dollars?

A. I don't remember.

Q. Now, you said, Mr. Twichell, you think that your March contribution of $500 was in connection with a fund raiser that you attended. Correct?

A. Yes.

Q. Did you receive an invitation to this fund raiser?

A. Yes.

Q. And who sent it to you?

A. I don't recall.

Q. Who did you talk to about the contribution at the time?

A. I don't remember who I talked to about it.

Q. Where did this fund raiser take place, Mr. Twichell?

A. In Minnesota. St. Paul.

Q. And where in St. Paul?

A. At my legal counsel's home.

9504367 18890

Q. The Randy King Fund Raiser. Okay.

Now, here's a question where the seasons will help. When you went to Minnesota for this fund raiser was it very cold or not so cold?

A. It was not so cold.

Q. Is it possible that the fund raiser was in May of that year rather than March?

A. That's a possibility, but I might have sent the funds in way before that. And they may have held those funds until the fund raiser and then sent it in at that time.

Q. Well, regardless of the question of when exactly it took place, so you traveled to the Twin Cities to attend this fund raiser?

A. I traveled there for several reasons.

Q. And what were those reasons?

A. I met with John Steensland while I was there.

Q. Who is he?

A. The President of the Association in 1988. I met with Randy King at the time to discuss legal issues. And I also attended the fund raiser. I very rarely travel anywhere without some kind of a connection with business.

9504367 1891

Q. Well, so your testimony is this was a multi-purpose trip?

A. Yes.

Q. Did the company pay for you to take this trip?

A. I believe the company paid for my flight, yes.

Q. Mr. Steensland lives in the Twin Cities?

A. He does. White Bear Lake.

Q. Have you visited him there any other time?

A. Yes, I have.

Q. How frequently?

A. Twice a year.

Q. How did you travel to the Twin Cities? In connection with this event. How did you get there?

A. Jet.

Q. By commercial plane?

A. Yes.

Q. Were you traveling alone or with someone?

A. I don't remember. I think I was -- I think I was with Bob Johnson.

Q. So he went with you to the fund raiser?

A. He was at the fund raiser, yes.

Q. Did he contribute to Senator Durenburger as well?

9504367 1892

A. I don't know.

Q. Was this the first political fund raiser you attended, Mr. Twichell?

A. That I remember, yes.

Q. Well, what discussions did you have with Mr. Johnson in connection with this contribution?

A. I don't remember my exact discussions, but I know that when I was in Washington one time I met with Senator Durenberger and we discussed appraisal licensing issues, and he supported our Association. I decided it would be in the best interests to make the contribution to Durenburger, and while I was there take advantage of that situation and talk to Durenburger about more appraisal licensing issues and try to get him on our side.

Q. Did you discuss your contribution with Mr. Johnson before you made it?

A. I might have.

Q. Well, try to remember. Do you --

A. Again, I've had a lot of time to think about this. I can't remember.

Q. Did you carry the contribution check with you to the fund raiser?

9504367 1893

A. I don't remember.

Q. Well, did you put it in an envelope and mail it like you did the other one?

A. I probably did, but I don't remember.

Q. You don't remember handing it to someone at Mr. King's house?

A. No. Maybe I -- maybe I did. I don't remember.

Q. Did your wife make a contribution to Senator Durenburger as well?

A. I don't -- I don't know.

Q. Do you think she might have?

A. I don't know.

Q. So you never discussed your contribution with her, I guess.

A. She probably asked me about it.

Q. Do you know if Mr. Johnson contributed as well?

MR. KING: You've asked that, but go ahead.

MR. BERNSTEIN: Yes, please.

A. I don't know.

Q. BY MR. BERNSTEIN: So that subject, as best as you can recall, that subject didn't come up in the time that you were traveling up there together?

9504367 1894

A. It might have, I just don't remember.

Q. Well, let's move on to July, Mr. Twichell, and if you would turn to the first page of the exhibit. Do you see the check at the top there?

A. Yes.

Q. That check is dated July 19th, 1988, it's made payable to the Presidential Trust for $10,000. Do you remember that contribution?

A. I remember writing the check, yes.

Q. Well, please tell me the circumstances of that contribution.

A. Well, I was getting more and more active in politics and I thought that now would be a good time to make my move and really get involved in politics; and I think I might even have knowing that Bob was active in it, I probably even asked him about it and said do you know -- tell me a little bit about some things. He, if I remember correctly, had recommended several different areas that I could get involved; and one of them was the Presidential Trust; and I made that decision that the Presidential Trust is the one that I wanted to do.

Q. Well, how many discussions did you have with Mr.

9504367 1895

Johnson about it?

A. Don't remember the number of discussions we've had about politics, et cetera.

Q. How about discussions about the Presidential Trust specifically?

A. Think we really only talked about that one full time. I had some money and I, you know, talked to him about it and asked, you know, we got to talking about different areas how I could get involved in politics; and I think this is the decision I had finally made up.

Q. Are you aware of anyone else in your office, Mr. Twichell, who made political contributions that year?

A. I am now. I wasn't in 1988.

Q. In 1988 you were not aware of any other employees making contributions?

MR. KING: That's exactly what he just said.

MR. BERNSTEIN: Well, I'm trying to plumb his memory.

A. Um-hum. That's the truth. Yes.

Q. BY MR. BERNSTEIN: Did you talk to anybody around the office about this $10,000 contribution that you made?

A. I don't think so. I think this was more of a

9504367 18996

personal thing.

Q. You didn't want to brag about this one?

A. Well, even if you go and ask my office now, I'm not the bragging type with my office. I'm very business orientated, I don't do a lot of socializing around the office. There's very few of the staff that I have any type of relationship as a friend. And I doubt that many people know my connections at all or know anything about me.

Q. Is there a greater likelihood that you talked about the $1,000 contribution you had made to Bush in January than this one?

A. No more to my staff, to the staff, than 10,000 or any dollar amount.

Q. And you didn't hear any discussions about other people making contributions at that time?

A. I don't recall.

Q. There is another payment, Mr. Twichell, that I'd like to ask you about. And if you would have a look at Exhibit 3, the check register.

MR. KING: What page?

MR. BERNSTEIN: Page 18.

Q. BY MR. BERNSTEIN: And do you see check number

9504367 1897

814 on May 10th, Mr. Twichell?

Now, again, the subpoena issued to you by the Commission required the production of originals or legible copies; and if, in fact, you can't read this, then I think I'd ask for you to retrieve the original so we can figure it out.

A. No, it says Arizona Republic Party.

Q. Well, is that Arizona Republican Party?

A. I don't know. It's for a hundred and fifty-six dollars. That sure is a funny amount.

Q. Well, is that a check that you wrote on May 10th of 1988 or a check that your wife wrote?

A. Don't know.

Q. Well, what business did you have with the Arizona Republican Party in May of 1988?

MR. KING: Assuming there is any.

MR. BERNSTEIN: Assuming there is any.

A. I don't know.

Q. Well, do you remember making any non federal campaign contributions in 1988?

MR. KING: That's wholly irrelevant to this.

A. I don't remember any.

9504367 1898

Q. BY MR. BERNSTEIN: Did you buy anything from the Arizona Republican Party in May of 1988 that could account for this payment?

A. Do they sell things?

Q. I'm trying to figure out what the universe is for the reasons for this payment that you made.

MR. KING: He's already said that he doesn't know what it's for.

A. I don't know what it's for.

Q. BY MR. BERNSTEIN: Well, do you remember ever making any kind of contribution or payment to the State Republican Party, Mr. Twichell?

A. You don't have to pay to get registered as a voter; do you?

Q. Off the record for a second.

(Discussion off the record.)

MR. BERNSTEIN: Okay, back on the record.

Q. BY MR. BERNSTEIN: So as best you can remember, and you have been furrowing your brow and trying to plumb your memory, Mr. Twichell, you haven't the faintest idea of what this $156 check was to the Arizona Republic Party written on May 10th, 1988?

9504367 1899

MR. KING: Excuse me, it hasn't been established it's The Arizona Republican Party, first of all.

Q. BY MR. BERNSTEIN: Well, is AZ an abbreviation for Arizona, Mr. Twichell?

A. Yes.

Q. Do you think this stands for something other than the Arizona Republican Party?

MR. KING: He doesn't --

A. It could stand for something else.

Q. BY MR. BERNSTEIN: What else could it stand for?

A. It's a very funny dollar amount, and I don't know.

Q. Well, let's move on and maybe we can shed more light on it, maybe not.

Please look at the top of that page, which is a deposit dated May 11th. Do you see that? For $156?

A. Um-hum.

Q. And what note does your wife write there, Mr. Twichell?

A. It's pretty difficult to read. Deposit from NAREA.

Q. What does the second line of that entry say?

9504367 1900

A. It's too difficult to read.

Q. Well, if it is, then perhaps we should adjourn this deposition so that you can retrieve the original check register.

MR. KING: No, we are not going to adjourn this deposition.

Q. BY MR. BERNSTEIN: I ask you, Mr. Twichell, I know what I think it says; but I ask you because you're the best decipherer of your wife's handwriting. It looks to me like it says to cover a check.

A. It's a possibility.

Q. And in truth, if you think that it might say something else, then maybe we do need to look at the original check register.

(Conference between Mr. King and Mr. Twichell out of the hearing of the court reporter.)

MR. BERNSTEIN: Mr. Court Reporter, could you please mark this.

(Exhibit 7 was marked for identification by the court reporter.)

Q. BY MR. BERNSTEIN: Mr. Twichell, did you get a company check on May 11th to pay for check number 814 that

9504367 1901

seems to be to the Arizona Republican Party for $156 on May 10th?

MR. KING: Seems to you to be to the Arizona Republican Party.

A. Not to my knowledge.

Q. BY MR. BERNSTEIN: I am handing you what is Exhibit number 7, Mr. Twichell. And it is another series of checks written to you from the National Association of Real Estate Appraisers, and on top of them containing the check stubs. And could you please look at check number 9093, which is a check dated May 10th, 1988, written by the NAREA to you for $156, and the memo line it says seminar expenses.

Do you remember what this check was for, Mr. Twichell?

A. No, I don't remember.

Q. Mr. Twichell, do you think that the $156 that is in your checkbook as deposited, in your wife's phrase, deposit from NAREA, is a different $156 than the NAREA check dated May 10th?

A. I don't know.

Q. It is rather a funny amount; isn't it?

A. It is.

9504367 1902

Q. Well, let me just ask you again. Did you receive a company check of $156 to reimburse you for check number 814 on May 10th, 1988 for $156?

A. Not that I remember.

Q. Do you remember anything about this transaction?

A. No.

Q. Not a thing.

A. No.

Q. Can you think of what $156 seminar expense might possibly have been for, Mr. Twichell?

A. It's pretty consistent with some of my other seminar expenses, that dollar amount.

Q. Well, we know that most of the seminar expenses, because they have been advances, have been round amounts; haven't they?

A. Roundabouts?

Q. Have been rounded off amounts.

A. Maybe this is one of the ones that I charged them. Had the expenses prior.

Q. Well, was there travel that you went on in connection with a seminar at this time in 1988?

A. I don't recall, but that's what that is saying.

9504367 1903

seminar expense.

Q. How could you find out if you were on travel before this or after, shortly after this?

A. I don't keep a record of where I went in 1988.

Q. What records would there be of your travel in 1988, Mr. Twichell?

A. Really isn't. I just went all over the country promoting the Association, attending educational seminars.

Q. Do you think this $156 could have been for a local seminar?

A. I don't know.

Q. Do you keep a personal calendar, Mr. Twichell?

A. No, I do not.

Well, let me take that back. I have a calendar on my desk which says what day it is. I don't keep my travel on it. I usually put them on a file, eight and a half by 11 file, and keep them to the left of my desk; and then after I travel I throw it away.

Q. So you don't keep records of any of your past travel expenses?

A. I give my expense sheets and all that to the accounting. So I don't know what they do with them after

9504367 1904

that.

Q. Do you keep copies of it?

A. I don't. No.

Q. Mr. Twichell, if you turn to two pages into Exhibit 7, please look at check number 8815. And this is a check to you from the National Association of Real Estate Appraisers dated March 4th, 1988, for $520, and you notice that the check stub says seminar reimbursement and the memo line on the check itself says reimbursement -- R-E-I-M-B, period, for seminar. Do you know what seminar this was for, Mr. Twichell?

A. I don't recall. I don't remember what seminar I attended.

Q. Mr. Twichell, do you recall that March 4th, 1988, was the same day that you wrote a check for $500 to Senator Durenberger's campaign?

A. No, I don't remember that.

Q. Well, if you have a look at Exhibit 6, do you see that check?

A. I see a check to Durenberger for Senator.

Q. Do you have any doubts that the date is March 4th on that check?

9504367-1905

A. Looks like a four, yes.

Q. Please look at page 9 of Exhibit 3, which is the check register, if you would.

At the bottom of the page do you see check number 733 dated March 4th which records, quote, contribution, unquote, for $500? Do you see that?

A. Yes.

Q. And if you look up the page do you see that there is a deposit, Mr. Twichell, on March 6th for $1,533.03?

A. Yes.

Q. And can you read what your wife had to say about that deposit, please?

A. 500 to cover check.

Q. Well, the top line says Ken's paycheck.

A. Yes.

Q. And the next line says and 500 to cover check.

A. Yes.

Q. Mr. Twichell, did you receive a company check for $520 to reimburse you for the contribution that you made to Senator Durenberger's campaign of $500 dated March 4th, 1988?

A. No, that was for a seminar reimbursement.

9504367 1906

Q. Well, what do you make of your wife's note, Mr. Twichell?

MR. KING: You mean what does it say?

MR. BERNSTEIN: Well, we know what it says. What does it mean, is my question.

MR. KING: You can go ahead.

A. I don't know what it means.

Q. BY MR. BERNSTEIN: Now, Mr. Twichell, if your wife is making a note in the check register characterizing a deposit, that information can only have come from you. Isn't that right?

A. Repeat that again?

Q. If your wife is making a note about a deposit of yours, depositing a check of yours, information characterizing that deposit could only have come from you.

A. That's not necessarily true.

Q. Where else could it have come from?

A. She might have had my paycheck and then pulled $500 from the savings account to cover the $500 check I gave to Durenburger and put it in the account with my paycheck.

Q. So you think that the $500 referred to in your wife's note on the memo line is not the same 500, 520 that

9504367 1907

was written to you on the same day by NAREA?

MR. KING: Just a minute. You've mischaracterized this. The check that we find in Exhibit 7 is not on the same date as the notation made on page 9 of Exhibit 3.

MR. BERNSTEIN: Oh, I apologize, and I don't want there to be any misunderstanding. It's plain that the deposit of $1,533.03 took place on March 6th, and if you'd like to look at your bank statements I think that's what it would show. My point was that the same day that you wrote a check to the Durenburger campaign you received a like amount from NAREA labeled, quote, seminar reimbursement, unquote.

MR. KING: Well, I object to the characterization of like amount. Because it isn't the same amount.

MR. BERNSTEIN: Okay, it's $20 more.

A. Well, it is a seminar reimbursement of expenses that I incurred in the seminar. I assume it would have been deposited.

Q. BY MR. BERNSTEIN: So you think it is the same $500?

A. There's a lot of angles here. I don't know.

Q. Do you have a specific recollection of this

9504367 1908

transaction, Mr. Twichell?

A. No, I do not.

Q. You don't remember the specific seminar that this $520 seminar reimbursement was for; do you?

A. I must have been to a hundred fifty seminars since that date. No, I don't remember the exact seminar.

Q. And is there any record that you have or anyone else would have that would verify what seminar this related to?

A. I probably -- well, I write an expense sheet out and I gave it to the accountant, so I assume the company has that.

Q. And other than that expense sheet?

A. What else would there be?

Q. That's what I'm asking you.

A. That's all there is. Seminar expense.

Q. So, Mr. Twichell, you wouldn't deny then that the company might have reimbursed you for this contribution, because you just can't remember; is that right?

A. The company has never reimbursed me for a contribution.

Q. How do you know that?

9504367 1909

A. Because I know.

Q. How do you know?

A. Because I'm telling you that's the way it is.

Q. In 1988 did you have any understanding about whether a company could reimburse an employee for a campaign contribution?

A. My understanding is a company cannot contribute to a campaign fund.

Q. Well, did you have that understanding in 1988 as well?

A. I don't recall.

Q. So you say that you weren't reimbursed for a campaign contribution by the company, but you don't remember the details of this particular transaction?

A. I don't think that's unusual. No, I do not.

Q. Turn to the next page of Exhibit 7, please, Mr. Twichell. I'm referring now to check number 9470, which is written to you, Mr. Twichell, dated July 19th, 1988. Can you read the entry on the check stub there?

A. Moving expense.

Q. Is there something else written there? Can you tell what that is?

9504362 19910

A. Some squiggly.

Q. Let me refer you now to page 26 of the check register, which is Exhibit 3, Mr. Twichell.

MR. KING: I'm sorry, what page?

MR. BERNSTEIN: Page 26.

Q. BY MR. BERNSTEIN: There are two $10,000 transactions on that page, Mr. Twichell. Do you see them?

A. I do.

Q. And they are check number 952 dated July 19th to the Presidential Trust for $10,000, and that's the check that we have already discussed at Exhibit 6. Isn't it?

A. Yes.

Q. And can you read your wife's notation on the deposit for $10,000 just above that?

A. Say that -- what's right above it?

Q. Do you see the deposit for $10,000?

A. Yes.

Q. Can you read your wife's notation on those two lines?

A. Deposit from Ken's boss.

Q. Okay. Now, Mr. Twichell, is the $10,000 that your wife noted there as being from Ken's boss the same

9504362911

$10,000 as the company check that we have just looked at dated July 19th, 1988?

A. I would assume it is.

Q. What was that $10,000 for, Mr. Twichell?

A. The moving expense.

Q. What moving expense?

A. Well, we moved the building from the Commercio address over to the Evans address, and there's a little bit more to it than that; but I was responsible for the entire construction of the building, monitoring, you know, getting the whole building done on time; and then I was responsible, actually both Tim and I, for moving most of the office.

We had bids from everywhere, the minimum bid was like $34,000, and we had -- maybe it wasn't that high -- 31 or something like that, I can't remember. But we had a bunch of bids and they were pretty high.

Q. When were those bids?

A. Well, we were delayed because of the construction of the building was delayed, we were like two months late; but I don't remember, whenever we moved. I probably did it like a month or two prior to our move.

Q. When did you move?

9504367912

A. I don't remember the exact time.

Q. Well, how long after you moved was this company check made out to you for $10,000?

A. We probably moved in early July.

Q. In early July, do you think?

A. Think. I'm guessing.

Q. So when do you think the bids would have been solicited?

A. Prior to that. May and June.

Q. And what were the bids for?

A. For moving the entire office. All the computers, all the paperwork, all the equipment that we had, everything.

Q. And you sent out these bids?

A. I worked with some of the bidders, yes, told them what everything is necessary, showed them around the office, showed them everything.

Q. Did you call up vendors, or how did you go about it?

A. I don't really remember how I did it. I think I grabbed the Yellow Pages and then I -- again, it was so long ago. I think I grabbed the Yellow Pages, and I might even

9504367 19 13

have got a couple referrals, I don't remember.

Q. Well, who did you call?

A. Somebody like United Van Lines or somebody like that. I can't remember all the companies. You know, you always see their trucks. I think that's probably one of them I called.

Q. When you moved offices what exactly was moved from the old building to the new building?

A. Well, all the computer equipment, all of our files, all of our records, all of our inventory. We had a lot of materials that were in boxes that we sent out to the members on regular basis. All the membership information, all that had to be moved. It was actually a pretty big amount.

Q. Were there any invoices that were moved?

A. Invoices?

Q. Invoices from vendors.

A. I have no idea. There was probably several accounting boxes.

Q. So you said it was mostly files and the computers. Were there file cabinets that were moved?

A. Oh, everything was moved.

9504367 1914

Q. How about furniture?

A. Oh, it was all moved. The entire contents of the inside of an office.

Q. So the estimates that you were soliciting were for somebody to come in and do all that?

A. Yeah. As well as I spent a lot of time again handling all the construction of the building; and then when we got in the office somebody's got to arrange it all. And I spent many, many hours, Saturdays and Sundays and late into the evenings getting that whole situation, you know, getting it all ready for our staff to move in.

Q. Well, let me bring you back a little bit. You solicited these bids from how many different vendors, do you think?

A. I don't recall the exact amount.

Q. Roughly?

A. Three, four.

Q. Do you think United Van Lines was one of them?

A. I don't remember.

Q. Did you write down the vendors that you called?

A. I might have.

Q. Did you keep that document?

9504367915

A. Not for three years.

Q. I gather this was unusual so you would not have had a list of vendors who would provide this sort of service that you referred to; right?

A. No.

Q. Did you get bids in writing?

A. Probably received some of them in writing, yes.

Q. And then what did you do?

A. Well, we determined it was a little bit too high. I mean, I wound up and Tim and I handled almost all of the move. The whole thing. We moved a lot, the office. I mean, it was literally 60 trips. A lot of trips between the two offices.

Q. Well, when you said we decided, who is we?

A. Well, Bob was aware of the bids and I was aware of the bids, and they were just way too high; and we just decided that we would handle it ourselves.

Q. How much were the bids?

A. I remember one in the thirties and I remember one just being way out, but I remember the one specifically -- when I got the first one 30 I couldn't even believe it. You know, at that point we handled it ourselves.

9504367 1916

Q. Was Mr. Cloud involved in the discussion?

A. I don't remember.

Q. Well, whose idea was it to not use any vendors to do that?

A. I think it was my idea. I mean, I was pretty upset on the prices that they were doing -- you know, I had a pickup truck at the time, and that wasn't really a big deal for us to make a lot of trips between there and the office and take care of the whole thing. I mean, it was a big deal, but I mean.

Q. Well, what took place? I mean, what did you do or anybody else do immediately after the decision was made that you weren't going to hire someone to do this?

A. Well, when the time came to move we wound up boxing everything up, I mean, just everything, getting it over to the new office.

Q. When did you do that?

A. Couple days prior to the move.

Q. And what sort of work did that involve?

A. Well, we had to put all the boxes -- we had to take all the paper products and put them in the boxes, take what we could. We had to disconnect all the computer

9504367 19917

systems, had to wrap them in all the tissue paper and all that, make sure they didn't get damaged, and get them over to the new office. Basically, you know, the entire office, move of an office building.

Q. And did you say that Tim Cloud was involved in this as well?

A. Yes, he was involved in this.

Q. What did he do?

A. He handled most of all the computer and all the setup. We had a big problem, you're only allowed to have a hundred feet of cable for computer connections; and that didn't happen. So Tim had to oversee the entire setup of the entire computer operation, and so he took care of that whole thing.

Q. You mean in the new building?

A. In the new building.

Q. In the new building the distances were too great?

A. Yeah, you can only do a hundred feet of cable; and I remember that specifically, because it was big problem at the time.

Q. What did he do in the old building to get ready for the move?

9504367 1918

A. He had to disconnect all the computers, and they had to be all boxed un and like inside tissue paper packed up to make sure they didn't get damaged.

Q. When did he do that?

A. I think again we did it a couple days prior to our whole move. We didn't have it all done when we were supposed to have it done because it took longer than we anticipated.

Q. So the office was basically down for a couple days; is that it?

A. Sure was.

Q. Did Mr. Cloud do anything else before that in connection with the move?

A. Again, he helped with the situation at the new building, you know, getting the whole thing set up, helping really to design the computer department.

Q. How long prior to the move do you think he was involved in that?

A. Well, it took eight months to build the building, and Tim visited the building on a regular occasion. So did I. daily I visited the building. Actually twice a day. He might have been over there several times during the

9504367 19919

construction of the building. Meeting with the cable people and meeting with all those different people.

Q. So the associations didn't hire any movers to do this?

A. We did have someone move some boxes for us that were in the other storages that we had in these storage bins, you know; they were paper products. Just a lot of the heavy stuff. You know, little pieces of stuff. So we brought in a company just to do that. But we handled all the big stuff and stuff in our own office.

Q. How about the furniture?

A. We handled furniture.

Q. And all the file cabinets?

A. Yes.

Q. And who did that exactly?

A. I did some of it. Tim did some of it.

Q. Anybody else?

A. The mail room kid helped out. Think there was different people involved in that.

Q. How many people total were involved in it?

A. I had the staff all box up their stuff of their own desk into their own box. So I guess we could say the

9504367 19920

staff helped, too.

Q. Who was actually involved in moving it?

A. I was actually involved in almost the whole coordination of that. Well, I was involved in the whole coordination of the move.

Q. I asked who else was involved in that part of it in actually physically moving things.

A. Tim and I. and I guess Todd did some work in regards to that, too.

Q. Todd Johnson?

A. Todd Johnson.

Q. Anybody else?

A. Directly in charge? No.

Q. And did you say you used your pickup truck to do that?

A. Um-hum.

Q. Anybody else's, any other vehicles?

A. We used Tim's Camaro at the time. Well, it was actually the best to put the computers in. it had a big plush seat; so they made many, many trips.

Q. Did you have an understanding with Mr. Johnson that you would be paid for this work you were doing?

9504367 1921

A. I've always got paid for the work that I do. I mean, I know that if I work hard I'll get paid. I mean, I've always received bonuses for things that I've done, and I didn't do it for that reason. I did it because, you know, I wanted to make sure it got done correctly.

Q. Well, we've seen that in fact that two weeks before this, on July 5th, 1988, you got a $20,000 bonus. Right?

A. That's true.

Q. So I think the answer to my question is that you didn't talk with Mr. Johnson about you getting paid for doing this? What I mean is getting paid over and above your other pay.

A. He might have said something like hey, I'll take care of you, don't worry about it. I don't recall. Really don't. I mean, I did it because it needed to be done.

Q. Well, trying to remember, did you have any expectation that you would receive some sort of extra pay just for this?

A. I really just don't remember. I'm just thinking about it, and I just don't remember.

Q. At this point you had just received a $20,000

9504367 1922

bonus. Do you think you had an expectation that you would get more?

MR. KING: Excuse me. At what point?

Q. BY MR. BERNSTEIN: Well, after July 5th, you had received a $20,000 bonus.

A. Well, I received a $20,000 bonus from NAREA, and that's because the group had grown so much, and that's because I work, you know, 12, 15 hours a day; and then the building was a whole different situation, that was up and beyond. I mean, I spent a lot of my personal time on that, moved the entire office.

Q. When did you spend your personal time on that?

A. All the time.

Q. Well, you --

A. The entire construction of the building my lunch hour I spent up there; and after work, I always went up there after work to see how far we progressed.

Q. When did you usually leave work?

A. 6:00 o'clock, 6:30.

Q. I thought you said you usually worked 12-hour days or even more usually?

A. That's true.

9504367 1923

Q. So when did you get in in the morning?

A. About 6:00, 6:30.

Q. Really.

A. Yes.

Q. Do you want to testify, counsel?

MR. KING: It's true.

Q. BY MR. BERNSTEIN: Now, you didn't have any kind of written agreement with Mr. Johnson about payment that you would receive for helping move the office; correct?

A. No written agreement.

Q. So you had no written agreement, no real understanding yourself that you would be paid specifically for this; and what happened on July 19th?

A. I think there's always that understanding that when you work hard for your company you're going to get paid for it. In my company it's really clear. Every one of my staff knows if they really work hard they'll get reimbursed for their -- for their time and their energy. I wasn't really that surprised when I received the funds. I was a little surprised, I guess, on the amount. I was actually pleased particularly in the amount of time I put into it. I deserved it.

9504367 1924

Q. Well, please describe to me as best you can the circumstances that attended your receiving this $10,000 from the company.

A. The same as I always receive a bonus. Bob calls me into his office and probably go over a few business items and says, you know, here's some money for your time and energy that you put into your move, thank you very much, did a great job, we're up and running. And I received the bonus.

Q. He handed you a check at that time?

A. Yes.

Q. Did he write out the check in your presence?

A. No, he's never written the checks in my presence.

Q. So he had it made out already?

A. Yep.

Q. What did you say to him?

A. Thank you.

Q. That was it?

A. We finished up some of our business discussion; and again, this is a long time ago. This is the way most bonuses go. I mean, finished up some business discussion, I said hey, I'm going back to my office, get some things done;

9504367I925

and I headed back to my office to get back to work.

Q. And then what happened?

A. Well, as I sat in my office --

MR. KING: In relation to what?

Q. BY MR. BERNSTEIN: Although no one stated, I think the witness understands what it's in relation to.

A. Well, I just received $20,000 before that, and financially my situation was rather well; and that I felt, you know, the politics were in the air, and I thought, you know, I've done some things already and I'd like to give some money; but I wasn't sure what I could give and couldn't give; and I went back into Bob's office later in the day, and we got to talking about it; and I think we talked about this earlier in my deposition here, and we talked about different agencies and the Presidential Trust was a good likely agency for me to get involved in.

Q. Had you discussed the Presidential Trust with Mr. Johnson before that?

A. I don't believe so. We really never talked about any of the real agencies. And again, it's a long time ago; we might have, but not that I recall.

Q. Please tell me again as best as you can remember

9504367 1926

your conversation with Mr. Johnson that resulted in your making the contribution.

A. The best that I recall was just that --

MR. KING: For the third time.

A. I had, you know, received the $20,000 bonus before that, I had 10,000 now. We got to talking about politics and some of the angles how I could get more involved in it, and we came up with different agencies; and I made the selection of using the Presidential Trust.

Q. BY MR. BERNSTEIN: Well, did he suggest it to you as a good place to put your money?

A. He suggested more than one. There were -- what is there, the Senatorial Trust, Presidential, there's all sorts of trusts. He just mentioned like 10 of 'em. So we broke it down to two or three. You know, again, I can't remember the whole conversation; but we finally came down I agreed with Presidential Trust, I felt that was the one that I probably wanted to get into the most.

Q. And then what happened?

A. Well, I'm still trying to remember where I got a -- I sent the funds in. I don't know exactly where I got the address. Either I had, again, a contribution card or

9504367 19927

something like that. But I had sent it in in an envelope to, you know, the Presidential Trust.

Q. Did you write your check out on the spot in Mr. Johnson's office?

A. No, I didn't write it in Mr. Johnson's office. Again, I did it in my office. Yeah, I did it in my office. Best I can recall.

Q. So you think you had your checkbook with you. Is that right?

A. I carry a checkbook in my briefcase, yes.

Q. But you didn't give the check to Mr. Johnson after you made it out?

A. I really don't remember. I think I mailed it directly to the Presidential Trust.

Q. Did Mr. Johnson give you the address?

A. I don't recall if he did or did not. You know, I might have even made a few phone calls. I just don't remember.

Q. Now, Mr. Twichell, am I right that you would not have made this $10,000 contribution to the Presidential Trust if you hadn't received this $10,000 infusion at that time? Is that right?

9504367 1928

A. It might not have been that large. Meaning I was really thinking about getting in more and more, as you know, into politics. Receiving the $10,000 certainly allowed me to contribute, you know, more than I really wanted -- originally I was thinking 5,000. I could now give the thousand easily and not hurt my pocketbook. So I felt more comfortable with that.

Q. And Mr. Johnson never suggested to you that you should make this contribution. Is that right?

A. When?

Q. Did he ever suggest it to you that you should make the contribution?

A. Like I said, I was in his office, we talked about several different agencies. I mean, I asked for his professional opinion. I mean, we went over several different agencies. I don't think there's anything there.

Q. How long after he had given you the $10,000 check did you return to his office to discuss the contribution you were going to make?

A. I don't recall the exact amount of time, but I probably worked for a couple of hours; and, you know, the more and more you thought about it, I just went back into

9504367 19929

his office and talked to him a little bit about it.

Q. Did you discuss this with your wife at all, this transaction?

A. I'm sure I did, probably called her. Maybe I talked with her that night. I don't remember.

Q. Was she at all concerned that you had this $10,000 in your life that you were just going to give away?

A. My wife is a pretty good -- I guess follower to the directions that I'd like to go. Supporter.

Q. And it's your testimony, Mr. Twichell, that the $10,000 the company gave you on July 19th was not for the purpose of you making a $10,000 contribution to the Presidential Trust. Is that right?

A. That's my testimony, yes. I worked for that.

Q. And I believe you said earlier that at the time you were not aware of any other contributions, of contributions by other employees at that time. Is that right?

A. At --

Q. When you made that contribution on that day.

A. I don't remember if I knew of any others, I don't think so.

9504367 19930

Q. Are you aware of any other contributions on that day by employees now?

A. I'm aware that Tim did something similar to what I did. Tim Cloud.

Q. When did you become aware of that?

A. I became aware of it because of this investigation. The exact time I became aware of it I don't know.

Q. But you have a clear memory that you learned of it only as a result of the investigation, and you were not aware of it back on July 19th, 1988?

A. I'm not that clear.

Q. Well, do you have a memory about whether it was news to you or not?

A. I really don't remember.

Q. You don't remember whether it was news to you or not?

A. That's true.

Q. So it's possible that you were aware of it at the time, you just don't remember?

A. I just don't remember.

Q. Well, let me ask it one last different way. You

9504362 1931

interacted with Tim Cloud on a regular basis; didn't you?

MR. KING: In '88?

Q. BY MR. BERNSTEIN: In 1988?

A. Business, yes.

Q. And did you discuss political contributions with him at all in 1988?

A. Not that I remember.

Q. So you don't remember any discussions with him about contributions on this day, July 19th?

A. Yes, that's true.

(Recess taken from 4:52 p.m. to 5:06 p.m.)

(The previous portion of the record was read by the court reporter.)

MR. BERNSTEIN: Okay, back on the record.

Q. BY MR. BERNSTEIN: Mr. Twichell, in 1988 did you file quarterly estimated tax returns?

A. Personally?

Q. Yes.

A. No.

Q. Do you know what a 1099 form is, Mr. Twichell?

A. Tax form?

Q. 1099 form for outside income?

9504367 19932

A. I think I've even received one of those.

Q. Well, what I am particularly interested in is whether you received a 1099 form for the $10,000 that the company paid you on July 19th, 1988.

A. I probably did, I don't recall.

Q. Well, do you remember ever receiving a 1099 form?

A. Yes.

Q. How many such forms have you received?

A. I remember paying taxes on that. You have to pay like higher taxes or something on that.

Q. I'm sorry, you remember paying taxes on what?

A. Well, like the 20,000 and the 10,000, you know; and they take out just a ton of money out of those.

Q. Well, let me back up a bit.

To your knowledge the company didn't withhold federal and State taxes with regard to that $20,000 bonus or the $10,000 payment.

A. That is true.

Q. So you paid taxes on those. Yes?

A. Yes.

Q. And you think that you received a 1099 form in connection with them?

9504367 1933

A. I remember seeing a 1099 form, yes.

Q. That had those amounts on it?

A. Yes.

Q. Do you remember if the 1099 form for 1988 had any other amounts on it?

A. I don't recall even the exact amount that was on the 1099 form.

Q. But you think that it included these anyway?

A. Yes.

Q. Turning your attention back to Exhibit number 6, Mr. Twichell, and specifically page 2 of that exhibit, which is the copy of your check to the Bush campaign in January of 1988. Is that right?

A. January 26, 1988.

Q. And you've testified that your wife contributed a thousand dollars at roughly the same time. Is that right?

A. Yes.

Q. Would you please turn to page 4 of Exhibit 3, which is the check register, Mr. Twichell?

I wonder if you would also look at pages 7 and 8 of Exhibit number 7, which are a group of company checks to you.

9504367 19934

Now, Mr. Twichell, first in the check register, do you see the recording of check number 702 on January 26 to George Bush for President for a thousand dollars?

A. Yes.

Q. And on page 5 of the check register, Exhibit 3, do you see check number 625 on January 26, 1988, to George Bush for President for a thousand dollars?

A. Yes.

Q. So that check number 625 as we've seen from Exhibit 6 is your contribution check; isn't it?

A. Either 625 or 702.

Oh, 625.

Q. And on the prior page does it follow then that check number 702 is your wife's check?

A. I would assume that it is.

Q. So it looks like she did write her check to the Bush committee on the same day you did.

A. Sure does.

Q. Well, turning back to Exhibit 7, page 7, do you see check number 8690, Mr. Twichell? The check stub and the check, it's a check for $2,400 dated January 25th, 1988.

A. Yes, I do.

9504367 19335

Q. Do you remember what that payment was for, Mr. Twichell?

A. For work that I performed?

It's a bonus.

Q. That's a bonus?

A. That's what it says, yeah, it's a bonus.

Q. Was that for any specific services or just a general bonus for working hard?

A. General bonus for working hard.

Q. Now, turning back to the check register, on page 4 do you see the deposit for $2,280 on January 26?

A. Yeah, deposit bonus check.

Q. Well, do you think that $2,280 that your wife recorded as being deposited on that date is a part of the $2,400 bonus that the company wrote you the day before?

A. Could have been, yes.

Q. Now, Mr. Twichell, did you receive this bonus in order for you and your wife to contribute a thousand dollars each to the Bush for President campaign?

A. No, it was for work that I did at the office.

Q. Well, do you have a specific memory of receiving this $2,400?

9504367 19336

A. No.

Q. Do you remember anything about the circumstances under which you received this $2,400 bonus?

A. I don't recall accepting the check that day, but maybe I -- I just don't remember.

Q. Well, if you don't remember the circumstances under which you received it, why do you say that you didn't receive it in order to make these contributions?

MR. KING: That's somewhat, I think, mischaracterizing what he said.

A. I received a bonus check on January 25th for $2,400 for what I did. Probably in the same manner as I've always received bonus checks. Bob calls me in the office, tells me I'm doing a great job, we go over some business issues, he gives me a check. I went back to my office and go back to work. My wife deposited the next day. It doesn't even say bonus check on here, so I handed it to her and said here, here's a bonus check; and she wrote the deposit and wrote bonus check.

Q. BY MR. BERNSTEIN: You remember telling her that it was a bonus check?

A. I must have, because it doesn't say bonus check

9504367 19937

here on the check. So I said honey, here's my bonus check.

Q. Well, you weren't so certain about the $520 check that you received in connection with the Durenburger contribution, and that was on page 9 of the check register, and that one where it says $500 to cover check, you didn't remember where your wife got that information from.

A. And I'm just telling you that's probably what happened on this $2,400, is what I probably told her it was a bonus check. The records here are inconsistent throughout the way my wife kept the records.

Q. Do you think you told your wife regarding the Durenburger contribution again at page 9, Exhibit 3, that this $500, $520 check from the company was to cover the check that you were writing to the Durenburger campaign?

MR. KING: That has been asked, it's been answered, and it was denied.

MR. BERNSTEIN: Well, I think the witness's memory is a little selective, counsel. That's all I'm responding to.

MR. KING: I disagree with that.

MR. BERNSTEIN: In the one instance his recollection is this is probably what he told his wife, and

9504367 19938

in the other instance regarding $500 to cover check his recollection is he doesn't understand, he has no idea where his wife got that idea from. I am just trying to probe it a little bit.

MR. KING: Clearly in connection with the January 26 deposit it says bonus check. In connection with the $500 reference on page 9, it doesn't say that. Said he doesn't recall.

MR. BERNSTEIN: And what the two have in common, it seems to me, is that if the check was made out to you and not to your wife, then your wife must have been given some indication from you about what the purpose of the check was; or else how would she know?

MR. KING: Did you follow that?

A. I think I followed it.

Q. BY MR. BERNSTEIN: But you have no answer really; is that correct?

A. There could be a lot of different circumstances.

Q. Okay.

Well, Mr. Twichell, just to summarize this, we have you and your wife contributing $2,000 in January of 1988 and at the same time receiving a $2,400 bonus that you

9504367 1939

think was for services you provided or for working hard.

We have in March you contributing $500 to the Durenburger campaign with an entry in your wife's check register that indicates that you deposited at that time $500 to cover the check at the same time that you received a quote, seminar expense, from the company for $520.

We have in May of that year a cryptic reference to the Arizona Republican Party, a check that you wrote for $156, with an entry on the check register indicating that you received a company check on that day, quote, to cover check.

And in July you received $10,000 on the same day from the company that you wrote a $10,000 check to the Presidential Trust.

Now, in view of this, is it still your testimony that you did not receive any company funds in order to make political contributions in 1988?

A. That's still my testimony.

Q. Mr. Twichell, let's go on to the mailings that you sent, the letters that you said you sent to members. Can you tell me about that, please?

MR. KING: A lot of letters were sent. Which do

9504367 1940

you mean?

MR. BERNSTEIN: I apologize, counsel.

Q. BY MR. BERNSTEIN: When we began the discussion of your political activities you explained that one of the activities you engaged in was sending letters to members. Is that right?

A. That is true.

Q. So please tell me about that.

A. In my duties as Managing Director I talk to a lot of members. A lot of Democrats, a lot of Republicans. And there's -- it was the Presidential time, we talked a lot about George Bush and Dukakis, and there was a lot of comments about Bush and what I should do, what NAREA could do; and I said hey, there's nothing we can do as a company.

I think what came down to it is I had decided that I would send some letters out to members that I thought would be good people to contribute to George Bush. And to this day I still feel it was better to have George Bush in office than Dukakis. And that's really my thinking of doing that kind of mailing. So I discussed it with Bob; and I think our biggest concern, my biggest concern was is that I know there's rules and regulations, I don't know what they

9504367 19941

are. So I called the FEC, spoke to this Janet Hess. Now, she was aware that I gave a thousand dollars.

Q. So this was after you had made your contribution to the Bush committee on January 26, 1988?

A. Right. She was aware that I had given, I told her I give a thousand dollars. She said I'm allowed to do mailings as long as I pay for the stationery and all the expenses incurred with regard to that and that it doesn't go over a thousand dollars. It's -- what do they call it -- it's not a direct contribution.

Q. An in-kind contribution?

A. I think that's exactly how she termed it. In-kind contribution.

So I even asked her about doing a reception for the President. And she indicated to me that you can do a reception and it doesn't matter how much you spend putting together a reception. Invitations and everything else. It can be over a thousand dollars. So I seriously considered two different ways.

Now, the odds of me ever getting the President to come to Arizona of doing a fund raiser, well, the Vice President at that time, were pretty slim; so I decided to do

9504367 19942

the mailing. And I handled selecting, you know, I ran them out on the computer, I made a selection, I did a random selection throughout the United States, I pulled out the names. I ran about 2,500.

Then I ran the letters as well, envelopes and then the letters, and then I brought them into my office and I started going through them. And there's a lot of people you look at their companies and their titles and their addresses where they're located, you know, Montana, I yanked a lot of them, I pulled a lot of 'em out.

I don't think I made -- I mean I sent more than 800 total letters. Like two trays. It was about 800 out. And I signed them and stuffed them and ran them through the mail machine. I handled the whole project. And handled it all on my own time.

Basically that's it.

Oh, I guess there's something more to say to that. Then I got a call from a few of the Democrats that thought it was a horrible thing that I did; and I'll never do it again, I promise to the end, I'll never do anything like that again.

Q. You testified earlier, Mr. Twichell, that you

9504336719943

understood at the time that you made your thousand dollar contribution in January that a thousand dollars was the maximum that someone could contribute to the Presidential candidate. Is that right?

A. That's true.

Q. Was it your impression that in addition to contributing that thousand dollars you could also contribute another thousand dollars as an in-kind contribution?

A. Well, in talking to the members so much and, you know, the Presidential election in the air, I wanted to do something more; and that's really when I called the Federal Elections Commission and was told by Janet that I could do this in-kind contribution and that wouldn't be a problem as long as it didn't go over a thousand dollars. So I was very cautious to make sure that it didn't.

Q. But you had already given a thousand dollars; is that right?

A. In hard -- in dollars, yes. You know, right directly to him, that is true.

Q. But you thought you could give another thousand dollars indirectly?

MR. KING: In kind.

9504367 19944

A. In kind, once Janet Hess told me that I could do that.

Q. BY MR. BERNSTEIN: Is it your testimony that the person you talked to at the FEC was aware that you had already given the maximum that you could and nonetheless said that you could spend another thousand dollars as an in-kind contribution?

A. That's exactly what she told me.

Q. Are you certain of that, Mr. Twichell?

A. I'm very certain of that.

Q. When did you call Janet Hess of the Federal Election Commission?

MR. KING: I believe, counsel, it's reflected in some documents that you have that you marked yesterday.

MR. BERNSTEIN: Well, we will discuss some of the documents, counsel; but first I'd like to try to see what the witness can remember.

A. I would check that document, because at the time, I think it was a lot closer then than what it is now and when I first heard from FEC about the issue. I don't remember the exact date that I spoke to her. But it was certainly before I did the mailing.

9504367 1945

Q. BY MR. BERNSTEIN: Well, how long before you did the mailing was it?

A. I don't recall the exact length of time.

Q. When did you do the mailing?

A. I don't even remember when I did the mailing. It was in 1988.

Q. How long after the contribution that you made directly was the mailing?

A. Well, my direct contribution is January, I don't know when I ran the letters. I don't recall the exact date.

Q. Can you explain again how you first got -- did you have printed out a list of 2,500 members?

A. Well, the computer room can sort things any way you want. It is a random poll from throughout the United States of 2,500 people. And it just pulled out 2,500 people.

Q. Well, did you want a list of 2,500? Was that your goal, to have 2,500 names?

A. At the time it was 2,500; but as I got going through the list I felt there were several people in there that just wouldn't contribute or be a waste of time or whatever. I mean, there are some people that just didn't

9504367-9946

have any title at all or no company at all, and those kind of people probably wouldn't contribute. I felt.

Q. Why would you think that?

A. Well, they're probably just independents, they wouldn't have enough money to make a contribution of the nature that I was, you know, asking them to do.

Q. Why did you decide on 2,500?

A. Well, I tried to keep my total involvement in this whole thing less than a thousand dollars, for Janet this in-kind had to be less than a thousand. So I could do up to -- really I figured it out on paper, it could be up to about 2,500 and I could still keep it under a thousand dollars. Turned out I didn't do 2,500 anyway.

Q. So the reason you settled on the number of 2,500 is because that's the max at the time you thought you could send out if you defrayed all the costs and it would be under a thousand? Is that it?

A. That is it.

Q. Now, I think you testified the membership of the National Association of Real Estate Appraisers in 1988 was between 12 and 14,000. Right?

A. I believe that's what I said, yes.

9504367 19947

Q. And again, the computer room generated for you a list of names?

A. No, I generated the computer. I can run the computer.

Q. You generated from the computer a list of names?

A. A list of -- I just had them run the letters and the envelopes. I didn't get a list. It was just all the envelopes. You just go through the envelopes one at a time and throw out the ones I didn't want.

Q. So you ran the letters and the envelopes based on this random sort?

A. Right.

Q. So then you had in your hand 2,500 letters and envelopes?

A. That's true.

Q. Does the computer print out the letters and the envelopes at the same time?

A. Two different machines. You can run them out at the same time.

Q. And so then were you paging through the envelopes or the letters when you did your second sort?

A. The envelopes. You go through the envelopes one

9504367 1948

at a time. They are in a box, you know, if I remember right, you know, they come in 500 boxes. So I had like what, five boxes; so you just go through them.

Q. Did you discuss the results of your conversation with the person at the FEC with anyone?

A. Well, I did speak to the Executive Committee, and they were aware of what I was up to and had agreed that I could do up to 2,500 as long as they knew that it was going to be less than a thousand. And when I did mention to Bob, I believe he also made a phone call to the FEC to double verify; because, you know, certainly we didn't want to get into the situation we are today, you know, the trouble with the FEC; so I had made a phone call, and from what we talked about it it was okay, and he got the same kind of answer.

Q. Well, when did he call?

A. I told him who I called and the number, and he called and they said the same thing, as long as it's an in-kind contribution.

Q. Well, did Mr. Johnson report to you the results of his phone call?

A. He told me he got the same answer that I did. From what I remember, I -- I don't remember exactly what he

9504367 1949

said, but I do remember him saying hey, that's a go if you want to do it.

Q. So who wrote the letter? Who drafted it?

A. I did.

Q. And who typed it?

A. I did.

Q. And did anyone else participate in the preparation of the letter?

A. No, that was my letter.

Q. No one else?

A. No one else. My letter.

Q. So no one else did anything? No one else typed it or edited it or reviewed it, proofread it, did anything?

A. Nope. It's my letter. My project.

Q. So you were familiar with how the computer operated and you were fully capable of generating this yourself; is that right?

A. Absolutely.

Q. At what time of day did you have the computer generate the letters and the envelopes?

A. I did everything after work hours.

Q. And was this on NAREA stationery?

9504367 19950

A. It was.

Q. Where did you get that stationery?

A. Well, I had it printed and I paid for the printing of it. As well as I had envelopes printed.

Q. I'm sorry, you had what printed?

A. Envelopes and letterheads.

Q. So you had separate letterhead and envelopes printed for this?

A. Yes. And I paid for it.

Q. You didn't just use the stationery that was in stock that was in-house?

A. No. I went ahead and got, you know, it only took two days, I think, or three days to print it; so it's not a major project to print, probably less than that. Maybe even a day.

Q. Well, how far in advance of actually running the letters and the envelopes did you have them print it?

A. I don't remember dates. That. Couple days. Three days.

Q. So did you use a printer to prepare this?

A. I did. yes.

Q. Do you remember what printer?

9504367 1951

A. Printing firm that's close by, like -- wish I had those documents in front of me, but I think it was like Duchene Printing or something. I don't remember.

Q. Well, was it one of the printers that the Association used periodically?

A. At the time I'm sure it was.

Q. Did you write a check for this printer for the letters and the envelopes?

A. Yes.

Q. And you then took the letters and envelopes and brought them back to the offices and had the computer generate personalized letters and personalized envelopes. Right?

A. Yes.

Q. So the amount that you had the printer generate of stationery and envelopes was 2,500; is that right?

A. Best I can recall, yes.

Q. Well, do you think it might have been more or less?

A. Probably around 2,500.

Q. Well, when you went to the printer, I mean, do you have a recollection that when you went to the printer

9504367 1952

you had firmly in mind how many of those you were going to send?

A. Well, first of all, printers, I never go to them, they come to me and they deliver to me; so he probably came in the office, we went over the facts, told him what I wanted, gave him all the information; he printed it, returned it back to me, and I cut them a check.

Q. Was this ordinary letterhead that you had printed?

A. Yes.

Q. So not a lot of discussion was necessary; right?

A. Right. He's probably printed it before.

Q. So was this rather a small job for him to print this letterhead?

A. 2,500 pieces? Yes. That's why I had to pay more for it. It was a little bit more expensive than -- I mean, the higher numbers you do, the lower the price.

Q. So you got the stationery from the printers, you brought it back to the office. At night sometime you told the computer to take 2,500 at random from the membership of NARFA and generate personalized letters and personalized envelopes. So far so good?

9504367 1953

A. So far so good.

Q. Now, at that time NAREA had a certain number of members who were not US citizens. Is that right?

A. Yes.

Q. Did you instruct the computer to exclude non residents from this random sort?

A. I only did US people.

Q. So the answer is you did instruct the computer not to do the random sort from all the membership but only the US membership?

A. Just from the US membership.

Q. Do you remember doing that?

A. I'm sure I did. I doubt if somebody from Canada would like to give money to George Bush.

Q. Well, did you have an understanding at the time whether or not it would be permissible under federal law for someone from Canada to contribute?

A. Well, from a common sense stand -- no. But from a common sense standpoint, somebody from Canada is not going to give money to George Bush. So none of my letters went to Canada or anywhere else outside of the United States.

Q. Okay. So then you have the 2,500 letters and

9504367 19954

envelopes in trays, you said, of 500 each. And you then went through the envelopes; and did you basically jettison anyone who didn't have a title?

A. I guess it was a feeling I had about 'em. I mean, when you're in the business you can tell sort of by the title, the company; you know, I was trying to pick appraiser firms, maybe some bigger ones that I knew about that, you know, one of these guys might contribute.

Q. Well, you weren't actually familiar with the individuals who were on the envelopes; were you?

A. Some I might have been.

Q. Do you remember either keeping in or taking out anybody that you knew specifically?

A. I don't recall. But I do take 50 calls a day, talk to 50 members a day. So -- and all the seminars I attend I meet people all the time.

Q. Well, when you went through the process of sorting them did you have any intent to arrive at a certain smaller number?

A. Not necessarily. I just -- it just sort of came out to be.

Q. And you say you think it came out to about 800?

9504357195

A. The best I can remember.

Q. Where does that number come from?

A. Well, by the time I got it all signed and stuffed it was in like two trays. You can get about 400 pieces, number 10 envelopes into a tray. So just about two trays that I ran through.

Q. And there were no more than two trays?

A. No, just two trays.

Q. So after the letters were generated and after you had done your jettisoning of some, what did you do then?

A. Then I signed 'em. Then I stuffed 'em. And I think it took me a couple of nights to stuff 'em. Maybe even three.

Q. Now, this was a letter that went out over your name. Is that right?

A. That's true.

Q. And you signed all of them?

A. That's true.

Q. Nobody else signed them for you?

A. Just me.

Q. And what was left to do after you signed the letters?

9504367 19956

A. Then I -- there was these little cards I put in, it was like a contribution card. They were on the back shelf in the back room. And that was for the, you know, George Bush for President. And I put those in there. Then I ran them through the machine, you know, they don't have to be sealed, the machine can seal them itself; and I ran them through.

Q. Was there any enclosure other than the card that you are describing?

A. I don't think so. Might have been a return envelope, but I don't believe so. I think it was just the letter. I don't recall.

Q. But whatever was enclosed, you stuffed?

A. Yes. That's true.

Q. And nobody else helped you with it?

A. No. Just me. Just my project.

Q. And when did you do this?

A. I don't remember the exact time that I did it.

Q. Did you do it at work?

A. I did it in my office, yes. But after hours.

Q. And how long did it take you, do you think?

A. Two or three nights.

9504367 1957

Q. Who was aware of this activity you were engaging in at the time in your office?

A. Well, I had asked Bob about it. He was aware of it. Other than that in the office, I might have said something to some of the other staff and saying we might get a few phone calls about it asking about it, but I don't remember exactly who I would have told.

Q. Actually maybe we didn't quite finish. You signed them and stuffed them and sealed them?

A. The machine seals them.

Q. Is that the machine that puts the postage on?

A. Right.

Q. Seals them and puts the postage?

A. Right.

Q. So if you used the postage meter, that means you sent these first class. Is that right?

A. They did go first class, yes.

Q. I'm sorry, even if you were sending a bulk mailing the postage meter would stamp them at the lesser rate?

A. No, you don't stamp bulk mail. It already has the insignia on it up in the right-hand corner.

9504367 19958

Q. Thanks.

So after it was stamped, then what did you do?

A. I took them down to the post office and mailed them.

Q. And no one helped you do any of this?

A. All this -- this 800-piece project was mine.

Q. Are you certain that no one helped you do any of it?

A. I'm certain. It was my project.

Q. Mr. Twichell, are you certain that this mailing went to no more than 800 or so members of NAREA?

A. Approximately 800, yes.

Q. Could it have gone to as many as a thousand?

A. I don't think so. Two trays, just about almost it's like -- it was just about 800. I'm almost sure of it.

Q. And you had the computer select them down to 2,500, so your testimony is that this mailing didn't go to the entire US membership of NAREA; right?

A. No, it did not go to the entire membership.

Q. Mr. Twichell, were there any other letters that were sent to members of any of the organizations, any of the associations, during 1988 soliciting contributions to Bush?

9504367 1959

A. Not to my knowledge.

Q. You weren't involved in any such mailing?

A. No.

Q. Nor were you aware that any others took place?

A. That's correct.

Q. Were you involved in or aware of any association mailings to other than members soliciting contributions to Bush's campaign?

A. Can you repeat that?

(The requested portion of the record was read by the court reporter.)

A. No.

MR. BERNSTEIN: I am asking the court reporter to mark another exhibit.

(Exhibit 8 was marked for identification by the court reporter.)

Q. BY MR. BERNSTEIN: Mr. Twichell, I am now handing you Exhibit 8, which is a three-page document, has a letter on the top and a copy of an envelope on the second page, and what appears to be a copy of an envelope on the top of the third page, and two sides of a card at the bottom; and I'd ask you to look at it, please.

9504367 1960

(Pause.)

Have you had a chance to examine this document, Mr. Twichell?

A. Yes.

Q. Is it familiar to you?

A. Yes.

Q. Is it a copy of one of the personalized letters to members that we have been discussing?

A. Yes.

(Conference between Mr. King and Mr. Twichell out of the hearing of the court reporter.)

Q. BY MR. BERNSTEIN: Let me ask you one more time, Mr. Twichell, just so I will be certain. This is a copy of one of the letters that went out; now, of course, each letter is different because it was personally addressed to the members. You had said that the selection that you did reducing the number from 2,500 to 800 was attempting to find people who looked like they might be more likely to contribute. What is it about the addressee of this letter that caused you to keep him in?

A. Well, I did look at 2,500, so. But it looks here like John does have a title, you know, it's appraiser, and

9504367 19961

he has a company. There were several of them that just came out with a name and address, and the likelihood of those individuals contributing I felt were lesser than someone like John Lair.

Q. Mr. Twichell, aren't all the members of NAREA appraisers?

A. They are, but not everyone uses those titles when their mailing goes out. For instance, government employees don't like to have their government address come out. And they will just have their mail sent to their residence.

Q. Now, can you recall, Mr. Twichell, how long after you ran the letters it would have been to when you actually mailed them?

A. Probably within a day or two.

Q. So you ran the letters and then pretty soon thereafter you signed them and stuffed them and mailed them?

A. I would think so, yes. Like I said, I think it took two or three days to stuff 'em.

Q. Now, did the computer put the date on these letters? Do you see the date in the upper right is February 4th, 1988?

A. Right. The computer did do that.

9504367 19962

Q. Well, is it your habit when you have the computer generate letters to put a date on that is some time in advance of when the letter is generated?

A. Sometimes you anticipate how long it would take to get done so you would put a date on there, and sometimes you get it done earlier, other times -- I've been burned many times where I thought I could get it out and I couldn't, so it was five days late. So in this situation, you know.

Q. Well, do you remember in this instance whether you had the computer put that day's date on it, on the letters?

A. Well, you type in that date. The computer doesn't insert the real date.

Q. Well, do you remember if you typed in the date that the computer ran the letters?

A. I don't recall the exact -- exactly. But I'm sure I put on a date, maybe that same day, thinking I could get them out the next day. But it took longer to get together and get done than I thought.

Q. Now, just so I can be clear, you testified that you produced this letter on your computer at your desk. Is

9504367 1963

that right?

A. No, in the computer department. I don't have a computer on my desk.

Q. I'm sorry, I thought you had -- we discussed that you had a personal computer at your desk that you did things on. Is that right?

A. I don't have one now. I guess I did in 1988, I had a computer. But I didn't generate all the letters from my office. I generated them from the computer room.

Q. Did you generate the letter on your computer and then send it over, or what?

A. If I remember correctly, I wrote it at my desk, handwritten, and then went into the computer room after work and entered it.

Q. Did you show a draft of the letter to anyone?

A. I don't recall if I did or not. It was pretty much my project.

Q. Is it possible that you showed a draft of the letter to someone?

A. It is possible.

Q. Well, who at the time would have been the most likely candidate to look at the letter?

9504367 19964

A. I might even have had one of the gals read it for typos. I don't remember. I might not even have run it that night. I mean, it was just so long ago that I don't remember.

Q. But you're pretty certain that you didn't show it to Mr. Johnson?

A. I don't remember if I did or did not.

Q. So you might have shown it to him, too?

A. He might have seen it.

Q. Do you remember any specific input that he had into this letter?

A. No, I -- this is my letter.

Q. So he didn't draft it initially?

A. No. No, this is my letter.

Q. Did you discuss the contents of it with him?

A. No. This is -- I wrote the entire letter.

Q. Well, when you discussed with him that you were going to send out this letter, at that time did you discuss the contents of it at all?

A. Not that I recall.

Q. Now, Mr. Twichell, the letter is dated February 4th, and you testified that you sent it out within a couple

9504367 1965

days thereafter. If you turn to the next page, which is a copy of the envelope that the mailing was sent out in, and it bears what I assume is the mark of NAREA's postage meter, and it looks like it's February 10th.

A. Um-hum.

Q. So it took you a bit longer than a couple days; huh?

A. Looks like about six days.

Q. So you think your initial recollection of this was not accurate?

A. Well, like I have said all along in this entire deposition, it was a long time ago. It could have been six days. I thought it was two or three days. I guess it was even longer than I thought.

Q. Turning to page 3 of the document, Mr. Twichell, do you recognize what's reproduced on this page?

A. Yeah, this looks like the card that was in with the mailing and a business reply envelope.

Q. And how did you come by those?

A. Those were in the back. And so I used those in the back, George Bush for President, and inserted them in with my letter.

9504367 19966

Q. What do you mean in the back?

A. They were back on the shelf.

Q. On what shelf?

A. Where we keep all the membership applications and all that kind of stuff up on one of the shelves was a stack of George Bush for President stuff. So I went ahead and used them.

Q. This was in the old building; right?

A. I believe this was in the old building, yeah.

Q. So can you describe for me where stationery and things of that sort were kept in the old building?

A. It was a back closet; you go through the doors, the shelf on the right was miscellaneous stuff and then the stuff on the left-hand side was basically each association and their membership information. I think the cards were on the right-hand side where all the miscellaneous stuff was.

Q. So they were on a shelf, did you say?

A. Yes.

Q. Were they in a box or just lined up?

A. Just stacked up, you know, nice. Best I can recall, I think that's the way they were.

Q. Do you know how they got there?

9504367 1967

A. No.

But they were what I needed for this mailing.

Q. How did you know they were what you needed for this mailing?

A. Because I remember filling this out when I did my George Bush for President contribution. So I know that it was the right card.

Q. Well, when you made your own contribution on January 26th did you get a card and an envelope from the shelf back there?

A. I might have. Like I said before, I don't even remember where I got it.

Q. What I am trying to probe is if you remember getting a bunch of them for this mailing, does it trigger your memory at all about whether it was not your first visit to that shelf in the back room?

A. I go back there all the time. It could have been where I got it from. I don't recall.

Q. When did you first become aware that on a shelf in the back room of your office there were George Bush for President contributor cards and return envelopes?

A. Those might have been there weeks prior. I don't

9504367 19968

remember how long they'd been there.

Q. And you don't have any idea how they got there?

A. No.

Q. At the time you had no idea how they came to be on the shelf in the back room?

A. I don't remember the circumstances surrounding it. Don't think it was that big of a deal.

(Conference between Mr. King and Mr. Twichell out of the hearing of the court reporter.)

Q. BY MR. BERNSTEIN: Mr. Twichell, do you have anything to add after consulting with your counsel?

A. No. Other than I'd like to go to the rest room again.

Q. Off the record.

(Recess taken from 6:00 p.m. to 6:07 p.m.)

(The previous portion of the record was read by the court reporter.)

MR. BERNSTEIN: On the record.

Q. BY MR. BERNSTEIN: Mr. Twichell, we are still talking about Exhibit 8 and specifically page 3. I wonder if you could page back to it.

You said that you found on a shelf in the back

9504367 1969

room these contributor cards and return envelopes; and you don't know how they got there, but they were there. Do you know how you became aware that they were there?

A. I don't recall.

Q. Do you think you just saw them? Think somebody told you about them?

A. No, I probably just saw them in the back room.

Q. Did you wonder how they got there?

A. Well, it might even have prompted, you know, given me some of the thought about writing this letter, I mean helped write the letter.

Q. You think actually seeing the contributor card and return envelopes in the back was part of what gave you the idea to write the letter?

A. There was a lot of reasons why I wrote the letter, but that might have been one of the many.

Q. Well, how many contributor cards and return envelopes were there on the back shelf?

A. I didn't count them.

Q. What's your best estimate about how many there were? I mean, you've had experience at judging the volume of these things.

9504367 1970

A. There were some left over after even I did my mailing. So I don't -- you know, I don't even remember.

Q. At what point in the process that you have described did you visit this back room and remove those from the shelf, the cards and return envelopes?

A. Well, after I had sorted through, got down to about 800 of 'em and went back in the back and got all the items I needed to stuff the job, including these two cards -- or the card and the reply, business reply mail envelope.

Q. So you didn't go looking for the card and the return envelope during the period when you were assuming you were going to send 2,500 of them? Did you?

A. I think there were probably 2,500 at least back there. I had assumed that there was enough to handle that.

Q. Well, if you think there were 2,500 and you only used 800, there was many times more than you used left; weren't there? More than just a little left.

A. Again, my remembering of exactly how many were on the shelf is limited, but I do remember some being left there, yes.

Q. So they weren't in boxes, they were just lined up

9504367 1971

on the shelf?

A. That I remember, yes, just lined up on the shelf.

Q. And so you removed a bunch of them; is that what you did, took them off the shelf?

A. Yes.

Q. And did what with them?

A. I stuffed them with my letters.

Q. Well, let me point you on that page to the return envelope. Do you see where there is printed on an angle that reads "Attention Lucy Cole"?

A. Yes.

Q. And do you see on the return card in the upper right corner of the top which seems to be the front page of the contributor card it reads "AZ 04"? Do you see that?

A. I do, yes.

Q. Well, when you took the return envelopes and the contributor cards from the shelf in the back room, did those two things already appear on them?

A. Yes.

Q. So you had no role in affixing these to the envelope or the card respectively?

A. No. I didn't do any of that.

9504367 1972

Q. And do you know how the Attention Lucy Cole and the AZ 04 came to be on those return envelopes and the contributor cards?

A. No, I don't. It was already on it.

Q. At the time did you know what the significance of that information was?

A. No.

Q. Did Bob Johnson stamp the Attention Lucy Cole and the AZ 04 on the return envelope and contributor card?

A. I don't know.

Q. You don't know how they got there. At the time you didn't know what it meant. They happened to be on the cards and the envelopes at the time?

A. They were in the back room, and that was already on there. I don't know if they were stamped on there or printed on there. I have no idea.

Q. Well, it's fair to say then that at the time -- let me ask the question.

At the time did you notice the Attention Lucy Cole and the AZ 04 or not?

A. I don't even recall that.

Q. Mr. Twichell, the letter that you have in front

9504367 1973

of you is dated February 4th, and I just want to be clear. Did all the letters that you sent out have that same date on them?

A. The best that I remember, yes.

Q. Is it possible that there might have been different dates?

A. Not from the 800-piece project that I did.

Q. So then you're certain they all had the same date?

A. Yeah.

Q. Now, at the bottom of that letter is your name and a signature. Is that your handwriting, Mr. Twichell?

A. Yes, it is.

Q. Is that how you usually sign your name?

A. I sign my name several different ways, depends on what it's for.

Q. Well, is there a particular way that you sign your name for letters to members?

A. I try to do -- the ones that I do to the members I try to do it calm. When I'm doing my own checks and things I always get criticized. I've even had a member come back to me, potential member, and say I would never join an

9504367 1974

organization with a signature like this. That happened way back, so I changed my signature to something more calm.

(Exhibits 9 and 10 were marked for identification by the court reporter.)

Q. BY MR. BERNSTEIN: I am handing two exhibits to you, Mr. Twichell, and ask you to look at them, please.

Exhibit 9, Mr. Twichell, purports to be your Responses to Interrogatories and Requests for Production of Documents, and it reads MUR 2593. Do you recognize this document?

A. A little.

Q. And looking at Exhibit 10, which is a five-page document, the cover of which is an April 4th, 1988 letter to the Federal Election Commission from Robert G. Johnson, and it has a letter from you, Mr. Twichell, on page 2. Do you see that?

A. Yes.

Q. What I'd like to do is just to call your attention to your signature, Mr. Twichell, that appears on page 4 of Exhibit 9 and on page 2 of Exhibit 10 and just to ask, do you see those?

A. Yes.

9504367 1975

Q. Is that your signature, Mr. Twichell, on those two documents?

A. I believe that's my signature as well. Yes.

Q. So this is your signature that isn't a calm signature?

A. That's my non-calm, doctor signature.

Q. Does your calm signature, the one that you say is on the letter that you sent out which is Exhibit 8, does it always look like that?

A. Not always. Depends how many T've signed of something it starts to get a little sloppier as you go along. Go back to my doctor signature sort of.

Q. Well, the thing I'm just curious about is that your non-calm signature you always used your first initial.

A. Well, if you notice, these letters are personalized, Dear John; and I didn't want to put E. Kenneth or E. Ken or whatever, I wanted to make it more personalized from me. Matter of fact, thinking it right now, I should have just signed them Ken; but I signed them Ken Twichell.

Q. Now, Mr. Twichell, please look at it again and tell me one last time that the signature that appears at the bottom of the first page on Exhibit 8 is your handwriting.

9504367 1976

A. Yeah, it looks just like my handwriting.

Q. And no one else signed your name to these letters. Is that right?

A. Not to my 800-piece project.

Q. You signed every one of them?

A. Every single one of them.

Q. Now, you said not to your 800-piece project. Are there other solicitation letters that other people signed your name to?

A. You mean in regards to the Bush for -- not to my knowledge.

Q. You say not to your knowledge. Do you have any bases for thinking that there could be such letters?

A. I don't think there was any other letters, but I know that I signed all of my project.

Q. Well, was there anyone else who had a similar project?

A. Not to my knowledge.

Q. Now, there isn't anyone else, you were the Managing Director of NAREA at the time; correct?

A. That is true.

Q. So there is no one else who would have written to

9504367 1977

NAREA's members besides you; was there?

A. Not to my knowledge, there isn't.

Q. Well, were there any occasions when someone other than you wrote letters to NAREA members, mass mailings?

A. Other staff members?

Q. Yes.

A. I usually saw every letter, as I've testified before; but, I mean, someone might send a letter out without my seeing it if I'm not there to approve it. Might have been out of town.

Q. And it would go out over somebody else's signature?

A. No, it would have my name on it.

Q. But you wouldn't necessarily be aware of it?

A. I might not have necessarily wrote the letter. We are talking about letters that go to members.

Q. Yes.

A. Or non members.

Q. Mr. Twichell, what contributions were received by the Bush committee as a consequence of your mailing?

A. I don't know.

Q. Did you ever inquire?

9504367 1978

A. No, I did not.

Q. You say in the bottom of that letter, please look again at Exhibit 8, as part of the P.S., quote, "I will be provided with a list of all contributors from the Vice President's Campaign Director so I can also respond and have this most important document". Referring apparently to a thank you letter from the Vice President.

A. I don't remember ever getting any kind of contribution list, contributors list.

Q. Did you ever ask for one?

A. No, I didn't ask for one.

Q. Did you ever discuss the subject of getting one with Mr. Johnson?

A. Not that I remember. I can remember getting some negative calls about this mailing and it just soured the whole thing. And I just pretty well just dropped the whole issue.

Q. Well, if you were interested in supporting George Bush, weren't you curious about whether people had contributed as a result of your efforts?

A. Not after the kind of negative comments that I got from some of the calls. I mean, they weren't easy

9504367 1979

calls. Upset people. I was just pretty soured by the whole thing.

Q. So because you were soured you never followed it up; is that it?

A. Yeah, I pretty well dropped it and moved on to other things.

Q. When you say move on to other things, you mean you got back to work, or what else?

A. Well, back to handling, you know, more -- not even having it on my mind any more. Going back to doing association business and being more concerned with managing the organization.

Q. Could you please look at Exhibit 10, Mr. Twichell? I'm interested particularly in page 2 of Exhibit 10. Do you recognize that?

A. I do, yes.

Q. And what is it?

A. It is a letter to Mr. Raich in regards to my involvement in this letter, and then I had it notarized.

Q. Who prepared this letter?

A. I wrote the letter.

Q. Did Mr. Johnson have any involvement in the

9504367 19980

preparation of this letter?

A. Bob wrote the first one and asked me to write the second one in response to the information received from the FEC; and so I wrote my version and he wrote his version, and we sent it in to you folks.

Q. When you say the first one, you are referring to page 1 of the exhibit, which is the letter signed by Mr. Johnson?

A. I am, yes.

Q. Mr. Twichell, can I point you to the notary public's signature down at the bottom of the page?

A. Yes.

Q. And I notice that it recites that the instrument was acknowledged before the notary and it doesn't say anywhere that it was sworn to. Do you know why it doesn't recite that?

A. She pulled out a stamp and stamped it on there and then signed it and everything.

Q. Well, who was this notary public, do you know who that is?

A. No, I don't remember who did it then.

Q. Was it someone in the office?

9504367 19981

A. No, it was probably from a local bank.

Q. So you said that Mr. Johnson wrote the first letter that's on the first page and then you wrote this letter.

A. I know I wrote this one. I assume Bob wrote this one.

Q. Well, referring to page 2, you're certain that Mr. Johnson didn't write this letter? Didn't draft this letter?

A. No, I -- I drafted that up from all the accounts, everything that happened.

Q. Now, the P.S. down there says, quote, "P.S., I typed this myself on white paper so I wouldn't use corporate funds".

Is that a true statement, Mr. Twichell?

A. That I typed it myself on white paper?

Q. Yes.

A. Yes.

Q. No one else typed it for you?

A. No, I typed that up.

Q. No one else typed it for Mr. Johnson?

A. It's my letter. I typed it.

9504362 1982

Q. You composed it and typed it?

A. Yes.

Q. Let me point you to a paragraph that you have labeled third, in which you are reciting a conversation that you had with the complainant. The complainant is the fellow to whom the letter is addressed that is Exhibit 8.

Can you read that, please?

A. "In my conversation with the complainant, T tried to tell him I was aware of the Election laws and that I only mailed to a select few. He was selected because in addition to his Real Estate Activities he was on th (sic) Board of the Association of Pork Producers."

Q. Mr. Twichell, what is the Association of Pork Producers?

A. I remember. You know, Lair's conversation, I don't remember exactly how it went; but he was really upset, and he was the Association of Pork Producers and all that; and I finally just said that that was one of the reasons why he was one of the ones that received the contribution.

Q. That's not why he received one of the letters; is it?

A. No, that's not the main reason why; but it's one

9504367 1983

of the things that I told him when I had him on the phone because he was irate.

Q. Is there an association called the Association of Pork Producers?

A. I think he said he was part of it or on the Board of it, so I assume he wasn't lying to me.

Q. You think you got that from Mr. Lair?

A. I think I did, yeah.

Q. Okay; and just to be clear, this statement that isn't sworn but is quote, acknowledged, you say he was selected because in addition to his real estate activities he was on the Board of the Association of Pork Producers. But what you are now explaining to me is that that's almost a facetious statement; isn't it?

A. Well, I'm not saying it's facetious, just that in my knowledge he was in the real estate activities and I selected him out of the 800. He told me he was on the Board of the Association of Pork Producers, and that's what I told them. And, in fact, it is the truth, and it's one of the reasons why, because he is part of the Pork Producers.

Q. But you didn't know that when you went through the envelopes and decided who would get it and who wouldn't;

9504367 1984

right?

A. That is true.

Q. And actually I think from what you have said, you don't know what it is either; do you?

A. The Association of Pork Producers?

Q. Yes.

A. I don't recall at this time.

Q. To your knowledge, if there is an Association of Pork Producers, does it have anything to do with the National Association of Real Estate Appraisers?

A. No, it does not.

Q. I'd like you to turn now to what's page 3 of this exhibit. Do you recognize this?

A. It's an invoice to me for the expenses.

Q. Excuse me?

A. It's an invoice to me for the expenses incurred in the mailing.

Q. And do you remember this? Is this familiar to you, this document?

A. I remember it a little.

Q. Who prepared it?

A. I don't remember.

9504367 1985

Q. When was it prepared?

A. Looks like March 3rd, 1988, from looking at the document.

Q. What were the circumstances that gave rise to the preparation of this piece of paper?

A. Well, I needed to pay for all the expenses involved in the mailing, so this covers all the expenses.

Q. But you don't know who prepared it?

A. I don't recall, no.

Q. Did you prepare it?

A. I don't believe I did.

Q. Well, who did you tell at the Association about the costs that you had incurred in sending out the mailing?

A. Well, the Executive Committee knew what the costs would be, we discussed that prior to me handling the whole project.

Q. Did somebody on the Executive Committee prepare this?

A. I don't know.

Q. Do you remember coming into possession of this piece of paper?

A. I don't -- I don't remember way back then.

9504367 1986

Q. So other than the date that appears on it, you don't know when this was prepared either; right?

A. No.

Q. The figures that appear along the right as the costs involved, did you give those numbers to somebody at the Association?

A. The Executive Committee actually agreed on these numbers.

Q. The Executive Committee did?

A. Yes.

Q. Who was on the Executive Committee then?

A. Bob, myself, and John Steensland.

Q. This was the Executive Committee of the Board of Directors?

A. Yes.

Q. Now, I'm a little confused, Mr. Twichell. Were you a member of the Board of Directors or not?

A. No, I was not.

Q. But you were a member of the Executive Committee of the Board of Directors?

A. The Executive Committee of the Association, yes.

Q. When you refer to the Executive Committee of the

9504367 1987

Association, are you referring to NAREA?

A. Yes.

Q. Not TAM?

A. No.

Q. So you said that you gave these numbers, the totals, to the Executive Committee, and that was you and Mr. Johnson and Mr. Steensland.

A. I didn't say I gave it to 'em, I said that we came up with those numbers. All three of us.

Q. So collectively you came up with them?

A. Yes. We knew what the fees were already.

Q. How did you know what the fees were already?

A. Well, you know, 2,500 pieces times .22, which is the typical stamp price at that time, is $550. The mailing rental, we rent mailing lists all the time at $50, I've even rented it cheaper than that to bargain prices; but that's $50 a thousand, so we knew that. Letter processing charge, envelopes, 2,500 letters and envelopes, I don't even recall how we come up with that number at the time, $60. I guess that was for all the running of 'em and doing all that; and then, of course, you have the machine time, which was $25 for my use of using the entire system.

9504367 19988

Q. Did you say it was a common occurrence for NARBA to rent its list of members, rent out its list of members?

A. Yeah, we rent our mailing list.

Q. Was it a common occurrence at that time in 1988?

A. For those that were interested in renting it, yes. I would rent it to them.

Q. Well, how often did it occur?

A. Oh, we probably did it six times a year.

Q. To what sort of organizations?

A. Software companies, computer companies, form companies, companies like that.

Q. Do you see at the bottom of that form there's handwriting looks like it says paid and then initials?

A. Yes.

Q. Do you recognize that handwriting?

A. No.

Q. Mr. Twichell, how many times a year did you say you thought in 1988 the Association rented out its mailing list? Six times?

A. Guessing five, six times.

Q. I'd like to ask the court reporter to mark this exhibit.

9504367 1989

(Exhibit 11 was marked for identification by the court reporter.)

Q. BY MR. BERNSTEIN: Here you go, Mr. Twichell, Exhibit 11. A three-page document entitled National Association of Real Estate Appraisers, Inc.'s, Supplemental Responses to Interrogatories and Requests for Production of Documents.

Could you review that, please.

Just the first page is fine, Mr. Twichell.

A. Yes.

Q. Are you familiar with that document?

A. I signed it.

MR. KING: No, you didn't.

A. Yes, I did.

Q. BY MR. BERNSTEIN: On the last page, Mr. Twichell, when you say you signed it, you were the notary public on this document; weren't you?

A. Yes, I'm a notary.

Q. And on this document as the notary you affirmed that the document was signed and sworn to before you; didn't you?

A. That Bob Johnson signed it, yes.

9504367 1990

Q. And that he swore to it before you.

A. Yes.

Q. Can you please look at the last paragraph on the first page. And could you read it out loud, please.

A. "The mailing lists were rented to two computer companies whose identity is presently unknown. Upon further checking of documents, including bank deposit receipts, it has been impossible to determine the identity of the computer companies. The lists were also rented to Todd Publishing and International Real Estate Institute. The rates charged the latter two companies were $50.00 per 1,000."

So we rented it to four, not six.

Q. Well, if you look at the question that that's responding to, it refers to from January 1, 1987. So I guess my question is, was it six roughly a year that it did? Because this seems to indicate that over a year and a half period it was less than that.

A. It was four.

Q. So your recollection was incorrect; is that it?

A. Well, I think my recollection through this entire deposition has been that way. I recollected six, all right

9504367 1991

it's four. There's --

Q. Well, you recollected six per year, and this submission says over a longer period of time less than that; doesn't it?

A. And I guess while Bob signed this, he might not of known of two sales, two rentals that went on. So it could be six. So this might -- to his knowledge this is the best he knew. But there might have been others that occurred that he was unaware of.

Q. So then he might have signed this without complete knowledge about how many entities the Association rented to?

A. The best of his knowledge that's what he knew about and that's what our records indicated.

Q. Did he ask you how many times the mailing list had been rented?

A. I don't remember if he asked me.

Q. Mr. Twichell, can you turn to page 4 of Exhibit 10, please, which is a photocopy of the check. Do you recognize that?

A. It's my check.

Q. Do you remember this check?

9504367 1992

A. Not really.

Q. Well, is there anything that you can remember about this check?

A. Not really.

Q. Mr. Twichell, what's the date that appears on this check?

A. March 3rd, 1988.

Q. That's the same date as the invoice on the page before; right?

A. It is.

Q. Mr. Twichell, do you ever backdate checks that you write?

A. I'm not sure if I understand.

Q. Well, is it possible that you wrote this check on a date later than March 3rd?

A. No. I don't think so.

Q. Let me tell you about my source of confusion, Mr. Twichell. If you can look at Exhibit 3, the check register, on page 12, and check number 747 consists of what this check is for, $760; do you see it down there at the bottom of the page?

A. Yes, I do.

9504367 1993

Q. And the date that appears there is not terrifically legible to me, I don't know if you can make it out; but what is apparent to me is that the series of checks that you apparently wrote prior to that one are all dated in late March.

Do you see that?

A. Yes. I'm not sure if they're all my checks. My wife also writes checks.

Q. But she has a different series of numbers; doesn't she, it looks like?

A. That's what I was checking for as we are looking here.

Q. Looks like your checks start with 740 at the top of the page, 741, two, three, four, five, six, and all those others are late March, and then comes check 747. So is it possible that you might have backdated this check?

A. Absolutely not.

Q. It's not? You're certain you didn't backdate it?

A. I don't ever remember backdating a check. She doesn't always get the carbon copies from me on a regular basis, so maybe this is how it happened. I don't know.

Q. You have no explanation for how it happened?

9504367 1994

A. Not right now.

Q. If you think of one, let me know.

A. I will.

Q. Okay. Page 5 of Exhibit 10, please.

Do you recognize this page?

A. A little.

Q. Well, what do you recollect about it?

A. This is the bill for the letterhead and the envelopes for the project.

Q. Who prepared this?

A. Looks like the printer prepared it.

Q. Well, to recapitulate, this is a white page which at the top says Statement of Expenses, then says Printing Letterhead and Envelopes by Printer, and thereupon it has the name of the printer. In fact, I think this is Duchene is the name that I believe you mentioned earlier, Mr. Twichell. Right?

A. Right.

Q. At the bottom it says, quote, "I stuffed the envelopes myself and no Corporate Employees time was used". Does this mean that the printer stuffed the envelopes?

A. No, I stuffed the envelopes. From what I

9504367 1995

remember of Duchene Printing, they are a bit of a -- you know, we use the cheapest printer; and I think Duchene Printing was one of those garage printers, like they like to call them; and maybe someone in my office typed it up or maybe even I typed it, I don't remember this invoice. Just showing the expenses that were incurred.

Q. You think you might have typed it up?

A. I might have. This one says I stuffed the envelopes myself. That could give an indication that I even typed it myself.

Q. Well, is it possible that you typed this part of your submission but --

A. What's this?

Q. The page that we are discussing, page 5 of the exhibit, and didn't prepare page 3, the invoice?

A. I just don't remember.

Q. So am I correct that these are the expenses that you paid directly, that the Association didn't absorb; is that right?

A. That is true, these are the expenses that I paid.

Q. For the letterhead and the envelopes, for them to be printed?

9504367 1996

A. Yes.

Q. Do you remember when you paid for them?

A. No, I don't. I don't recall.

Q. Well, Mr. Twichell, maybe you can help me out, because you said earlier that you wrote a check for these; and I assume you meant a check out of your own account rather than any kind of company check, and I wonder if you can just turn to Exhibit 3, the check register, and help me find the check that you wrote to Duchene Printing to pay for the stationery.

A. Well, it's clear that I wrote a check for this expense, $760, but I don't know if I ever testified that I said I paid for Duchene Printing Company a hundred and eighty-six I paid by check.

I don't know if I ever said that.

Q. Well, you did twice, Mr. Twichell; and I'm just interested in finding out what happened. Okay?

A. First of all, I don't recall how I paid it. It may be because this deposition has been 10 hours I'm answering questions too quickly: I will pay closer attention. But if there is no check written, then I didn't write a check for it; I must have either paid for it by

9504367 1997

cash -- that must be it.

Q. So if you testified earlier that you wrote a check to Duchene Printing, you cut a check for this, that might not be accurate; is that right?

A. I don't think I ever testified to that. If I did, it's certainly an error on my behalf; and if there is no check, I did not cut a check.

Q. Can you help me try to find it? Maybe you did write a check. Can you please look at page 3 --

MR. KING: Counsel, must we do this? You've looked through there. Did he write the check or not?

MR. BERNSTEIN: I'm not sure what Mr. Twichell's habits are and I'm not sure who he might have made it payable to, and by him scrutinizing it he might be able to determine something that I can't.

A. I don't recall how I paid for it.

Q. BY MR. BERNSTEIN: Are you certain you did pay for it?

A. I don't remember it. It was a long time ago.

Q. Then you may not have paid for it at all?

A. I'm sure I paid Dean for the job.

Q. And what money did you use to pay Dean for the

9504367 1998

job that you did?

A. My own personal money.

Q. I realize that it's been a long day, Mr. Twichell, and I'd only ask you for one more time to try to plumb your memory to bring you back to I guess what was the spring of 1988 when you submitted this, and to tell me as best as you can remember if you paid Dean Duchene for this and how you did so.

A. I don't remember directly paying him for this, but I do know that I paid for all the expenses; so I can say that he did get paid from me for his work.

Q. Is it possible that Duchene billed the Association for a larger job of stationery and envelopes and that you paid the Association for a portion attributable to this? Is that possible?

A. I don't think that's possible. We tried to keep this very plain and simple. So we made it very clear like this. I probably paid Dean directly.

Q. Okay. So you are certain that it was a separate job that Dean Duchene did for you for these letters? Are you certain about that?

A. I'm pretty certain about that.

9504367 1999

Q. Okay.

MR. BERNSTEIN: Off the record.

(Recess taken from 6:55 p.m. to 7:02 p.m.)

MR. BERNSTEIN: Back on the record.

Q. BY MR. BERNSTEIN: Mr. Twichell, did you or anyone else at the Association get a mailing list from the Arizona Republican Party in 1988?

A. I don't remember one.

I don't remember one.

Q. Do you remember the subject ever coming up in discussion?

A. No, I -- I just don't remember.

Q. So you've never rented a list, a mailing list from a political party; have you?

A. I don't remember doing it.

Q. Did Mr. Johnson deal with the Arizona Republican Party a lot in 1988 in the course of his activities?

A. I don't know.

Q. No idea?

A. I think it would be better to ask him.

Q. You don't know?

A. Yes.

9504367 2000

Q. Okay.

Mr. Twichell, we were discussing Exhibit 10, which is the response that you and Mr. Johnson made to the FEC in April of 1988. And what I'd like to ask you is what communication you remember that you or Mr. Johnson or anyone else at the Association had with counsel to the Bush committee in Washington? Regarding this response.

MR. KING: Do you understand the question?

A. I understand the question, and I don't remember if I ever had any communication.

Q. BY MR. BERNSTEIN: Well, did Mr. Johnson have any communication?

A. I don't know if he did or not.

Q. Now, just to sum up on the mailings that you sent out and so I can be clear, you've testified that you sent out approximately 800, but in any event less than a thousand letters with return envelopes and contributor cards to members of NAREA soliciting contributions to George Bush's Presidential campaign, and that you are not aware of any other mass mailings in 1988 that any of the associations sent soliciting contributions to Bush. Does that sound right?

9504367 2001

A. That sounds right.

Q. Okay. Now, you discussed when we started talking about your political activity that there were the direct contributions that you made, and that was the January contribution to Bush, the March contribution to Durenburger, we're not sure what to make of the Arizona Republic Party a $156 check.

MR. KING: Nor do we even know that it's the Arizona Republican Party.

Q. BY MR. BERNSTEIN: And it was your testimony, I believe, that you only made one contribution to Senator Durenburger's Senate campaign and not two contributions. Right?

A. Right.

Q. You also made the July contribution to the Presidential Trust. So those were the direct contributions.

We then discussed the letters that you sent, the solicitation. You also mentioned that you probably spent some time talking up Bush's prospects with friends. Did you solicit contributions from anybody you worked with at the associations?

A. Not that I recall.

9504367 2002

Q. Did you solicit contributions from any of the vendors that the associations dealt with?

A. Not that I recall.

Q. Is it possible that you might have discussed Bush's candidacy with any of the vendors who came to talk to you?

A. I don't remember if I did.

Q. Well, do you remember receiving any contributions from vendors of the Association?

A. I don't remember.

Q. Is there any other activity in support of Bush's candidacy that you engaged in in 1988 that you can remember?

A. No.

Q. At this time, Mr. Twichell, we are going to close the deposition. We are adjourning it subject to recalling you at a future time rather than closing it entirely. And while we don't anticipate the necessity of doing that at this time, it could be required; and at that time counsel can, of course, make whatever arguments he would like to make about the propriety of it.

At this time would you like to make any statement, Mr. Twichell?

9504367 2003

A. No.

Q. Do you understand that you will have the right to review and sign this deposition after a transcript is prepared?

A. I understand.

Q. I am now handing you a witness check, Mr. Twichell, in the amount of $35. And with that, off the record.

MR. KING: Just before we go off the record.

MR. BERNSTEIN: Well, we're off.

(Discussion off the record.)

(Concluded at 7:13 p.m.)

* * * * *

9504367 20004

I, the undersigned, say that I have read the foregoing deposition taken November 2, 1990, and I declare, under penalty of perjury, that the foregoing is a true and correct transcript of my testimony contained therein.

EXECUTED this 11th day of January, 1991.

E. KENNETH TWITCHELL

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

Notary Public

My Commission Expires:

_____

9504336720005

STATE OF ARIZONA)
) ss:
COUNTY OF MARICOPA)

I HEREBY CERTIFY that the foregoing deposition was taken before me, Kent L. Carter, RPR, CM, a Notary Public in and for the County of Maricopa, State of Arizona; that the witness before testifying was duly sworn by me to testify to the whole truth; that the questions propounded to the witness and the answers of the witness thereto were taken down by me in shorthand and thereafter reduced to writing by me; and that the foregoing 330 pages are a full, true, and correct transcript of all proceedings had upon the taking of said deposition, all done to the best of my skill and ability.

I FURTHER CERTIFY that I am in no way related to any of the parties hereto, nor am I in any way interested in the outcome hereof.

DATED at Phoenix, Arizona, this 14th day of November, 1990.

KENT L. CARTER, RPR, CM
Notary Public

My Commission Expires:
September 30, 1992

950436720006

AGC 0347

FEDERAL ELECTION COMMISSION

UNITED STATES OF AMERICA

IN THE MATTER OF:)

)

Investigation of MUR 2984)

91 MAR 13 AM 11:39

* * * * *

ANSWERS AND DEPOSITION OF PATRICIA CURTIS DAVIDSON, a witness produced on behalf of the Federal Election Commission, taken in the above-styled and -numbered cause on the 22nd day of February, 1991, commencing at 9:00 a.m., before Mary L. Bagby, a Certified Shorthand Reporter in and for the State of Texas, in the Conference Room of the Department of Justice, Third Floor, Federal Building, located at 515 Rusk, City of Houston, State of Texas.

APPEARANCES:

For the Federal Election Commission:

PATTY REILLY, Esquire
-and-
LOIS LERNER, Esquire
Federal Election Commission
999 E Street, N.W., Room 819
Washington, D. C. 20463

9504336720007
PENGAD CO MUNCIE IN 47302 LASER BONDA

ORIGINAL

INDEX

WITNESS	EXAMINATION
PATRICIA CURTIS DAVIDSON	3

EXHIBITS

DAVIDSON DEPOSITION NO.:		PAGE
1	[Letter of 2-4-88]	69
2	[Letter of 4-4-88]	94
3	[3-page document/assorted items]	113
4	[Checks/check stubs]	180

95043672 0008
PENGAD CO MUNCIE IN 47302 CASER BONDA

Whereupon,

PATRICIA CURTIS DAVIDSON,

the witness hereinbefore named, being first duly cautioned and sworn to testify the truth, the whole truth and nothing but the truth, testified on her oath as follows:

EXAMINATION

BY MS. REILLY:

Q. We are here in Houston, Texas this morning taking the deposition of Patti Davidson in MUR, M-U-R, 2984.

This is an investigation that's conducted pursuant to the Commission's subpoena powers at 2 USC Section 437(g)(a).

Would you state your name, please.

A. Patricia Curtis Davidson.

Q. And what is your address?

A. 4580 Elm Street, Bellaire, Texas 77401.

Q. And your telephone number?

A. Area Code [redacted]

Q. Are you represented by counsel this morning?

A. No.

95043672009
PENDAD CO MUNCIE IN 47302 LASERBOND A

Q. Were you informed that you could have counsel present?
A. Yes, uh-huh.
Q. Have you had your deposition taken before?
A. Yes.
Q. So you're familiar with the procedure. But what I want to do is run through a few things with you just so you are clear on what's going to happen this morning.

I'm going to be asking you a series of questions about activities that have been conducted by you and activities that have been conducted by others.

It's very important that you answer my questions verbally since the court reporter can't record gestures or non-verbal responses.

A. Okay.
Q. Do you understand?
A. Yes.
Q. It's also important that you answer each question fully and completely; do you understand?
A. Yes.

95043672010
PENGAD CO. MUNCIE IN 47302 LASER BORDA

Q. If you don't understand a question, please let me know and I'll try to rephrase it or restate it so it will be clear. Is that okay?
A. Yes.
Q. If you have --
A. Can I ask one question? I have to know what that is.

MS. REILLY: Let's go off the record.

[Discussion off the record.]

BY MS. REILLY:
Q. If you fail to indicate that you haven't understood a question, I'm going to assume that you have understood the question; is that clear?
A. Yes.
Q. And I'm going to further understand that you have answered the question fully and completely; is that clear?
A. Yes.
Q. If at any time you want to change, modify or explain your answer, please let me know and we'll be happy to let you do so; do you understand?
A. Yes.

2504367201 1
PENGAD CO. MUNCIE IN 47302 LASER BONDA

Q. Now you've just taken an oath to swear to tell the truth, and so you should treat your testimony here this morning as though you're testifying before a court of law; do you understand?
A. Yes.
Q. And if you need to take a break, please let me know and I'll instruct the court reporter, and we can go off the record; is that okay?
A. Yes.
Q. Ms. Davidson, what's your current occupation?
A. I currently work for the Houston Association of Realtors as their director of member services.
Q. And how long have you been with them?
A. I've been with them about a year and two months.
Q. Where did you work prior to then?
A. Prior to that I worked for a company called J/B Meetings, and I worked for them for approximately three months.
Q. And where are they located?
A. They're located here in Houston on San Felipe Avenue.
Q. And before that job, where did you work?

PENDAD CO MUNCIE IN 47302 LASER BONDA 9504367201 2

A. Before that job, I worked at the Marriott in Scottsdale, Arizona. I'm trying to think of the name of it. Marriott Mountain Shadows Resort.
Q. And then before that?
A. And before that I worked for Robert Johnson and International Association Managers.
Q. And how long were you with International Association Managers?
A. I was with them for almost two years.
Q. And that would be roughly from when to when?
A. Roughly from May -- the end of May or beginning of June of 1987 until March of 1989.
Q. So just about two years?
A. Uh-huh.
Q. And when you started with International Association Managers, what was your position?
A. My first position was for director of marketing for the National Association of Real Estate Appraisers.
Q. And that's referred to as NAREA?
A. Right.
Q. And who was your boss at that position?

2504336720013
PENGAD CO. MUNCIE IN 47302 (ABER BONDA

A. I had two bosses. One was Robert Johnson and one was Ken Twichell.
Q. And Robert Johnson was the owner of International -- Let's call it IAM?
A. Yes. At that time there was no International Association Managers. That wasn't formed until probably sometime in 1988.
Q. So you started with NAREA and then IAM was founded and everyone began to work for them; is that correct?
A. Right.
Q. And IAM, what is its business?
A. It is -- Well, I think the purpose for it being created was for a management company to run the trade associations that were under Robert Johnson. I think he did it for liability reasons.

Before there was just separate organizations, and my understanding from him was so that the board of directors of those separate organizations would be protected. So he formed this other company, International Association Managers.

PENGAD CO. MUNCIE, IN 47302 (800) 631-6989 LASER FORMS

Q. And IAM managed all the companies underneath it?
A. Right.
Q. And you said it was a trade association? The underlying organizations were a trade --
A. Right. They were trade associations.
Q. And they were related to real estate?
A. Yes.
Q. Can you name for me those organizations?
A. The National Association of Real Estate Appraisers, the National Association of Review Appraisers and Mortgage Underwriters, the Professional Women's Appraisal Association, and the International -- It slips my mind. But it was the International....
Q. Was this the International Real Estate Grouping, IREI?
A. IREI, International Real Estate -- I can't --
Q. Institute?
A. Institute. That's right. Institute.
Q. So there were a number of organizations operating out of the building?
A. Yes.

PENGAD CO. MUNCIE, IN 47302 (800)631-6989
2504367201 5

Q. And where were they located initially when you started?
A. When I first started, they were in Scottsdale, Arizona. And the name of the street was Via something.
Q. And subsequently they moved?
A. Right. He built a new location which was also in Scottsdale, and that was on Evans Road, I believe; and we moved there.
Q. Now, did your position change with the organizations over time?
A. Yes.
Q. And how did it change?
A. When I first started, I was the director of marketing. I primarily worked for the National Association of Real Estate Appraisers.

After I was there for approximately six months, another person left and I moved into her position. That commanded a lot more responsibility.

I was -- I had several titles then, one of which was the director of education for the

PENGAD CO. MUNCIE, IN 47302 LASER BOND A

25043672016

National Association of Review Appraisers and Mortgage Underwriters and executive director of the Professional Women's Appraisal Association. Those were my two primary areas.

Q. And as director of education, what were your responsibilities?

A. My responsibilities were to plan and organize educational programs for the Association throughout the country. I would find a location, find speakers and ask them to speak, and then put everything together. I'd actually go to them and make sure that they went okay.

Q. So you had a certain amount of travel involved with the job?

A. Yes, I traveled quite a bit.

Q. And then as executive director of PWAA, what were your responsibilities there?

A. My responsibilities there were primarily to help with the newsletter and write letters occasionally to the members and to potential members and work with the president. It was more of a figurehead position than anything.

PENGAD CO. MUNCIE IN 47302 1-800-631-6989 9504367201 7

Q. And the organization itself, was it large?
A. The Professional Women's Appraisal Association? No, that was the smallest of all of the groups. I don't remember exactly how many members, but I'd say perhaps 500 members at the most.
Q. Was that begun during your tenure there?
A. No. It was already established when I started.
Q. Who ran it before you did?
A. A person by the name of Lori Laughlin. And she was married; I don't remember her married name, but she got married.
Q. Can you tell me a little bit about how the old office was physically?
A. The old office on -- The first one before we moved?
Q. Right.
A. It was two stories. Downstairs there was a receptionist area right when you walked in the front door and then one big room that had cubicles in it. Mr. Johnson was the only one who really had an office. And then there was also a computer room that was downstairs that was separated a

PENGAD CO MUNCIE IN 47302 1-800-631-6989 9504367201 8

little bit, and three or four people worked in there.

Upstairs there was a mailroom that had a postage machine and a desk with a partition in between, and then another secretary's type desk, and then a small kitchen. That was pretty much it.

Q. So it sounds like close quarters?

A. Yes, very close quarters.

Q. Now, Mr. Johnson had his own office?

A. Yes.

Q. Ken Twichell did not?

A. Ken Twichell did not.

Q. Did he sit near Mr. Johnson?

A. No, not particularly.

Q. Did you sit near Bob Johnson?

A. When I moved to the second position, I sat fairly close to his door.

Q. Uh-huh.

A. I was not the closest person. There was a person that was in front of me that was the closest person.

PENDAD CO MUNCIE IN 47302 LASER BONDA 9504367220019

Q. And who would that be?
A. I believe that my assistant might have sat there, perhaps Steve Schnecke sat there as well.
Q. Steve Schnecke, what was his position with the organization?
A. He was -- I don't remember his exact title, but he basically wrote the -- He was director of publications, I guess, and wrote the newsletters and put together the trade publications.
Q. Is he related to Bob Johnson?
A. Yes, he was his brother-in-law.
Q. Married to his second wife?
A. Right.
Q. And you had an assistant?
A. Yes.
Q. And who was that?
A. Shawn Fitzgerald. I had one before that; I don't remember her name.
Q. It sounds like people came and went fairly regularly; is that correct?
A. Yes, the turnover was extremely high.
Q. And why was that?

PENGAD CO. MUNCIE, IN 47302 (800) LASER-PENDA 9504367220

A. Because Mr. Johnson treated people very badly.
Q. Can you give us some examples of how he treated people badly?
A. Well, he would speak to people in a very condescending way. He was very intimidating. He expected people to arrive early and stay late, but he would not pay them overtime. And if they did not come early and stay late, then they were -- they didn't work there; they were fired pretty much.

If people had a doctor's appointment or had to leave, then he would deduct their pay. If -- Or if they were sick, there was no sick policy. So if they were sick, then he would deduct their pay, except for people he liked.

He would usually have a couple of people that he would pick on. In other words, he would be constantly harassing them. He would give them more work than was humanly possible and then be constantly asking them if they had finished it, if they had gotten it done, what was the problem, were they stupid, you know, was there a problem.

PENGAD CO MUNCIE IN 47302 (LABER MONDA) 950436720021

He was just basically a horrible person to work for.

Q. Did he have occasion to fire a pregnant person?

A. My understanding was that he fired a person -- this was after I left, but that he fired a person who was pregnant because he didn't want to have to give her maternity leave or pay for her in any way.

Q. What sort of reputation did Bob Johnson have in the community?

A. I don't really know exactly what his reputation was in the community because I didn't live in Scottsdale and I was -- it was my first job out of college. We lived in another small town, and so I wasn't involved in the community. So I really don't know.

I think he went to church, which to me is a joke. But I honestly don't know what his reputation was.

Q. Now, Bob Johnson had an assistant, someone directly under him?

A. Yes.

950436720222
PENGAD CO. MUNCIE, IN 47302 LASER BONDA

Q. And who was that?
A. Well, he had Ken Twichell who was his assistant basically, and then he also had a secretary that was his assistant.
Q. And Ken Twichell, what were his responsibilities?
A. He was executive director of the National Association of Real Estate Appraisers. That was his primary function. But he was basically the office manager and the person between Bob Johnson and the rest of the office and pretty much his right-hand person.
Q. Did Ken Twichell have authority to hire and fire people, too?
A. Yes.
Q. And did he?
A. Yes.
Q. Frequently?
A. That's all he did was hire and fire people basically. He spent ninety percent of his time interviewing new people, in my opinion.

MS. REILLY: Let's go off the record.

[Discussion off the record.]

PENGAD CO MUNCIE IN 47302 1-800-LASER-PENDA 950436720223

MS. REILLY: Back on the record.

BY MS. REILLY:

Q. Before we went off the record, we were discussing Ken Twichell's area of expertise, which appeared to be hiring and firing people. What other responsibilities did he have with the organizations?

A. Basically, he did anything and everything that Mr. Johnson wanted him to do. He would attend board meetings, make sure that the office was running right.

Basically just carried out everything Mr. Johnson told him to do. He didn't really have any responsibilities on his own that he would do from day to day. He honestly spent most of his time hiring and firing people.

Q. Now in terms of the organizations that IAM was managing, was Ken Twichell responsible for one in particular?

A. Mostly for the National Association of Real Estate Appraisers.

Q. And then you said you had a computer room?

PENDAD CO MUNCIE IN 47302 (765)288-3441 9504367202024

A. Yes.
Q. And was there someone in charge of that?
A. Yes, Tim Cloud.
Q. Was Mr. Cloud there when you first arrived --
A. Yes.
Q. -- at the organization?
A. He had just started, I believe, several months before I did. And my understanding is he's still there.
Q. And his responsibility is to run the computer system?
A. Right. To run the computer system, and he has several people that work with him in there, and to produce all of the mailing labels and keep all of the files in the computers up to date of the members, and basically keep everything up to date as far as the computer system went.
Q. Now, it sounds like the organizations did a lot of mailing --
A. Yes.
Q. -- out; is that correct?
A. Yes.

25043672025

Q. On a daily basis, would there be a mailing almost every day?
A. Yes.
Q. And some would be larger than others?
A. Yes.
Q. And of all the organizations that we've discussed thus far, which was the biggest?
A. The National Association of Real Estate Appraisers.
Q. And in 1988, which is sort of the relevant time period, roughly how many members would they have?
A. I'm guessing, because I honestly don't remember. I remember that the other association had 8000 about that time, and so I'm guessing maybe 14,000. And like I said, that's purely a guess because I just honestly don't remember.
Q. And the other organization you referred to with 8000 was which?
A. The NARA, National Association of Review Appraisers.
Q. Now Bob Johnson, was he in the office 9:00 to 5:00?

PENGAD CO. MUNCIE IN 47302 LASER BONDA 950433672026

A. Well, he traveled quite a bit, but most of the time he worked -- He was there probably earlier than 8:00 o'clock, maybe 7:30 or so, and usually worked until 5:00 or 6:00, sometimes later.
Q. And what about Ken Twichell?
A. The same.
Q. Tim Cloud?
A. He was probably more of an 8:00 to 5:00, rather than coming in -- But he came in early, too.
Q. Now the organizations involved, did they each have separate checking accounts?
A. Yes.
Q. And who had authority to sign checks for them?
A. Mr. Johnson -- If I'm remembering correctly, Mr. Johnson signed the checks for the National Association of Review Appraisers and Mortgage Underwriters.

I think perhaps Ken Twichell signed them for the National Association of Real Estate Appraisers.

I had authority to sign them for the Professional Women's Appraisal Association, but

PENDAD CO. MUNCIE, IN 47302 LASER BONDA 25043672027

that was only under the direction of Mr. Johnson. I mean, only basically when he came to me and said, "You need to sign this check." I never had the authority just to decide I was going to spend money and sign the check.

And for the International Real Estate Institute, I don't remember. Perhaps Mr. Johnson had the check-signing authority on that one as well, but I don't remember. Or perhaps his son did, Todd Johnson.

Q. Also at the old offices which we were discussing before the companies moved, was there also an entity housed there called Todd Publishing?

A. Yes.

Q. And what was that?

A. Todd Publishing was a company that he had formed that published some publications. I don't remember exactly what all they were involved in, because I wasn't directly involved with them.

I know of one project in particular that they worked on, and that was after we had moved. But basically I'm guessing that they published

250436722028
PENCAD CO. MUNCIE, IN 47302 LASER BONDA

some of the publications that were put out by the Association.

Q. And Todd Publishing was founded by Bob Johnson?

A. Yes.

Q. And it was named after his son Todd?

A. Right.

Q. And you mentioned that you could recall one publication that they had done. Could you tell me a little bit about that one?

A. I believe it was called the National Relocation Network. And what they did was, they contacted appraisers and different -- I'm not sure if it was real estate agents, but I know it was appraisers and inspectors and things like that -- and told them that they were putting together a book that they were going to send to all the big corporations throughout the country that did a lot of relocating of their employees.

So they got a lot -- Mr. Johnson actually went to Los Angeles and like opened an office. I remember it was on Avenue of the Stars was the name of it. But the mail came to Arizona, and the

PENGAD CO. MUNCIE, IN 47302 LASER BOND 25043672029

phone calls came to Arizona. But he didn't want anybody to see Scottsdale, Arizona on the address of it.

So basically what they did was they solicited all these different types of people to be put in this book, and then they published these books. But the only people that the books were sent to were the people that put their names in them.

Q. Roughly how many books were run off?

A. I honestly don't know. I'm guessing at maybe a thousand. I really don't know.

Q. Okay. And you stated that you had the authority to sign the checks for PWAA?

A. Right.

Q. What you described was that Bob Johnson would come up to you and say, "We need a check," and make it out. When he did that, what did you have before you when you would write the check?

A. Just a big checkbook that said Professional Women's Appraisal Association.

Q. And where was that checkbook kept?

PENGAD CO. MUNCIE, IN 47302 (800) 631-6989 LASER FORMS

A. Perhaps Mr. Johnson's secretary kept it.
Q. In other words, you didn't have it?
A. No.
Q. Did he make a practice of telling you what the check was for?
A. Usually he would say, because it was very rare that -- There was not a lot of money came out of that account. It was usually for postage. That's what I remember the most, that we would be reimbursing the Association or paying the office directly for some of the postage for some of the mailings.
Q. And so you didn't have any invoices in front of you when you were writing checks?
A. No.
BY MS. LERNER:
Q. You said it was a big checkbook. Did it have a portion in it to write down -- not only to write out the check, but the check stub, to write down what it was for?
A. I remember it looking like that, yeah. A big one with the check stubs on this side and then the

PENGAD CO. MUNCIE IN 47302 (800)631-6989 9504367203 1

checks over here.
Q. Did he ask you to fill out the stub part as well, or did you merely sign the check?
A. I really don't remember. I think I just signed the check. I think his secretary probably filled the other part out, but I honestly don't remember.
Q. Do you remember if the other parts were filled out when you signed the check, or were they still blank?
A. I don't remember.
BY MS. REILLY:
Q. What about some other checks that the organization would write? You said you thought that Bob Johnson had authority and maybe Ken Twichell for the NAREA. Do you know mechanically how they would go about writing checks?
A. I remember his secretary having a lot to do with writing the checks, and I also remember at one time the receptionist was involved in some type of bookkeeping or writing of the checks.

I remember two receptionists in particular that were. We had a turnover rate there, so it

PENGAD CO MUNCIE IN 47302 LASER BONDA 2504336720332

wasn't always the receptionist. But I remember two in particular that did, that perhaps wrote the checks out and then had him sign them.

I think he probably also just wrote out checks whenever he wanted. I remember seeing him just writing out checks for one reason or another.

Q. And when you say you remember him writing out checks, was it your impression he was doing it for business reasons?

A. For the most part. However, I do remember -- because a friend of mine who was the receptionist at one time, had told me about an incident where he had had a check made out to a contractor for office repairs, when in fact they were for that contractor working on his home in Arizona in the mountains. He had the second home.

Q. Who was your friend who was the receptionist?

A. Jody Peddie.

Q. That's P-e?

A. I think it's P-e-d-d-i-e maybe.

Q. Do you know of any other instances where Mr. Johnson would write checks on the company for

PENGAD CO. MUNCIE IN 47302 1-800-631-6989

things not related to the company?

A. I had heard -- And this is again I had heard. I was not --Nobody really had any -- or I did not particularly care about the money because I knew I had absolutely no say-so in what checks were written, so I really didn't pay that much attention to it.

But through the grapevine or through other people, I had heard that he used company money to pay for his son's tuition and car and car insurance and for his -- to build a second home, occasionally in, in the mountains of Arizona.

Q. Do you have any idea how he would, for lack of a better phrase, "cook the books," to --

A. No, besides the office repairs. I think perhaps for the cars and stuff, he had said that they were used for company reasons or something, but I really don't know.

Q. And did the Associations have an accounting firm; --

A. Yes.

Q. -- do you know?

PENGAD CO., MUNCIE, IN 47302 (800) LASER-BOND-A 9504336720334

A. They had CPA's that were located in Minnesota.
Q. Do you recall their name?
A. Barum & Barischner.
Q. Would they issue reports to the Associations?
A. I believe they did, because I remember at the end of a certain amount of time we're supposed to send our receipts or our -- something that had to do with the checks up to the accounting firm. Actually my secretary, I think, was the one that took care of that for the Professional Women's Appraisal Association.
Q. And what sort of information would you be forwarding to the accountants?
A. I think it was checks from -- or statements from the bank or from the checks that were written from those Associations. And now that we're talking about -- I think my secretary also perhaps filled in some of those stubs or wrote out the check and then I signed them, now that I think about it.
BY MS. LERNER:
Q. And this would have been at the direction of?
A. Mr.Johnson. And she may have even been, for the

9504367203355
PENGAD CO MUNCIE IN 47302 LASER BOND-A

Professional Women's Appraisers, the one who kept that checkbook, my secretary.

BY MS. REILLY:

Q. And your secretary's name?

A. Shawn Fitzgerald.

Q. Do you recall how the mail came in in the old building?

A. How it came in?

Q. Did it sort of come into one central location?

A. I'm just drawing a blank on how it came in. I was always involved in how it went out, not how it came in.

Q. Well, if you were to get mail there, how would it get to you?

A. Well, that's what I'm trying to remember.

BY MS. LERNER:

Q. Was there a person that distributed it? Was there a place that you went to collect it?

A. I'm trying to think.

BY MS. REILLY:

Q. Maybe it went to the receptionist's desk?

A. Yeah, yeah, yeah. I think the receptionist was

PENCAD CO MUNCIE IN 47302 9504367203 6 LASER BOND

the first one who got it.
Q. And what would she do with it?
A. I think she sorted it.
Q. By association?
A. By companies, and then perhaps she distributed it to people.
BY MS. LERNER:
Q. Did you have mailboxes?
A. No.
Q. So it wouldn't have been put in a box.
A. No.
BY MS. REILLY:
Q. And then in an instance where, for example, you were to get an invoice, what would happen then?
A. Usually, I think, probably all the invoices went to Mr. Johnson.
Q. Do you know what he would do with them?
A. It seems like he would instruct perhaps the receptionist or his secretary to write out the checks for him and he would sign them.
A lot of times the National Association of Review Appraisers and Mortgage Underwriters would

PENGAD CO MUNCIE IN 47305 1-800-631-6989 0504367220037

pay for other -- would actually do the checks and then he would have the other Associations reimburse.

Q. And that was because that Association had the most money?

A. Right. Because, like for example, I don't remember being involved at all in any of the, you know, paying the bills or anything. So -- And again it didn't directly affect me. If I needed -- If we had an invoice that came from like a hotel or something, I know I would go through it and make sure that we weren't charged anything extra, and then go through it with him as well; and then he would -- I don't remember exactly, but somehow he would get the check to me and I would mail it back.

Q. So he kept sort of a tight rein on the finances?

A. Oh, yeah.

Q. And if there was --

A. That's why I don't remember because I really had no say-so. I mean, he had such tight control that....

PENGAD CO. MUNCIE IN 47302 LASER BOND A 950043672038

Q. But it's your impression that he paid the invoices by check?
A. Yes.
Q. Do you know what he did with the invoices once he had written the checks?
A. No.
Q. Were there any sort of files in the office where invoices would go?
A. Not that I know of.
Q. Were there any files there at all?
A. There were membership files, and everybody had their personal files. I think maybe I made copies of the ones that directly affected me as far as the hotels went. But for the rest of the invoices, I have no idea if -- Maybe his secretary kept them.

I know I never saw her filing system, so I don't know.

Q. So the only invoices that you kept were the ones that you took the responsibility to keep; is that correct?
A. Right. Copies of -- for the seminars and things

PENGAD CO MUNCIE IN 47302 1-800-631-6989 2504367203039

that I had put on.
Q. And how come you decided to save those? Any reason?
A. Well, for reference more than anything, so that if I ever went back to that hotel I would know what they had charged me before. If I was doing a similar program --
Q. So it wasn't for tax purposes or anything like that?
A. Oh, no, no.
Q. Or to balance the checkbook?
A. No.
Q. And they didn't go to the accountant?
A. Not that I can remember, no.
Q. When you left, did you take them with you, your own copies?
A. No.
Q. So they may still be there?
A. Yes.
BY MS. LERNER:
Q. Was there ever any discussion or indication that you heard that perhaps some of this information

PENRAD CO MUNCIE IN 47302 LASER BONDA 95043367 20040

concerning invoices was computerized?
A. No.
BY MS. REILLY:
Q. Did you ever hear anyone discuss invoices at all?
A. I remember him saying -- I mean, not invoices directly, but when bills would come in, I remember him telling his secretary, you know, "Make out a check to so-and-so, and I'll sign it and then send it off."

Or I would go in and tell him, "I need a check to pay for something."

As I remember, mostly his secretary or the receptionist was the one who would write the checks and he would sign them. And that's all the discussion I remember about invoices.
Q. It sounds like you spent a lot of time writing checks and signing checks?
A. Well, there was a lot of money going through there for mailing. I mean, there was just a lot of associations and a lot of activities, so there was a lot of check writing.
Q. How were the employees paid?

PENDAD CO MUNCIE IN 47302 9504367204 1 LABERENDA

A. By check.
Q. A check that he would write out, "he" being Bob Johnson?
A. Yes, yes. Or his wife. That's -- Now I'm remembering something else. His wife kept the books on some things, because I remember when we moved to the second location, she had her own little office where she kept checkbooks and things locked up. She would come in periodically and keep the books on some things.
Q. And she kept them under lock and key?
A. Yeah.
Q. And this was a change from the first office to the second?
A. Now, whether or not she did that -- but just did it at home and never -- I don't know. But I just remember that she actually would come into the office sometimes, and that she wrote some of the checks. I'm remembering that now.
Q. And she also wrote checks in the old building, too?
A. I don't remember if she did that or not. She

PENGAD (C) MUNCIE IN 47302 (800) 631-6989 LASERBOND-A 9504336720042

never came in and wrote checks. But I remember -- Now that I'm starting to think about it, for some things I remember in the second building that if we had something that needed to be paid for, we started going to her and she would do it.

Q. Now you said you had a computer room in the old building.

A. Uh-huh.

Q. Do you know what kind of a computer it was?

A. No. I don't know very much about computers.

Q. Was it a big computer?

A. I think there was the big computer itself and then there was maybe four terminals in there where they did data entry.

Q. And they could run this computer at night and on weekends, too?

A. Yes.

Q. And did they?

A. Uh-huh.

Q. Was the computer pretty much always going?

A. Probably except for Sunday. A lot of times it did things overnight. So I would say the majority of

PENGAD CO MUNCIE IN 47302 LASER BOND A 9504367220043

A. Yeah.
Q. Did they have people who actually put things into envelopes?
A. Those were people that were not full-time employees, although after we moved to the second building, he did have some employees who wanted extra money who would take things home and actually stuff the envelopes.

But usually they were women that had children who were doing it for extra money.

Q. And they were called stuffers?
A. Uh-huh, yes.
Q. How much did they get paid?
A. I really don't know because I really was not involved in how much they were paid. My understanding was that it was fairly reasonable for their time, but I was not involved in the amount that they were paid.
Q. Were there any sort of records that were kept regarding the stuffers, like who did what, where, when, how much?
A. I believe the receptionist kept track of which

PENGAD CO. MUNCIE, IN 47302 LASER BONDA 95043367204

stuffer had which project and when they were due back.

Q. And at any given time in the office there could be a couple of projects ongoing; right?

A. Yes.

Q. Have you ever seen or did you ever see the log book that the receptionist kept regarding the stuffers?

A. I do. I don't remember exactly what it looked like except that it perhaps was a sheet, or a notebook with sheets of paper in it like a three-ring binder; and then it would have the name of the stuffer and the project and the staff person that was responsible for it and the due-in date.

Q. So they had specific due dates?

A. Yeah.

Q. And why was that?

A. Just because we had target dates of when mailings were supposed to go out, so we needed to know when they would be coming back in. And the letters were dated a lot of times.

Q. And so they had to stuff them in time so that the

PENGAD CO. MUNCIE IN 47302 1-800-631-6989
2 5 0 4 3 6 7 2 0 4 5

letter wouldn't be old when people got it?
A. Right.
Q. Now did the Associations have a policy regarding signing letters?
A. Mr. Johnson probably just decided who would sign what letter, and that was just the way it was. I mean....
Q. Like, for example, the PWAA would probably go out under your signature?
A. Right.
Q. Did they use auto pens or a stamp to sign the letters?
A. No. Usually it was just the -- like a master copy was signed.
Q. Do you know if the stuffers --
A. Or they were printed -- I mean, the way they printed them.
Q. They were signed once and that was it?
A. Right.
Q. Do you know if the stuffers ever signed letters?
A. Yes, they did.
Q. In what kind of circumstances would the stuffers

PENGAD CO MUNCIE IN 47302 1-800-631-6989
9504367200446

sign the letters?
A. Maybe like a medium-sized project where it didn't, numbers wise I can't tell you, but to where it didn't warrant printing, you know, three or four thousand letters that had the preprinted signature on it, but they needed to be signed and it was more than was reasonable for me to sit down and sign them, or for Mr. Johnson to sit down and sign them.
Q. And how many would you say would be reasonable for you to sit and sign?
A. Less than a hundred at the very -- I mean, you know, maybe less than fifty would probably be better.
Q. And so, say, roughly for more than fifty the stuffers would sign whose name?
A. Just depending on what association they were for.
Q. So if it were, for example, NAREA, it would be Ken Twichell's?
A. Usually.
Q. And if it --
A. Sometimes before I traded over, from me.

PENGAD CO. MUNCIE IN 47302 (LASER BOND) 9504367204 7

Q. Sometimes your name?
A. Uh-huh.
Q. And the purpose of the policy was that people would get a handwritten signature --
A. Right.
Q. -- and feel better about it?
A. Well, that and just the fact that -- That was probably one of the main reasons. But the other one was that it just didn't warrant having them preprinted with the signatures on them already.
Q. Is it more expensive to print them that way with the signature on them?
A. No.
BY MS. LERNER:
Q. Is the preprinted signature -- When you look at it, can you tell it's not an original?
A. Yes.
BY MS. REILLY:
Q. Now, in terms of the money that you got from the Association, you got a paycheck; right?
A. Right.
Q. And you said that did some traveling for them?

PENGAD CO. MUNCIE IN 47302 (800) 631-6989 25043672048

A. Yes.
Q. So would you get travel advances?
A. I would get some cash in advance to pay for cabs, tips, things like that.
Q. Can you tell me how that system worked?
A. I would remind Mr. Johnson that I was going out of town and I needed some money, and I think his secretary perhaps -- I don't know why this is so foggy about who actually wrote them, but I think his secretary perhaps would write the check and then somebody ended up giving me an envelope of cash. I don't remember -- I don't know exactly how it was cashed.
Q. But it was always cash and not a check?
A. Yes.
Q. Roughly, do you recall the least amount of money you ever got for a travel advance?
A. Maybe a hundred dollars.
Q. What was the most?
A. Maybe three or four hundred dollars.
Q. And roughly how long, on an average, would you be gone?

PENGAD CO. MUNCIE IN 47302 LASER BONDA 25043672049

A. On an average, two, two or three working days.
BY MS. LERNER:
Q. You mentioned that the money was cabs and tips and things like that, was the money also supposed to cover your hotels, or was that on a credit card that you later asked for reimbursement?
A. That was usually on a master bill.
BY MS. REILLY:
Q. A master bill that the hotel would --
A. Right, because we would be putting these seminars on at the hotel. So they would be charging us for, you know, coffee for a hundred and lunch for a hundred. And so then on top of that would be my room.
Q. Did you have a company credit card then?
A. Yes.
Q. What kind was it?
A. I believe it was American Express.
Q. And who had company credit cards?
A. I did; Mr. Johnson did; Mr. Twichell did. I don't know who else did. Maybe....
Q. Tim Cloud?

PENGAD CO. MUNCIE, IN 47302 (800) 631-6989

A. No, I don't think he did.
I'm sure his sons had one.
Q. Mr. Johnson's sons?
A. Mr. Johnson's sons.
Q. What about Steve Schnecke?
A. He might have. I honestly don't know if he did or not.
BY MS. LERNER:
Q. Why would you think that Cloud would not have had one?
A. Because he never traveled.
BY MS. REILLY:
Q. Because he was in the computer room mostly?
A. Right. He never had any need, I guess, to have a credit card.
Q. Okay. So you'd come back from a trip and you've spent X many dollars. Was there a form that you had to fill out to account for it?
A. I would do a handwritten form as far as where that cash went and then turn it in with the extra money.
Q. So your procedure would be if you had any money

PENCAD CO. MUNCIE IN 47302 LASER BONDA 9504367220511

left over, you would give him back --
A. Right.
Q. -- "him" being the Association, you would give the Associations back cash?
A. Right.
Q. Did you ever have occasion to write them a check; do you recall?
A. No.
Q. Was there ever a situation where you came back where the expenses were more than had been anticipated and they owed you money?
A. Not that I can recall. I mean, it's possible, but I don't remember.
Q. And usually --
A. I do remember having excess cash and putting it in an envelope with my handwritten list and giving it to Mr. Johnson.
Q. Did he ever question you on any of it, the expenses?
A. No, because I usually felt guilty about spending any money, which I see now that was extremely foolish. I should have just had a very good time.

PENGAD CO MUNCIE, IN 47302 (800) 631-6989
9504367205 2

But he was extremely lavish when he traveled, so I think he appreciated or perhaps thought it was humorous, the fact that I was very careful with the money that I took and spent and trying to remember what each dollar went for.

Q. In terms of being lavish, he would stay at good hotels?

A. Yes, the best.

Q. Limousines?

A. Yes.

Q. Any other sort of --

A. I'm sure that he only flew first class.

Q. Other than your paycheck and the advances you got for travel, did you receive any other monies from the Associations?

A. A Christmas bonus every year, and usually -- I want to say around May or June -- a couple -- I remember getting a bonus at another time as well.

Q. And this is in a two-year period? You started in March of '87 --

A. May.

Q. May of '87. Sorry. And left in March of '89. So

PENDAD CO. MUNCIE IN 47302 LASER BONDA 2504367220553

probably you got a Christmas bonus in '87 and '88?
A. Right.
Q. Do you remember how much they were?
A. I remember they were nice. Maybe $500, $600. I remember at another time getting a bonus maybe for $1000.
Q. Now when you got that, was it in cash or was it in a check?
A. A check.
Q. And you had to go to the bank and cash it?
A. Right.
Q. And then you said you recalled getting $1000 another time?
A. Approximately. I don't remember exactly.
Q. Right. And how much were you making during this period per year?
A. I went from a starting salary of about $14,000 a year to about 28,000 when I left.
Q. So you essentially doubled your salary during that time period?
A. Yes. He gave nice raises. Nobody ever left there for lack of being paid. If you stayed, he paid

PENGAD CO. MUNCIE IN 47302 (800) 631-6989 LASER BONDA 2504336720554

you pretty well.

Q. During that time period, was there any sort of regularity to the raises you received?

A. Usually -- I want to say May or June -- was when the big raises came out. I want to say about every six months you got a raise.

I think that the National Association of Real Estate Appraisers billed, or that the dues started coming in at that time. So there was a huge surplus of money that was coming in at that time. That's probably when those raises came out and bonuses.

Q. So the raises and bonuses were essentially tied to the membership drive?

A. Yeah.

Q. So the harder everyone worked in getting out all the mailings and the letters, the bigger the membership would be, and, presumably, the bigger your bonus?

A. Well, it really didn't depend on that because there was a lot of members for that organization. Again, I don't remember exactly how much they

PENSADO MUNCIE IN 47302 LASER BONDA 2504336720555

charged in dues, but I want to say at one time it was probably ninety-nine or a hundred dollars a year. And if you've got, you know, 15,000 members or something, it's, you know --

Q. It's a lot of money?

A. It adds up. And so that's a lot of money coming in. So I don't think it had to do with anybody working especially extra hard. That was just when there was a lot of money coming in, so it was the time he gave raises.

Q. Did everyone get one, a raise?

A. No, because a lot of people hadn't been there very long.

Q. So only the people who had been there for six months or so would get a raise?

A. Yes. And I can't say exactly six months. It could have been people that worked there a less amount of time that got a raise.

Q. Now did people discuss -- say it's May, it's June, and the membership is coming in, the renewals. Were people discussing bonuses at that point?

A. A few people. I remember discussing with Tim

PENGAD CO. MUNCIE IN 47302 LASER BONDA 2504336720056

Cloud that hopefully our bonuses or our raises were going to be coming about since dues were starting to pile in.

Q. Did you discuss it with anyone else?

A. Perhaps my assistant, Tim Cloud. I remember Mr. Johnson and Mr. Twichell would tell you a long time before you actually got your money that you were going to get a raise or a bonus coming up pretty soon.

Q. They told you beforehand?

A. Yes.

Q. Do you remember roughly how much?

A. I remember that it might be as much as a month or so before we actually got it, before they would start saying "pretty soon," you know, "coming up you're going to get a raise."

Q. Did they ever discuss a dollar amount with you before that?

A. Usually in the paycheck before you would get your raise, he might put a slip in with your check saying how much you were going to get for your raise.

PENGAD CO. MUNCIE, IN 47302 (800) 631-6989 9504367220057

Q. And what about the bonus situation? Did you ever know how much the bonus was going to be?
A. No.
Q. Totally out of the blue?
A. Uh-huh.
Q. And you said one time you got a thousand dollars?
A. It seems like I did. I don't remember exactly.
Q. It seems you were there for June of '87 and probably June of '88. Do you recall getting a bonus in both those years?
A. I'm sure I did. Maybe not '87 as much. I probably got several in '88.
Q. Several?
A. In '88. And at least a Christmas bonus in '87. I don't know if I got one between June and December before Christmas or not.
Q. Did Tim Cloud ever discuss with you how much he thought his bonus was going to be?
A. Not in exact dollars amount. Just that he knew or thought or said it better be a good one.
Q. And why was that?
A. Well, just because people who worked there did

PENGAD CO. MINCE IN #780 1-800-631-6989 950436720558

work pretty hard. And I guess he felt like he deserved it.

BY MS. LERNER:

Q. What would be considered a, quote, good one by people who worked there?

A. As far as a bonus or a raise?

Q. A bonus.

A. Probably a thousand dollars. And I perhaps got more than a thousand dollar bonus at one time. I honestly don't exactly remember. A thousand dollars or more maybe.

BY MS. REILLY:

Q. Do you remember how your W-2 forms came that year? Was your bonus in there as well?

A. If I remember correctly, sometimes the bonus would be -- Like our wages would come from the National, or my wages would come from the National Association of Real Estate Appraisers, and the bonus would come as like contract labor or something under the National Association of Real Estate Appraisers.

Q. So essentially you would get two W-2's, one from

9504367 20059
PENGAD CO MUNCIE IN 47302 LABER BONDA

each organization?
A. Yes, that did happen.
Q. Did you ever question it?
A. I might have, but usually you didn't question Mr. Johnson.
Q. Was there anyone who ever questioned him in the office or asked him to be accountable for anything that went on?
A. I questioned him probably more than most people did. I don't remember most people questioning him at all.
Q. Did he respond well to your questions?
A. Oh, yeah. He always had a great answer. Whether or not I believed it or whether it was not true....
Q. Were there instances where he ever lied to you?
A. Yes.
Q. Can you tell us about some of them?
A. Well, I know he lied to me. One that sticks out in my mind particularly well, because it was right before I left and it was one of the reasons I left, was he had found out that I was leaving.

PENGAD CO MUNCIE IN 47302 LASER BONDA 9504367200

And nobody ever left there on good terms.

So he had started to treat me pretty badly like he treated most of the other employees. He was starting to play mind games with me, which is what he did with all the employees. And he told me that the president of one of the Associations had told him that I had been doing a bad job.

So I called the president, because I knew him and I asked him that. He said, "No, I would never say that. I never said that."

And so I told Mr. Johnson to his face that he was lying, you know.

Q. What was his reaction?

A. He was pretty mad at me.

Q. Now who was the president that you called, do you recall?

A. I think at that time -- I think it was Mr. John Steensland.

Q. And he was associated with which of the organizations?

A. He was actually associated with both. But he was the president of the National Association of Real

PENGAD CO. MUNCIE IN 47302 LABER BOND A 950436720061

Estate Appraisers, and I think he was on the board of directors of the other one.
Q. And the other one is?
A. The National Association of Review Appraisers.
Q. Can you recall any other instances where he was less than truthful?
A. My general opinion of him was that he was always less than truthful. I can't think of anything specifically, but he just was constantly -- He just is not a truthful person, so....
Q. Other than the times that you questioned him that you've mentioned, did you ever question him about any of the financial activity that went on in the organizations?
A. No.
Q. It was essentially his responsibility?
A. Right.
Q. Now was Bob Johnson involved in any political activities?
A. Yes. He became very involved in the Republican Party when President Bush was about to be elected. He would talk to me about it kind of offhand. You

9504367 2062
PENGAD CO. MUNCIE IN 47302 LASER BOND A

know, he wouldn't sit down and say, "This is what I'm doing."

But I remember him talking about he went to a lot of fund raising things, and I think he was on some type of committee for the Arizona Fund Raising Committee to Elect George Bush or something.

So I know -- And I know that he went to some meetings with -- What's the gentleman's name that was stricken with cancer? Very sad.

Q. Lee Atwater?

A. Lee Atwater. He was very familiar with Lee Atwater. That was like his latest game, I guess you could say. He was trying to raise a lot of money, and he donated money, and he was involved and liked going to their dinners and their parties, and he would go to Washington. So he was involved that way.

Q. Now this activity began in the old building?

A. Yes.

Q. So that is -- And when exactly did you move?

A. I think we moved like April or May of '88.

PENGAD CO MUNCIE IN 47302 LASER FORM A 9504336720063

Q. So this would be further back in time than the move? He was at the old building at --
A. Right.
Q. -- the beginning of the George Bush activities?
A. Right.
Q. Was he ever involved in any other political activities prior to becoming involved with the Bush campaign?
A. Not that I know of, but I don't know.
Q. Never discussed it?
A. No.
Q. Never solicited you?
A. No.
Q. Did he solicit you for any campaign contributions?
A. No, not me personally, no.
Q. Do you know if he was involved with the Durenberger campaign?
A. Durenberger was from Minnesota, right?
Q. Right.
A. I remember he was buddies with Durenberger, because I remember Mr. Twichell and he went up there, and I remember hearing about them picking

PENGAD CO. MUNCIE IN 47302 LASER BONDA 9504367200564

him up in a limousine and taking him some place.

Whether or not he raised any money for him, it seems quite possible. He was from Minnesota himself, so I know he was friends with Durenberger. But I don't know exactly how much he was involved with him.

Q. And just so we're clear, Bob Johnson picked up Senator Durenberger in the limousine?

A. I remember hearing something about that.

Q. And Randy King, Mr. Johnson's lawyer, he's from Minnesota, too; right?

A. Right.

Q. Was he involved in the Durenberger activity?

A. I'm sure he was since they went up to Minnesota and had a --you know, had a party or whatever, that Mr. King was involved because Mr. King and Mr. Johnson were very good friends.

Q. Was Randy King around the office a lot in Scottsdale?

A. No.

Q. Did he call frequently?

A. Yes.

PENGAD CO. MUNCIE, IN 47302 (800) 631-6989 LASER BOND-A
2504336720065

Q. How often would he call, roughly?
A. Maybe once a day.
Q. Really. Could you ever hear Mr. Johnson's side of those conversations?
A. Occasionally.
Q. Generally, what would they be talking about?
A. Well, a lot of them had to do with like lawsuits that were against the Association. For example, the National Association of Real Estate Appraisers, they were suing somebody because they had let a cat in as a member.

The National Association of Real Estate Appraisers, they pretty much let anybody in that sent in an application. They never checked their references. They could be anybody from down the street. The milkman could send in an application, and he would be accepted as long as his check was there.

They said that they required all this experience, but they never checked it.

So some appraiser who came from, you know, like an MAI designation or one of the good

PENDAD CO MUNCIE IN 47302 LASER BONDA 9504336720066

appraisal associations, to try and catch this association sent in the application of his -- wrote his cat's name on there.

And, of course, it had a check; so, of course, he got in. So this guy made a big to-do about it. There were articles in the newspapers about it and everything.

So Mr. Johnson sued him saying that he had lied or something. So that was part of it.

But Mr. King was very involved in Mr. Johnson's activities.

Q. Political?

A. Political, social, business. Mr. King, you know, was probably the only person beside, you know, and maybe Ken ninety-five percent, who knew the truth to everything as far as what Mr. Johnson was actually doing.

BY MS. LERNER:

Q. Did you ever meet him?

A. Uh-huh.

Q. What was your impression of him in general?

A. It wasn't a bad impression. I had a preconceived

2504367207
PENGAD CO. MUNCIE, IN 47302 LASER BONDA

notion that he had to be, you know, that he was in shenanigans with Mr. Johnson so I couldn't have a great impression.

But he's -- If he likes you, he could be a personable type of person and had a sense of humor.

BY MS. REILLY:

Q. When you said that Randy King was one of the few people who knew the truth about Bob Johnson, meaning -- Can you just explore that a little bit?

A. Meaning that he has to -- Or I would think that as his attorney, that he would have to know that Mr. Johnson was not entirely -- you know, about the cat, that he really and truly did let everybody come into the Association who paid a check, that he did these things with the federal -- you know, that he has to know that Mr. Johnson in fact did pay employees money and did solicit money from members.

I think that he just knows him personally and knows that Mr. Johnson is not an honest

9504367200 68
PENGAD CO. MUNCIE, IN 47302 LASER BOND-A

person. He has to, if he's representing him, unless he's an idiot.
Q. Did you ever overhear any discussions between the two of them discussing the Federal Election Commission?
A. No, not that I can recall.
Q. What about overhearing discussions between the two of them regarding political activities?
A. Not that I can recall off the top of my head, except that perhaps Mr. Johnson talked about some of the trips he went on or some of the dinners he attended and meeting Mr. Bush -- I mean, President Bush.
Q. Was Randy King involved with the Bush people, too?
A. I don't know because he was not in our office. I don't know if he was involved with President Bush or not.
Q. Do you recall Bob Johnson ever sending telegrams to George Bush?
A. It sounds familiar like perhaps he did that.
Q. It certainly wouldn't be something out of character for him?

2 5 0 4 3 6 7 2 0 6 9
PENGAD CO. MUNCIE IN 47302 LASER BOND A

A. No.
Q. Do you recall him sending flowers to anyone in the Bush campaign organization?
A. It -- and this is just -- I'm purely relying on my memory in discussing it. It seems like perhaps he did a secretary or something like that, that he sent flowers to somebody.
Q. Do you recall him sending in his resume to the Bush campaign or the White House for a political job?
A. Yes.
Q. Can you tell me a little bit about that?
A. He seemed to think, since he was going to raise all this money or had raised quite a bit of money, that he might be up for an ambassadorship. And he was very excited about that. He thought perhaps it might be an ambassadorship to somewhere like Sweden or Norway or something like that.
Q. Did you discuss this with him?
A. Yes.
Q. How many times?
A. Three, four, five times perhaps.

PENGAD CO. MUNCIE, IN 47302 (800) 631-6989 LASER BOND A
950436720170

Q. And this is in the old building when he's --
A. No. This was in the new building.
Q. So this is after the move. What exactly did he say?
A. Well, the reason -- I'm laughing, and the reason I'm laughing is because I remember the first time he brought me in, he brought me in and it was kind of hush-hush, and I could tell he was excited about something.

He asked me what my husband did or what my husband had done. He knew my husband was in school full time, but I don't think he knew exactly what he was getting his degree in.

And I told him that he had been a petroleum engineer and he was working on his master's degree. And he said, "So it's something oil-related," and I said "yes," and I said "why?"

He said, "Well, there's a good chance that I might be appointed to this ambassadorship, and it would be somewhere in Norway or Sweden. And if I do, I've been thinking that perhaps I might ask you to come with me as my assistant. I just

PENGAD CO. MUNCIE, IN 47302 LASER BONDA 950436720711

wanted to see how you felt about that. And the reason I'm asking about your husband is because when they do things like that and they move families over there, then they usually try to help the spouse of an employee find a job."

Q. And what was your reaction?

A. Well, I was a little leery, but, you know, I didn't know and I thought -- you know, it sounded pretty good to me. I didn't say much. I told him if it ever happened, that I might be interested, but ... you know, just keep me informed.

Q. And did he?

A. He talked to me again about it a couple of times, about how he wasn't sure what he would do because he didn't know who would be running the Association while he was gone, and that he knew that his sons couldn't do it, and he wasn't sure that he could really trust Mr. Twichell to run everything. And he talked a little bit about how he would be doing a lot of entertaining and things like that.

Q. Did he explain to you why he didn't think he could

950433672072
PENGAD CO. MUNCIE IN 47302 LASER BONDA

trust Mr. Twichell to run everything?

A. Well, Mr. Twichell pretty much -- Perhaps his opinion -- I'm sure his opinion of Mr. Twichell's abilities has changed a lot since he has worked for him for longer now. But he knew, or I knew as well as he did, that Mr. Twichell only did what Mr. Johnson told him to do. He really had no experience as far as truly running anything on his own. He didn't have a degree. I think he started off working as a data entry person in the computer room when he first started.

So although he gained a lot of experience through Mr. Johnson, I don't think that at that point he trusted him to take care of all of his, you know, moneymaking associations there.

Q. So it seems like it would be a problem if you went and Ken was left home. There wouldn't be anyone really to --

A. Right. I think his big dilemma at that time was what he would do in that situation.

Q. At this point I'm going to hand to the court reporter for marking Exhibit No. 1 and then I'm

950436720173
PENGAD CO. MUNCIE, IN 47302 LASER BONDA

going to ask you to take a peek at this and look over this document.

[Deposition Exhibit No. 1 was marked for identification and made a part of the record.]

A. That seems like the person he might have sent flowers to.

MS. REILLY: Okay. Let's go off the record for one second.

[Discussion off the record.]

MS. REILLY: Can we go back on?

BY MS. REILLY:

Q. This purports to be a three-page document on the letterhead of the National Association of Real Estate Appraisers signed by E. Kenneth Twichell.

There's a second page with an address card and a postage date of February 10th of '88 and a 22-cent stamp.

The third page consists of a business reply card addressed to the George Bush for President Committee, with the attention Lucy Cole marking, a reply card requesting certain information, and

PENGAD CO. MUNCIE IN 47302 (800) 631-6989 9504367207 4

including the annotation AZ 04 in the middle of page three.

Have you seen this letter before?

A. Yes.

Q. When did you see it?

A. I think I probably saw it after it was written, before it went out.

Q. And the date on it is February 4th, 1988 in the top right-hand corner. And the letter is addressed to John and solicits contributions for George Bush for President. Do you know who wrote this letter?

A. I'm sure Mr. Johnson wrote it.

Q. Why are you sure that Mr. Johnson wrote it?

A. Because Mr. Twichell never did anything that Mr. Johnson didn't tell him to do, and I don't think that -- I'm almost positive Mr. Johnson, perhaps with the help of Mr. Twichell, wrote this letter.

Q. In other words, it is your opinion that Ken Twichell did not write this letter on his own?

A. Yes.

Q. If I could direct your attention, please, to the

PENGAD CO. MUNCIE, IN 47302 LASER BONDA 950436720/5

second paragraph of this letter which states, "Vice President George Bush is a close friend of one of our Directors." And the second sentence says, "Through him, I have personally gotten to know the Vice President."

And I notice the witness is laughing.

The director that it's referring to is whom?

A. I believe it's a gentleman by the name of Knox McConnell.

Q. And Mr. McConnell is with which of the organizations?

A. He's on the board of directors of the National Association of Review Appraisers and Mortgage Underwriters. I don't recall him being on the board of directors of the National Association of Real Estate Appraisers.

Q. Do you know if Mr. McConnell is a close friend of George Bush?

A. Whether he's a close friend or not, I don't know. I know that he had acquaintance with him, and that that's how Mr. Johnson got involved with the Bush

PENGAD CO. MUNCIE, IN 47302 (800) 631-6989

campaign. But as far as close friends, I can't tell that.

I do remember seeing a picture of Mr. McConnell and a person that was the president of the Professional Women's Appraisal Association in a picture together with President Bush and Mrs. Bush.

Q. And where did you see that picture?

A. Mr. Johnson had it and I believe that we had a copy of it that we printed on the newsletter for the Professional Women's Appraisal Association.

Q. And the second sentence that Ken Twichell has personally gotten to know the Vice President; is that correct?

A. To my knowledge, Ken Twichell never met the Vice President. But again, you know, there could have been an occasion that I was not aware of.

Q. Now the third paragraph says, "I have personally paid for this stationery, all the mailing costs, et cetera, so as not to violate any Federal Election laws or place any financial burdens on the Association," is that a true statement?

PENGAD CO. MUNCIE, IN 47302 LASER BOND A

9 5 0 4 3 6 7 2 0 7 7

A. No.
Q. And how do you know it's not?
A. Because I remember when all of this came about -- First of all, I know that when the letters went out, he hadn't paid anything. And then I remember when there was some questioning by the Federal -- or a member, I think, complained.

And I remember the discussion between Mr. Johnson and Mr. Twichell and Tim Cloud back in the computer room, talking about that they needed to come up with some invoices and statements for -- They were trying to figure out the cost, how much it would cost to actually pay for the stationery and actually pay for the mailing.

Now, whether at that time Mr. Twichell wrote a check to reimburse the Association and then was later reimbursed by Mr. Johnson, I don't know.

But I can guarantee that Mr. Twichell never personally, without any type of reimbursement, paid for any of this.

BY MS. LERNER:

2504367208
PENDAD CO MUNCIE IN 47302 (ASER BOND)

Q. How do you know that?
A. Because it was like a joke between them, that they had to come up with the -- I mean, I was -- Whether or not they brought me in and said, you know, "This is what we're doing," but I remember being involved enough in the other activities that they would discuss this in front of me, and that they would say, you know, "We've got to come up with these things because they're questioning the fact that Ken ever paid for these things."
Q. Do you remember the timing between when the letter went out and when they were trying to come up with an amount that this would have cost?
A. I don't remember the exact timing; I want to say maybe a month. And that's a guess.
BY MS. REILLY:
Q. Sort of as the members began to complain?
A. Right, as people started to complain.
BY MS. LERNER:
Q. So they started being concerned about the cost when members started to complain and --
A. And when a letter was sent from the Federal

PENGAD CO MUNCIE IN 47302 (800) 631-6989 250436720079

Elections Commission, from Robert Raich.

BY MS. REILLY:

Q. And it was a joke, that there was a repayment made?

A. Right. I mean, they were laughing. "Oh, we've got to figure these out," you know, ha-ha. "We've got to" --

Q. And when they were joking about that, "Ha-ha, we have to figure out how much this cost," was it with the understanding that they would come up to an amount that Ken Twichell would pay the Association that amount, and the Association would then repay him?

A. That's how I understood it, that they were going to handle it, that they had to have something in concrete that -- you know, to show -- how they figured out whether he was going to back date -- You know, to me it doesn't make sense because obviously he would not have had a check, you know, made out.

Now, again perhaps he did that and then was reimbursed, but I don't remember it happening

PENGAD CO. MUNCIE IN 47302 (800) 631-6989

like that. I remember them not really thinking about it until people started complaining about it; and then they started saying, "Well, we need to think of some bills and figure out how much it would cost."

And that's why I don't think he ever wrote a check ahead of time paying for anything, because they --

Q. They had no amount?

A. Right. They had no amount.

Q. No one knew how much it cost at the time the mailing went out; is that right?

A. Right.

Q. And the costs that they reached later on were based on an examination of what they had done in the past?

A. Right. How many letters went out, how many pieces of paper were used, what was the total postage amount, how many computer room hours were spent.

Q. How many letters were sent out?

A. Well, I guess every member of this Association was sent a letter. I don't think he sent them to the

250436722081
PENGAD CO MUNCIE IN 47302 LASER BOND-A

members of the National Association of Review Appraisers and Mortgage Underwriters. I'm not sure. But I don't think he did because his name -- Mr. Johnson's name -- was on the -- you know, always on the bottom of those letters. I don't think he wanted to take the chance of jeopardizing that association.

Besides, the National Association of Review Appraisers was the more legitimate association. He truly tried to put -- you know, if you can call it, some type of quality or real education. It had -- It didn't have a bad reputation like this one, so I think that he kind of figured, although this was probably more of a cash cow for him, that if something happened to this association, that he would at least still have a legitimate one left.

So I don't think he took a chance in soliciting those members. Plus, those members were more educated, and I think he thought they would probably, you know, complain a lot louder than --

PENGAD CO. MUNCIE, IN 47302 (800) 631-6989 9504336720382

Q. What about --
BY MS. LERNER:
Q. By "this association" you're talking about National Association of Real Estate Appraisers?
A. Right.
BY MS. REILLY:
Q. What about your organization, the PWAA? Were they solicited?
A. I honestly don't remember.
Q. Do you recall if the associations received mailing labels from the Arizona Republican Party?
A. No, I don't recall, I don't know.
BY MS. LERNER:
Q. I think you've probably answered this for her, but I wasn't here. Approximately how many members are there of the National Association of Real Estate Appraisers?
A. I was trying to remember exactly how many.
Q. Can you give me an approximation?
A. Somewhere between -- Maybe 14,000. Somewhere between ten and fifteen thousand members. It grew a lot, and that's probably why I don't remember,

2504367220883
PENGAD CO MUNCIE IN 47302 LASER FORMS

because he, like I said, would let anybody and everybody in. So I think it probably went from about 5000 when I first started there to about maybe 14,000 when I left. Maybe more.

BY MS. REILLY:

Q. And it's your understanding that all the members of the Association got one of these letters of the NAREA?

A. That was my understanding, yes.

Q. Now, we're talking, let's say for the purposes of the discussion, 14,000 letters. How long would it take -- Well, I should back up.

Did this letter come from your computer room?

MS. LERNER: Meaning Exhibit 1?

MS. REILLY: Exhibit 1, yes.

THE WITNESS: Probably -- Yeah. It came from our computer room.

BY MS. REILLY:

Q. And how do you know that?

A. Well, because it has got a personalized -- It doesn't just say, "Dear Member," to where it would

PENGAD CO MUNCIE IN 47302 1-800-LASER-PENDA 2504367220084

be one letter printed or typed and then sent to a printer to be reproduced. It has got the person's name and address and the salutation directly to that person.

Q. And it was the practice of the Association that those types of personal letters would come from the computer room?

A. Yes.

Q. How long would it take the computer room to run 14,000 letters like that?

A. A day or two. I don't know.

Q. Would it take more than two or three hours?

A. Yes.

Q. And probably more like two or three days?

A. Yes. And again the number, I'm totally guessing on the number because I really honestly don't remember.

Q. And then the signature down here, K with a little line and then Twichell, is that Ken Twichell's signature?

A. I remember that his signature resembles that. Whether or not that's actually his signature, I

250436720085
PENDAD CO. MUNCIE IN 47302 LASER BOND A

don't know.
Q. Have you ever heard Mr. Twichell state that he has different signatures for different moods?
A. I don't remember him specifically saying that to me. It sounds like something he would say, but I don't remember him specifically saying that to me.
Q. Do you recall an instance where a member decided not to join the Association because of his signature?
A. No.
Q. If I could ask you to please turn to page three of this exhibit, which is a business reply card; and then this is a two-sided copy of contribution. The number AZ 04, is that significant to you?
A. No, except that it perhaps must mean something that has to do with Arizona, perhaps for Mr. Johnson to get credit for that contribution. That would be the only thing I could think of of why it would have AZ 04 on there.
Q. And then we were looking before at "Attention: Lucy Cole," and you said possibly she was a woman to whom Mr. Johnson had sent flowers.

PENGAD CO. MUNCIE, IN 47302 (800) 631-6989

A. Yes.
Q. Did you ever speak with her at all?
A. No.
Q. Did he ever discuss her with you?
A. I remember her name coming up in discussions that he had with me or with Mr. Twichell. But I don't -- And I think that she was primarily the person he dealt with. But I don't -- I never spoke with her or don't really know anything about her.
Q. If I were to tell you that it was stated that only 800 of these letters went out, would you say that was a true statement?
A. I would say it's a possible statement because I really don't know how many of them went out.
Q. Even though it's your understanding that the entire membership of 14,000 were solicited?
A. I was not directly involved in this mailing, so I did not ever know exactly how many went out. I would think that that would be the route he would take. But on the other hand, now that you say 800, perhaps they just picked a portion of the

PENGAD CO MUNCIE IN 47302 LABER BOND A 2504336720087

membership to solicit. I really don't know.
Q. But you have no basis for believing 800 as opposed to 14,000?
A. No.
Q. So the number in and of itself isn't significant?
A. Right.
Q. Did the Associations do any other mailings supporting George Bush?
A. Not that I recall.

MS. REILLY: Off the record.

[Discussion off the record.]

MS. REILLY: Let's go back on the record.

BY MS. REILLY:
Q. This stamp on page three of Exhibit 1 that says "Attention: Lucy Cole," do you know how it got on the business reply envelope?
A. No. I would guess that they had a stamp that said that, either that or they were sent with it on there.
Q. Do you know whether Mr. Johnson or Mr. Twichell had the materials on page three of Exhibit 1 printed up by anyone?

PENGAD CO. MUNCIE IN 47302 (800) 631-6989 9504367200888

A. No, I don't know.
Q. What vendors would they use for a printing project like, for example, reproducing an envelope and a contributor card? Is there anyone they would use regularly?
A. I remember they used this one printing company quite a bit, but I don't remember their name. I think the last name of the people who owned it was like DuChene or something like that. But I don't remember the name of the printing company. He usually just went for the cheapest.
Q. And that would be Dean DuChene?
A. Dean DuChene, right.
Q. After the mailing -- Do you recall how long it took the mailing to go out, Exhibit 1, with the letter and the contributor cards?
A. No, I don't.
Q. Do you remember members calling in and discussing the mailing?
A. I believe a couple called and complained, but I did not speak with them and was not involved in that.

PENCAD CO. MUNCIE IN 47302 LASER BONDA 25043672 0089

Q. Do you know who they complained to?
A. I believe they complained to Mr. Twichell since he was the one who signed -- had his name on the bottom of the letter.
Q. Do you know roughly how many people complained?
A. No, I don't.
Q. Did you have any conversations with Mr. Twichell regarding members complaining?
A. I don't recall having any discussions with him directly. I remember discussing it with another person in the office that knew that several people had complained.
Q. And who was that?
A. Jean Johnson. I think she tried to tell them before they were doing this that they couldn't do it. I don't think they listened to her, so I think she was kind of saying, "I told them they couldn't do this," you know.
Q. Now Jean Johnson worked for which of the associations?
A. I don't remember. I believe she worked for both the National Association of Review Appraisers and

PENGAD CO MUNCIE IN 47302 LASER FORM A 2504336720990

the National Association of Real Estate Appraisers.

Q. And she was --

A. Director of government relations.

Q. So this was essentially an area in her expertise?

A. Right.

Q. Did you have any conversations with her regarding the legality of this mailing?

A. Yeah. She thought -- She was appalled they were doing it and couldn't believe they were doing it.

Q. Tell me a little bit about what you and Jean talked about in terms of the legality of the mailing.

A. She just told me that the -- At that time I didn't know anything about whether it was legal or not.

Q. Let me just back up so we're sure on the time. When was this conversation?

A. I think this is about when these were going out.

Q. So they were going out --

A. Right. Then we talked about it after it had happened.

PENGAD CO. MUNCIE, IN 47302 (800) 631-6989 2504367209 1

Q. So there were at least two conversations?
A. Probably several. While they were getting ready to do this or while this was being done, I remember she and I talking about it. I think she hadn't worked there very long when this was happening, so that's why I think that she didn't -- I remember her saying something to me about that you couldn't do that, that there was a law that said that you couldn't use or solicit people with company money.

And I know after the fact and after she and I became friends, that she would occasionally refer back to it, still saying that she couldn't believe that they had ever done it and she thought that they could get in some very serious trouble if anybody knew what they had actually done.

Q. Now she talked to you about it and she told Bob Johnson not to do it too; is that correct?
A. I believe she told him that he needed to be careful, that she wasn't sure that he could do it. You couldn't really tell Bob Johnson not to do something. I think that she probably hinted

PENGAD CO MUNCIE IN 47302 LASER BONDA 9504336720992

around that she was unsure of ... you know.

BY MS. LERNER:

Q. Did she tell you how she knew it was against the law?

A. She was just an educated person and she knew government relations. I just took her -- I knew that she knew what she was talking about. She didn't say exactly how she knew.

BY MS. REILLY:

Q. Did she ever mention calling the FEC?

A. I don't remember.

Q. Before the mailings went out, did you hear anyone discussing the FEC?

A. No.

Q. And the letters, they used the corporation's computer?

A. [Nods head.]

MS. LERNER: I don't know if that was a question. She just didn't respond orally.

MS. REILLY: Oh.

BY MS. REILLY:

Q. And then it looks like they probably stuffed the

950436720093
PENGAD CO. MUNCIE IN 47302 LASER BONDA

envelopes with the reply card and the contributor card; does that seem correct to you?

A. Yes.

Q. And so to do that, the computer setup that you had at the office at that time, would you need stuffers to actually stuff the envelopes or could the computer do it?

A. No. We needed stuffers.

Q. Do you know if the stuffers were used for this mailing?

A. I don't know for certain, but it seems like they would have been.

Q. If it were 14,000 pieces, it would be a big job.

A. And again at that time, they probably did not have that many members, because this was in the beginning of 1988. It grew tremendously between 1988 and when I left in March of 1989.

Q. Now, Bob Johnson is at this time, say, February of '88, getting excited about his activities with the Bush people. Did he have any campaign materials around the office?

A. I don't remember seeing any.

PENGAD CO. MUNCIE IN 47302 LASER BONDA 95043367209 94

Q. Do you remember where the supplies were kept in
   the old office?
A. What type of supplies?
Q. Like paper and stationery and things like that.
   Was there --
A. Usually in the computer room.
Q. And was there a place where -- That's where all
   the stationery was kept and the letterhead?
A. Yes.
Q. Did you ever see in the supply room a contributor
   card or a business reply card like these?
A. I may have. I don't remember seeing them
   specifically.
Q. You don't recall seeing thousands of them?
A. Right.
Q. So if --
A. I don't recall seeing them at all.
Q. Do you ever remember seeing page three of this
   Exhibit 1 before?
A. No.
Q. Do you know if at the office there ever was a
   stamp with "Attention: Lucy Cole" on it?

2504367 2095
PENGAD CO. MUNCIE, IN 47302 LASER BOND A

A. I don't know.
Q. What about a stamp with "AZ 04" on it?
A. I don't know.
Q. Do you recall anybody discussing with you the fact that they were going to have to order those?
A. No.
Q. And if a stamp were going to be ordered for the organizations, whose job would that be?
A. Probably Mr. Johnson's secretary.
Q. And in February of '88 that would be?
A. I don't remember. Rhonda, I think it was Depesta, was his secretary the longest of anybody. But I don't think she worked for him at that time. I don't think she came to our organization until after we had already moved, and this was before we had moved.

I think at that time he was going through several secretaries. I remember he had a man secretary for a while.

Q. And that didn't work out any better?
A. No.
Q. Do you recall this letter being run in the

PENGAD CO. MUNCIE, IN 47302 (800) 631-6989

computer room at all, the Bush letter?

A. I remember at the time it was happening that I had read it and that they were being generated. But I was not involved in it, so I kind of just knew it was going on, but didn't really participate in any way.

Q. Did it tie up any of the stuff you were sending out in terms of your own mailings?

A. I don't remember.

Q. Do you remember if they were running these letters at night?

A. It seems -- I mean, it sounds like that perhaps happened, but I don't remember exactly.

Q. You don't specifically recall?

A. No.

Q. We talked a little bit about the members' reaction to this. I believe it was your testimony that they were less than -- some of them at least were less than happy about it.

MS. REILLY: At this point I'm going to hand to the court reporter what we would like to have marked as Exhibit 2.

I'm going to ask you to mark it and then please hand it to the witness.

[Deposition Exhibit No. 2 was marked for identification and made a part of the record.]

BY MS. REILLY:

Q. I'm going to ask you to please take a moment and look this over.

A. [Reviews document.]

I can't find my copies. I don't know what I did with my own copies. I don't think I had copies of these.

I typed these.

MS. REILLY: Off the record for a moment.

[Discussion off the record.]

MS. REILLY: Back on the record, please.

BY MS. REILLY:

Q. This purports to be a five-page exhibit, consisting, the first page, of a letter to the Federal Elections Commission from Robert Johnson.

The second page being a letter to the Federal Elections Commission from E. Kenneth

2504336720098
PENGAD CO. MUNCIE, IN 47302 LASER BORDA

Twichell.

The third page being an invoice to E. Kenneth Twichell from the National Association of Real Estate Appraisers.

The fourth page being a check dated March 3rd, 1988, to the National Association of Real Estate Appraisers for $760.

And the last page being a statement of expenses, including a notation, "I stuffed the envelopes myself and no corporate employee time was used."

Have you seen these materials before?

A. Yes.

Q. And when did you last see them?

A. When did I last see them?

Q. Uh-huh.

MS. LERNER: First see them.

BY MS. REILLY:

Q. How about when did you first see them?

A. When did I first see them? I first saw them when I typed them.

Q. And you typed page one?

95043367 20099
PENGAD CO. MUNCIE IN 47302 (800) 631-6989

A. Yes.
Q. And you typed page two?
A. Yes.
Q. And page three?
A. No, I didn't type the statements; and I don't remember seeing the statements.
Q. But definitely pages one and two you typed?
A. Yes.
Q. And the date at the top, April 4th, 1988, is that the date that you typed them most likely?
A. I believe so.
Q. You would generally put the correct date down?
A. Right.
Q. And you don't recall backdating these?
A. No.
Q. Who wrote them? Who wrote page one, this first letter?
A. Mr. Johnson.
Q. Himself?
A. Right. When they were given to me, they were handwritten, and I just....
Q. On yellow paper?

PENGAD CO. MUNCIE IN 47302 (ASER BOMDA 2504367 2100

A. Yeah.
Q. In longhand?
A. Yes.
Q. And you typed it all out?
A. Right.
Q. The first paragraph, "Please be advised that the National Association of Real Estate Appraisers has not provided any financial support to any candidate for any office." Is that a true statement?

This is after the mailings have gone out?

A. I mean, is he referring to the mailings here?
Q. Yes.
A. No, that is not a true statement.
Q. Because as we just discussed in Exhibit 1, the Association did pay for a mailing that had gone out; is that correct?
A. Right.
Q. And the second statement, "Mr. E. Kenneth Twichell did get printed, at his own expense, all letterhead and envelopes. Further, he rented the mailing lists at market rates and paid for all

950436721101
PENGAD CO. MUNCIE, IN 47302 LASER BOND A

expenses associated with the above referenced project. He also reimbursed NAREA for the use of the equipment."

To the best of your knowledge and given your previous testimony that everyone was treating this as a joke, is this a true statement?

A. No.

Q. And at the bottom of the page where it's notarized by -- Can you read the name of the notary public?

A. E. K. Twichell.

Q. And that's the same Mr. Twichell that we're discussing?

A. Yes.

Q. And he notarized Mr. Johnson's signature?

A. Yes, he was a notary. I mean, he was the notary in the office.

Q. And did Bob Johnson swear to Ken Twichell that this was true at the time that it was signed?

A. No, not to my knowledge.

Q. And in fact to your knowledge, it's actually untrue?

A. Right.

PENDAD CO. MUNCIE, IN 47302 2504336721102

Q. Is that Bob Johnson's signature?
A. Yes.
Q. He has sort of a scrawly-type handwriting?
A. Yes.
Q. Now, we looked at Exhibit 1 before, and we looked at a signature that looked like Ken Twichell's. Does that look to you like the same signature on the notary line?
A. No.
Q. And which one would you say is Ken Twichell's signature, based on your experience with it?
A. The one on the notary line.
Q. So it looks like maybe Exhibit 1 was signed by one of the stuffers?
A. Yes.
Q. And that would be the practice?
A. Yes.
Q. If I could direct your attention, please, to page two which is the letter to Mr. Raich from E. Kenneth Twichell. The signature, that would be Ken Twichell's again?
A. Yes.

PENCAD CO MUNCIE IN 47302 (ASER BOND)A 2504336721103

Q. His own?
A. Yes.
Q. And at the time that you typed these letters up, did you actually see both Mr. Johnson and Mr. Twichell sign them?
A. I don't recall. It seems like I did, but I don't remember exactly.
Q. Mr. Twichell's statement under the heading, "Second," which states that he's not totally familiar with all federal election laws, but that he took extreme efforts not to violate the laws, is that a true statement?
A. No.
Q. And what's your basis for saying that?
A. Well, perhaps the first part is true.
Q. That he's not familiar --
A. I don't think that he was completely familiar with the laws and knew that he was violating any laws, but the fact that he went to great length as to not violate any laws is not true.
Q. What about the statement under "Third," where they're discussing that someone had received a

9504367221004
PENGAD CO. MUNCIE, IN 47302 LASER BORDA

copy of the letter and had apparently complained? And it states that this person was selected because he was on the Board of the Association of Pork Producers.

Now you're laughing.

A. I don't know anything about that, and I honestly do not know -- My thoughts at that time and perhaps up until now were that members were the ones that received these letters.

Q. It looks like he was a member because of his real estate activity.

A. Right. But just because he was in real estate doesn't mean he was a member. I think perhaps he was, but I don't know how they chose the people that they mailed them to. What the deal about the Association of Pork Producers has -- I don't know what the relevancy of that is.

Q. Do you recall them joking about the Pork Producers at all, Mr. Johnson and Mr. Twichell?

A. No. What I remember them joking about is this P.S. down here.

Q. And the P.S. says, "I typed this myself on white

PENDAD CO. MUNCIE IN 47302 LASER BONDA 25043672105

paper so I wouldn't use corporate funds."
A. Right.
Q. And, of course, you had typed it?
A. Right.
Q. And, of course, he did it during work time; correct?
A. Yes.
Q. And so it's essentially, I guess, a lie that he typed it himself.
A. Right.
Q. And it's notarized, I guess.
MS. LERNER: It looks like Shirley somebody.
BY MS. REILLY:
Q. Do you know who the notary is on that?
A. No.
Q. But, nevertheless, he notarized all of this.
MS. LERNER: It is notarized.
MS. REILLY: It is notarized. Okay.
BY MS. REILLY:
Q. Do you recall the circumstances on the day that you wrote these two letters, sort of how it all

250436721006
PENCAD CO. MUNCIE, IN 47302 USER BOND-A

came to be, how it happened?
A. That I typed them?
Q. Yes.
A. Yes.
Q. Could you tell me a little bit about it?
A. I remember Mr. Johnson called me in and said that he had something that he needed me to do and he needed me to type these letters, and the reason he needed me to type these letters is because he needed somebody that he could trust, so he didn't want to give it to just anybody in the office, and would I please type them and not say anything about them.
Q. And what was your response?
A. I said yes.
Q. Did you ask him about the content of the letters?
A. As far as -- I'm not sure I understand your question.
Q. What's going on?
A. Well, I kind of knew what was going on. I'm sure we probably discussed it somewhat. But I think I probably -- I don't think we discussed the

9504336721 07
PENGAD CO. MUNCIE IN 47302 LASER BONDA

contents at any great length.

BY MS. LERNER:

Q. You spoke earlier about having had discussions with them about making up the bills. Would that have been before or after you typed this letter?

A. Right about the same time. And I remember the discussions going along with perhaps -- you know, like hearing them say, "We need the bills to go along with this letter." And then whether -- I don't remember them directly saying, "Well, we're making up" you know, "false bills to go with this letter that you're typing," but I remember them mentioning that they needed to send statements with the letter.

And then I remember them being in the computer room, and I remember asking somebody what they were doing in there, because they were all hush-hush, and they were in there.

I don't remember who it was, but I remember somebody laughed and said, "Oh, they're trying to figure out, you know, how much it would have cost," or "They're making some fake invoices

PENGAD CO. MUNCIE, IN 47302 (800) 631-6989 25043672108

or fake statements."
Q. So when they did that, that would have been at least April 4th and possibly later than April 4th, '88?
A. No, not necessarily, not necessarily, because I remember it kind of all jumbled together. I don't remember exactly if this letter was written at the exact same time that they were in the computer room and they were making those statements. It could have been that they did that before, like when some of the people started complaining, like they knew they might get in trouble so they did it. I don't remember exactly if they took place together, or if they did that before.
Q. Is it your recollection that they were close in time, the occurrences?
A. Yes.
BY MS. REILLY:
Q. Within, say, a week roughly?
A. I would say definitely within a month. I couldn't say for sure within a week; I don't remember.
Q. So somewhere between, say, a week and a month and

PENDAD CO. MUNCIE IN 47302 LASER BENDA 2504367211 09

possibly even simultaneously?
A. Yes, right.
Q. And then the statement on page three of Exhibit 2, which is dated March 3rd, 1988, does that refresh your recollection at all regarding the date?
A. No.
Q. Do you have any recollection that they talked about backdating dates?
A. I don't recall.
Q. And this "Paid" down at the bottom and it looks like someone's initials.
A. It looks like Robert Johnson's initials. Whether they actually are or not, R.J. are his initials.
Q. Is that a practice he would do, he would initial invoices?
A. I don't know.
Q. Because you've never seen any invoices?
A. Right.
Q. And then page four, which is a check from E. Kenneth or Tamara Twichell for $760, if I told you that this check is listed in the Twichells' checkbook with their April checks and is out of

PENGAD CO MUNCIE IN 47302 (800) 631-6989 25043672110

sequence, would you find that to be a surprising statement?

A. No.

Q. Would that lead you to conclude that perhaps the check was backdated?

A. Yes.

Q. And would that surprise you?

A. No, not at all.

Q. But you never heard anybody say either way whether or not anything was backdated?

A. No. I just don't remember. I can't say that I didn't hear anybody say that, I just don't remember.

Q. And then this last page, "Statement of Expenses," listing the printer and the total cost of $946. How much roughly in terms of letterhead -- How many pieces would $90 buy?

A. I have no idea.

Q. So you're not much help with the envelopes either?

A. No.

Q. And again we have the "I stuffed the envelopes myself and no Corporate Employees time was used."

PENGAD CO MUNCIE IN 47302 (800) 631-6989 95043672111

Now, given the fact that we just saw in Exhibit 1 a copy of that letter and we looked at it and you've identified the fact that the signature on there was not Mr. Twichell's, could this be a true statement, that he did everything himself?

A. No, absolutely not.

Q. And that, too, does not surprise you?

A. No. To my recollection, he never stuffed one envelope.

Q. You never saw him stuff any envelopes at all?

A. No.

Q. In the whole time you were there?

A. I mean, as a mailing project, you know. Maybe one, but not....

Q. Did you ever have to stuff envelopes at all?

A. No.

Q. Was there ever a situation where they shut down the entire office and everyone stuffed for three hours?

A. It's possible. When you say it like that, you know, perhaps I did. But it wasn't one of my responsibilities. Perhaps I pitched in at one

PENDAD CO. MUNCIE, IN 47302 LASER BONDA 25043672112

time or another because there was a project that needed to go out and they needed help and there were no stuffers available. But I didn't -- It was not one of my responsibilities.

Q. And certainly not a practice?

A. Right.

Q. And you actually can't remember ever really doing it, can you?

A. Not on any specific occasion. I perhaps did.

Q. And certainly not regarding Exhibit 1, the Bush letter?

A. No.

Q. Nothing to do with that?

A. I had nothing to do with that.

Q. Do you know any of the stuffers who worked on it?

A. Who worked on that particular one?

Q. Yes.

A. No.

Q. And you say you discussed this situation with Jean Johnson a little bit. And, of course, you were in on the great joke --

A. Yes.

2504367211 3
PENGAD CO. MUNCIE, IN 47302 1-800-631-6989

Q. -- with Mr. Twichell and Bob Johnson. Did anybody else there know what was going on regarding the Bush letter that went out?

A. I don't know if Mr. Schnecke knew or not. Perhaps Mr. Johnson's son, Todd Johnson, knew. I don't remember. If anybody else knew besides the three of us and Jean Johnson, it was them.

Q. So after they sent this response in --

MS. REILLY: Let's go off the record for a second.

[Discussion off the record.]

MS. REILLY: Back on the record, please.

BY MS. REILLY:

Q. Direct your attention to Exhibit 2 again, page two, under the heading of "Fourth." I would ask you to please read that paragraph.

A. "I called and talked to a person by the name of Janet Hess at the Federal Elections Commission Office who told me as long as I paid for the stationery and envelopes (along with expenses) I could use the corporate letterhead."

Q. Mr. Twichell gave you this letter to type;

PENGAD CO. MUNCIE IN 47302 LASER BOND A
95043672114

correct?
A. Yes. Mr. Johnson gave it to me to type.
Q. Was it written by Mr. Johnson or by Mr. Twichell?
A. I think they were both written by Mr. Johnson, but I'm not sure. They were both in the room at the same time. I don't remember exactly which one --
Q. So they might have actually been a group project?
A. Right?
Q. They were certainly done in corroboration with each other? One saw what the other was writing?
A. Right.
Q. There were no secrets?
A. Right.
Q. Did you ever have a conversation with Mr. Twichell regarding his communications with Janet Hess?
A. No.
Q. Is the name Janet Hess familiar to you at all?
A. No.
Q. Do you recall Jean Johnson saying she called the FEC?
A. I don't recall, no.
BY MS. LERNER:

PENCAD CO MUNCIE IN 47302 LASER BOND A 25043672115

Q. As far as you know, did Mr. Twichell ever talk to anybody at the Federal Election Commission?
A. Not as far as I know.
BY MS. REILLY:
Q. Do you know if -- Where it says "Fifth," the statement is that Mr. Twichell had received the corporation's approval to use the corporate letterhead. Do you know if that's true?
A. The only approval he would have gotten or needed was from Mr. Johnson. I don't know exactly what he's referring to as the corporation's approval.
Q. There, for example, wasn't a board of directors' meeting where they discussed it?
A. No.
Q. And how often did the board of directors meet for --
A. Once a year.
Q. And when would that be?
A. I believe it was -- I don't remember exactly when it was. I want to say sometime between maybe May and September every year.
Q. So it would definitely not have been in the time

PENGAD CO MUNCIE IN 47302 950 LASER FORMS 4367211 6

period --

A. No.

Q. -- we're talking here?

A. No.

MS. REILLY: At this point I'm going to hand to the court reporter what we will have marked as Exhibit 3. I'm going to ask the witness, when it's marked, to please take a look at it.

[Deposition Exhibit No. 3 was marked for identification and made a part of the record.]

BY MS. REILLY:

Q. Have you had a chance to examine this exhibit?

A. Yes.

Q. And do you recognize it?

A. Yes.

Q. This purports to be a three-page exhibit. The first page is a fax from J/B Meetings, Incorporated.

The second page is a draft of a letter to Jan Baran from Robert Johnson.

PENGAD CO. MUNCIE IN 47302 (800) 631-6989 25043672117

And the third page we have previously seen the text before. It's Mr. Twichell's April 4th, 1988 letter which we previously discussed.

Have you seen this before?

A. Yes.

Q. On page one of Exhibit 3, the notation J/B Meetings, Incorporated, is that the organization you used to work for?

A. Yes.

Q. And the cover page of page one, which is a fax directed to Robert Raich from Patti Davidson, this would be from you?

A. Yes.

Q. And the date stamp on it, which is on the top of the fax, of October 26th, 1989, is that the date you sent this?

A. Yes.

Q. And you recall sending it?

A. Yes. I had forgotten that I had sent it, but I do recall sending it now.

Q. Now that we've refreshed your recollection.

And the second page which is a letter --

PENGAD CO MUNCIE IN 47302 LASER BONDA 2504367211 8

draft letter it looks like -- dated April 4th, 1988 to Mr. Jan Baran from Robert Johnson, have you had a chance to read that letter?
A. Yes.
Q. Now, how did you come to get this copy of the letter?
A. I believe that I had kept for some reason these two in my computer and had not erased them and before I left, I had made copies of them.
Q. And why did you make copies of them before you left?
A. Because I knew that perhaps I could use them some day.
Q. Do you recall the circumstances that you typed the letter to Jan Baran?
A. I believe I typed this one at the same time that I typed the one from Mr. Twichell and Mr. Johnson.
Q. And by "this one," you mean the letter to Jan Baran --
A. Right.
Q. -- was typed simultaneously with, the April 4th letter to Jan Baran was typed at the same time as

2504367 2119
PENGAD CO. MUNCIE, IN 47302 LASER BOND-A

the April 4th letter you typed on behalf of Mr. Twichell?

A. Right.

Q. Do you recall either Bob Johnson or Ken Twichell discussing the letter to Jan Baran with you?

A. No.

Q. Do you remember whether or not they sent it to him?

A. I believe they did.

Q. Did they have any conversations regarding the fact that they were --

THE WITNESS: Can we go off the record for a second?

MS. REILLY: Sure.

[Discussion off the record.]

MS. REILLY: Let's go back on the record, please.

BY MS. REILLY:

Q. So this letter was in your computer?

A. Right.

Q. And you were the only one who had access to that account; is that correct?

PENGAD CO. MUNCIE IN 47302 (ABER BONDA 2504336721 20

A. Right.
Q. So you're the only one who could have typed this?
A. Right.
Q. Do you recall specifically typing it?
A. It seems like I did because I remember typing several letters when I typed the one from Mr. Twichell. So I guess you could say I remember typing it.
Q. But in any event, there was no way that anyone else could have typed it, because it was in your account?
A. Right. Not to my knowledge.
Q. But you don't have any recollection regarding Mr. Johnson's communications with a lawyer associated with the Bush Committee?
A. No.
Q. And then he has signed it as International Real Estate Institute?
A. Right. I think he used International Real Estate Institute when he was doing things for the Bush campaign.
Q. And why did he do that?

PENGAD CO. MUNCIE, IN 47302 (800) 631-6989 9504367211

A. I think he did that because the International Real Estate Institute was the least known of any of the associations. I think that that was kind of what he was using to get in with the election -- the people that he was working with, saying that he was an international real estate person and therefore he might be a good ambassador on an international --

Q. Was he actually an international real estate person?

A. Not to my knowledge. I mean, he ran the trade association, and there were members from other countries. But whether he actually participated in buying or selling or appraising any properties, international properties, not to my knowledge.

Q. About how many members were in the International Real Estate Institute?

A. A few hundred maybe.

Q. So not very many?

A. No. I would say no more than a thousand, but I don't remember exactly the number.

Q. Were they primarily concentrated in, say, North

PENROAD CO. MUNCIE, IN 47302 9504367212 2 2 LASER BOND

and South America, Canada, Mexico?
A. No. He had some that were in Europe and other parts of the world. I don't remember any one particular part of the world -- having a concentration of members in any particular part.
Q. Do you recall an instance where Mr. Johnson had a friend mail a letter from out of the country to be placed in a trade publication?
A. Yes. It seems like that sounds familiar.
Q. But you don't specifically recall?
A. I don't specifically recall why he did that.
Q. But you recall that he did actually write a letter and have it mailed from overseas so that it would come from a quote/unquote foreign member?
A. Yes. I don't remember the exact circumstances around it, but I remember him doing that.
Q. Sort of another example of his less than candid attitude?
A. Yes.
Q. I just wanted to go back to Exhibit 2 for one last time. On page five -- I'm not sure if I asked you this -- did you type up this --

PENGAD CO. MUNCIE, IN 47302 (800) 631-6989 95043367212 3

A. No.
Q. And you have no idea about whether or not the figures are correct?
A. Un-uh.
Q. Did Bob Johnson and Ken Twichell tell you not to discuss the Bush solicitation and the problems they were having with the FEC with anyone?
A. No. I don't think it ever occurred to them that I would talk to the FEC about it.

What they told me not to talk to anybody about was these letters.

Q. That they sent?
A. That they had sent.
Q. And by "these letters" you mean the April 4th?
A. Right. The April 4th letters to Robert Raich.
Q. Did you talk to anyone in the Association regarding this situation?
A. Perhaps Jean Johnson.
Q. In terms of "Jean, you were correct"?
A. Right.
Q. But they didn't tell you to keep it a secret?
A. These letters they did.

PENGAD CO. MUNCIE, IN 47302 (800) 631-6989

Q. They did?
A. Yeah.
Q. Was that the only meeting that you had where they discussed it or were there others?
A. No. After the letters were written and sent, I'm not sure that they ever really discussed it with me again.
Q. We have previously discussed the fact that they had made up jokes about Mr. Twichell being reimbursed --
A. And about him typing the letter on white paper.
Q. Right. Was that sort of a running joke that stayed in the company?
A. For a while, but as time went on he had more problems and things to tackle, and it was kind of just forgotten.
Q. And by "more problems and things to tackle," you mean?
A. Well, you know, employees leaving and coming; and I'm sure he was involved in other lawsuits for one reason or another.
Q. The cat, for example?

950436721 25
PENLAD CO. MUNCIE, IN 47302 LASER BONDA

A. Right. But the cat I think actually started before this, but it was an ongoing problem. And so I think he just moved on, you know, his mind was constantly working on something. So I think he just moved on out. I don't think it was ever really brought up again.
Q. Did you have any other conversations with them about it during the intervening period?
A. Not that I recall.
Q. It just sort of went away?
A. Yes.
Q. Did any of the people that you worked with during 1988 make any contributions to federal candidates?
A. Yes.
Q. And who were those people?
A. To my knowledge, Tim Cloud and Ken Twichell.
Q. And when did Tim and Ken Twichell make their contributions?
A. Well, I know it was after we had moved to our new offices.
Q. If I showed you a calendar of 1988, would that help or refresh your recollection regarding the

PENGAD CO. MUNCIE, IN 47302 LASER BOND
9 2 5 0 4 3 6 7 2 1 2 6

times involved?

A. It might.

MS. REILLY: Let's go off the record for a second.

[Discussion off the record.]

MS. REILLY: Back on the record, please.

BY MS. REILLY:

Q. We have produced for the witness a calendar for the year 1988 to see if it helps refresh her recollection. Maybe if we run through it in terms of time. April 4th were the dates on the letters that we've seen in Exhibits 2 and 3. That would be a Monday.

March 3rd was the date of Ken Twichell's reimbursement check. That would be a Thursday.

A. We moved into the offices.... I don't think -- If it was May, it was the end of May. So June. Perhaps in July or August.

Q. So June, July or August, somewhere around there?

A. Right.

Q. And you moved from your old quarters --

A. Right.

2504367212 7
PENGAD CO. MUNCIE, IN 47302

Q. -- which were not so wonderful?
A. They were pretty small. We were pretty cramped in there.
Q. To the new quarters --
A. Right.
Q. -- which were bigger?
A. Yes.
Q. A lot bigger?
A. A lot bigger.
Q. And nicer?
A. A lot nicer.
Q. Did you get your own office?
A. Yes.
Q. Roughly, how many square feet are you talking about in the old place?
A. The old place?
Q. Uh-huh.
A. I'm very bad at square feet.
Q. But not very big. Let's do it this way instead. Was the new place twice as big, would you say, or three times as big?
A. Maybe three or four times as big.

PENGAD CO. MUNCIE, IN 47302 (800) LASER-BOND-A 9504367212 8

Q. So considerably bigger?
A. Yes.
Q. And did Bob Johnson own the old building?
A. Yes, I believe so.
Q. And then he also owned the new building?
A. Yes.
Q. And did he have it built?
A. Yes.
Q. Did he hire a construction company to do it?
A. Yes.
Q. Do you remember the name of the construction company?
A. No, but I think it was the same construction company that built his house in the mountains in Arizona. I remember he had a lot of problems.
Q. With the construction company?
A. With the construction company.
Q. Do you remember what they were?
A. I think part of the ceiling outside -- or part of the roof outside started to fall several months after we had moved in. And I think there were some leaks in the roof several months after we had

PENGAD CO MUNCIE, IN 47302 9505 LASER BOND A 9 4 3 6 7 2 1 2 9

moved from rain.
Q. Did anyone at --
A. I think he filed suit against him, too. That kept Randy King busy probably during that time period.
Q. Did anyone in the office have responsibility for the construction of the building?
A. I don't recall. Probably Mr. Twichell worked with him a little bit on it, but....
Q. When you say "worked with him," you mean he worked with Mr. Johnson?
A. Right.
Q. Did Mr. Johnson draw up the plans for the new building?
A. I know he was involved in drawing up the plans for the new building.
Q. Did you go to the ground breaking of the new building?
A. Yes.
Q. Do you remember when it was?
A. Maybe the fall of '87.
Q. And you didn't move in until probably late spring or summer of '88?

PENDAD CO. MUNCIE, IN 47302 9504367213 0 LASERBOND A

A. Right.
Q. So was the construction behind schedule?
A. Yes.
Q. Why was it behind schedule?
A. I don't know.
Q. Did you discuss the construction with anyone?
A. I'm sure Mr. Johnson discussed with me how he was unhappy with how things were going as far as timewise on the new building.
Q. Did you hear him talking to the contractor at all?
A. I remember hearing him yell at the contractor quite a bit. Whether that was before or after we had moved in, I think it was maybe some of both.
Q. And this would be in person?
A. In person and on the phone.
Q. And he would talk to the contractor pretty regularly?
A. Yes.
Q. Maybe daily?
A. Probably during a certain time period, yes.
Q. Now, Mr. Johnson is involved with the contractor; and the contractor is doing work. Was Mr.

PENGAD CO MUNCIE IN 47302 9504367213 1 LASER BOND A

Twichell involved in the --
A. I don't remember how much he was involved, but Mr. Twichell was pretty much involved with everything that Mr. Johnson was doing. So....
Q. Do you recall instances of Mr. Twichell coming into the office and reporting on how the construction was going?
A. Now you say that, yeah, perhaps he would go out there from time to time while it was being built and come back and tell Mr. Johnson how things were going.
Q. And then from time to time, do you recall him going like every day and doing it?
A. Probably.
Q. Was it nearby?
A. Ten minutes away at the most.
Q. So he could hop in his car and go and do it?
A. Yes.
Q. Now, did you have any responsibilities regarding the new building, in terms of getting it ready for occupancy?
A. I think I was in charge of finding a new phone

PENDAD CO MUNCIE IN 47302 9504367213532 LASERBONDA

system and getting a fax machine installed.
Q. Did that consume a lot of your time?
A. Uh-huh, yes.
Q. How come?
A. Because Mr. Johnson wanted to check out all different types of phone systems, and then once he decided on the type of phone system we were going to get, we had lots of extensions; and he wanted to know -- It was just an involved process.
Q. And, of course, each of the organizations had to have their own lines?
A. Right.
Q. And we're talking -- Was there a WATS line, too?
A. I think there were two WATS lines maybe.
Q. Sounds like AT&T Commercial.
A. And his own private line. There were a lot of lines.
Q. So it took a lot of your time?
A. Yes.
Q. Did you put any overtime in doing it?
A. I'm sure I did. I put a lot of overtime in in general.

PENDAD CO MUNCIE, IN 47302 8504367213 3 3 LASERBOND-A

Q. You were not just a nine to fiver?
A. Right.
Q. If you were to estimate, when you came in in the morning was Mr. Twichell usually there?
A. Yes.
Q. And when you left was Mr. Twichell there usually, more or less?
A. Usually, or we would be leaving around the same time.
Q. So he essentially came in earlier, but probably left about the time that you left?
A. Yeah. He probably worked later sometimes than I did.
Q. What about Mr. Cloud? What were his hours like?
A. He worked a lot of hours as well.
Q. So the three of you all essentially worked more than nine to five?
A. Yes.
Q. It's moving day. Do you recall, did you move on a Friday? Did you pack up one office on Friday and come into the other on Monday; is that how it worked?

9504367213 4
PENGAD CO. MUNCIE IN 47302 LASER BOND A

A. Pretty much. Pretty much, I believe it was.
Q. Now, you said that you put in the telephone system and the fax machine. Did you have any other responsibilities regarding the move?
A. I remember packing up some things, but they were probably just my own things.
Q. And did all the employees sort of pack up their own little desks?
A. I think so.
Q. And then there was the office furniture and the mailroom to move?
A. He got all new office furniture.
Q. Oh, he did?
A. I think.
Q. That was nice.
A. Uh-huh.
Q. So you had a new desk --
A. Like the desks were built in the offices. They were built-in desks. So those were definitely new.
Now whether or not he had new cubicles, I don't know. I think maybe he did.

25043672135

Q. Do you know what happened to the old furniture? Did they leave it there?
A. I don't know.
Q. So the new furniture was in the office when you got to the new place?
A. Right, except for some of it came later, --
Q. In pieces?
A. -- like a big conference desk, things like that.
Q. So I guess what was moved from the old building was not the furniture, I guess, to the new place anyway.
A. But like all the computers -- maybe all the computers, files, you know, everybody's personal files, copy machine, things like that, postage machine.
Q. Kitchen?
A. Kitchen things.
Q. Did they hire a moving company to do it?
A. Yes.
Q. Do you remember the name of that company?
A. No.
Q. Do you remember Mr. Johnson or Mr. Twichell

PENGAD CO. MUNCIE, IN 47302 (800) 631-6989 LASER FORMS

soliciting bids for the move?

A. I'm sure they did. I don't remember specifically. I remember that it was hard to find things, that the moving company did not do a very good job in marking.

I don't remember if we packed everything and then they just moved it, or whether they packed some things and moved it. I just remember it was a mess once we moved in trying to find where things -- which things were in which box.

Q. Did you actually see the moving truck and the moving men?

A. Yes.

Q. Moving people, I guess.

A. Yes.

Q. And it was a company, like Allied Vans or something?

A. I think so.

Q. But a professional moving company?

A. Yeah.

Q. There's no question in your mind that professional movers came in?

PENGAD CO. MUNCIE, IN 47302 (800) 631-6989

A. Well, I mean, I'm not a hundred percent sure, but that's what I remember.

MS. LERNER: Let's go off the record.

[Discussion off the record.]

MS. REILLY: Back on the record, please.

While we were off the record, we discussed my use of the word "professional movers," and decided perhaps it would be easier for you if I clarified the question.

BY MS. REILLY:

Q. Did people who didn't work in your office come to your office and move?

A. Yes.

Q. And they were not associated with the organizations? They were people from the outside?

A. Right.

Q. And they were paid to move you?

A. Yes.

Q. And they didn't do such a great job?

A. Right.

Q. So when you got to the new building, were there new computers brought in, or the same old ones?

PENDAD CO. MUNCIE IN 47302 LASERBONDA 9504367213 8

A. I think we got new ones maybe.
Q. Or some of the old ones and some new ones?
A. I think probably it was some old ones and some new ones. We had to have new ones because there was more people and more desks.
Q. So people had like terminals at their desks?
A. Right, and printers.
Q. And that was new, or at least for some people?
A. I don't remember if we had printers at the old office at our desks or not.
Q. Did the moving people move the computers, too, the old computers?
A. I don't remember. I would think that they would, but I don't remember specifically.
Q. Do you remember any jokes in the office about how the computers got there?
A. No.
Q. If I told you that Ken Twichell and Tim Cloud had testified that they personally moved the office by themselves without using a moving company, would you consider that to be a true statement, in light of the testimony you've already given?

PENCAD CO MUNCIE IN 47302 LASER BOND-A 2504367213 9

A. No, I would not consider that to be a true statement.
Q. And, of course, as we've discussed, there was a moving company that was used?
A. Yes.
THE WITNESS: Can we go off the record for a second?
MS. REILLY: Absolutely.
[Discussion off the record.]
MS. REILLY: Back on the record, please.
BY MS. REILLY:
Q. Now, after you moved, so you were in these brand new offices and we're talking June/July probably of '88, which is sort of bonus season. Do you recall getting a bonus when you got to the new office?
A. It seems like we did because it was that time of year. I remember not being there for very long and getting a bonus, but I don't remember specifically June or July of that year receiving one.
Q. And by "not being there," you mean not being at

PENROD CO MUNCIE IN 47305 LASER BOND A 8504336721140

the new office very long?
A. Right.
Q. And then you got your bonus. Do you recall thinking about it, being at the new office, remembering how much that bonus might have been?
A. I really don't remember how much it was.
Q. Now, we were talking before about Tim Cloud. So you're in the new office and you've got this bonus. Now, how would Bob generally go about giving you a bonus?
A. Usually call you in and hand you a check.
Q. Would he make a little speech?
A. Usually, about what a great job he thought you were doing and ... you know.
Q. Now, at the time that he gave you this bonus, the one that occurred in the new building in, say, June or July of '88, did he tie in your bonus to the move? In other words, "Here's for a great job. Thanks for helping me move," or "This bonus is for the move," or anything like that?
A. I don't remember. And I don't remember specifically when. I just remember getting

PENGAD CO. MUNCIE IN 47302 LASER BONDA 95043672141

bonuses every once in a while. I do remember raises coming in June or July or May/June.

Q. The raise that you got, did he mention that that was attributable to the move?

A. I don't remember him ever attributing anything to the move.

Q. Sort of "We were all there."

At the time that you got your bonus then, and this is in the new building, do you know if Jean Johnson got hers?

A. No, I don't.

Q. Do you know if Ken Twichell got his?

A. I'm sure he did.

Q. What about Tim Cloud?

A. I'm pretty sure he did, too.

Q. Because it was the practice of the organization that everyone would get their bonuses at the same time?

A. Well, not everyone. I don't really think everyone got one, but Tim and I were pretty good friends. And so....

Q. So did you discuss with him the --

PENCAD CO. MUNCIE IN 47302 LASER BOND 95043367221442

A. The bonuses. Not the amount of the bonuses, but we would discuss bonuses or raises in general.
Q. Do you recall telling him in the new building that you had just gotten your bonus?
A. I'm sure I did. I don't recall exactly telling him that I had.
Q. And you certainly don't recall him saying, "Oh, I didn't get one"?
A. No. I can't remember ever a time where I would get a bonus and he would not.
Q. You say you were pretty good friends with Tim Cloud?
A. Actually I was probably better friends with his -- His girl friend was my assistant, my secretary.
Q. Shawn Fitzgerald?
A. Right.
Q. And so you were good friends with Shawn --
A. And Tim.
Q. And Tim?
A. Uh-huh.
Q. And so you would see them socially?
A. Occasionally.

PENGAD CO MUNCIE, IN 47302 LASER BOND-4

Q. And maybe visit their house?
A. I don't think I ever went to their house.
Q. Did they ever come to yours?
A. I think they came to a party at my house before.
Q. And when you and Tim got bonuses, would Shawn get a bonus too?
A. I don't remember.
Q. Can you tell me a little bit about what Tim Cloud is like?
A. Tim Cloud is an intelligent person. He's a pretty easy going person. I think he's the type of person that if he's left alone, he'll do his job and just go on his merry way. He's not a person that tries to take on more responsibility than he's given or tries to get involved in other people's business. I think he's just kind of a person that goes with the flow. And as long as he's well paid and left alone....
Q. He's happy?
A. He's happy.
Q. Now, we know that Ken Twichell and Bob Johnson are sort of close, at least at work.

PENGAD CO MUNCIE IN 47302 LASER BONDA 95043367211444

A. Yes.
Q. Was Tim Cloud as close to Bob Johnson as Ken Twichell is?
A. No.
Q. Do you know why?
A. Well, Tim wasn't involved in as much in the day-to-day operations of what was going on as Ken was. I believe after I left, he went on a trip with them that they used -- they said it was a business trip, but it wasn't. And he went on that trip and perhaps has gone and become closer to Bob and Ken since I left.

But at that -- When I was there, he really did not know them very well at all. He basically just did his job and ... you know.

Q. Now, this trip that they went on that wasn't a business trip but was sort of billed as one, can you tell me a little bit about that?
A. Well, I wasn't there. I remember talking with Shawn -- this was after I left -- and I think they had started to plan it right before I left. They went to Alaska on a fishing trip.

PENGAD CO. MUNCIE IN 47302 LASER BONDA 2504367214 5

Q. And said that they were?
A. Doing something for business.
Q. Real estate-wise?
A. I'm sure it had something to do with real estate.
Q. Do you recall how long the trip was?
A. A week maybe. I really don't know.
Q. A hunting and fishing sort of thing?
A. Right.
Q. Is Bob an outdoorsey kind of guy?
A. No, but I'm sure it was like a first class Alaskan fishing trip all the way, and I think that he could make any outdoor activity comfortable.
Q. What were Tim Cloud's finances like? Did he have a lot of money?
A. No. When he first started, I don't think he had much at all. But I think that -- I think -- I'm sure he's getting paid quite well now. But he never had a lot of money.
Q. And he started in the computer room as a key operator?
A. No, not Tim. Tim came in as the head of the computer room and is still in the position.

0 4 3 6 7 2 1 4 6

Q. But he came in sort of lesser paid and is now doing well?
A. Sure. I'm sure he's -- Like I doubled my salary in two years, and so -- he has probably worked there four, so he has probably quadrupled it or something.
Q. Okay. You had previously stated that Ken Twichell and Tim Cloud were two employees that you know who had made political contributions in 1988?
A. Yes.
Q. Can you tell me a little bit about that?
A. Well, to my knowledge what I remember hearing about was that Mr. Johnson had written them each $10,000 checks, and that they had in turn contributed $10,000 to the campaign, or they had contributed $10,000 to the campaign, you know, simultaneously. They certainly didn't have -- I know Tim didn't have $10,000 to contribute.
Q. Was Tim politically active then?
A. No.
Q. And isn't to this day politically active?
A. No, no.

PENGAD CO. MUNCIE IN 47302 LASER BOND A
2504367214 7

Q. Was it your understanding that Mr. Johnson gave them the money, the $10,000, so that they could write checks to a political campaign?
A. Yes.
Q. And that was the purpose for writing the check he gave them for $10,000?
A. Yes.
Q. Who did you discuss that with? Did you discuss it with Tim?
A. I have discussed it with Tim, and I think Shawn.
Q. Can you tell me a little bit about that?
A. I don't remember if I specifically talked to him at that time, but I believe I did, I believe asking him about it; and I think he told me that Bob had assured him that there was nothing wrong with it and that he couldn't get in trouble and that, you know, he didn't want to make Bob mad, so he did it.
Q. It sounds like Tim was a little worried?
A. Well, I don't think he was real comfortable with it, but I don't think he was worried about it at that time.

PENGAD CO. MUNCIE, IN 47302 (800) 631-6989 95043672148

Q. Do you think he was concerned about what might happen to him if he said no?
A. Yes, definitely.
Q. And to the best of your knowledge, what did you think Tim was afraid of?
A. I think he was afraid of losing his job.
Q. And was that a valid fear?
A. Yes.
Q. Now, how do you know that Bob gave him the $10,000 and told him to -- Bob gave him the $10,000 for the purposes of contributing to political campaigns?
A. Because Tim told me.
Q. Can you tell me, the best you remember, exactly what he said? Can you remember where you were?
A. I think we were in the computer room. And to the best of my ability, what I'm remembering is that he said that Bob had given him $10,000 and he had put it into his account, and then he had turned around and made a $10,000 contribution to the Bush campaign.
Q. Did Tim tell you that Bob told him that he was

PENGAD CO. MUNCIE, IN 47302 LASER BOND A 95043672149

giving him the $10,000 so that Tim could contribute?

A. I'm not sure I understand what you said. Did he say -- Why don't you say the question again?

Q. Let me repeat it. Did Tim tell you that Bob told Tim at the time that Bob gave Tim the $10,000 that he expected Tim to make the $10,000 political contribution?

A. Yes.

Q. In other words, Tim was not free to spend that money on anything he wanted?

A. Right.

Q. He couldn't buy a house?

A. Right.

Q. That he had no choice?

A. Right.

Q. Do you recall Tim making a copy of that check or telling you he made a copy of it, the $10,000 check?

A. I think he told me he did make a copy of it. I'm not sure, but I think --

Q. Do you recall the circumstances of him telling you

PENGAD CO MUNCIE IN 47302 9504367215 0 LABERENDA

that?

A. I think he told me that he made a copy of the check in case he ever got in trouble for it or he ever needed to have a copy.

Q. Do you know if he paid his taxes on time that year?

A. No. It's possible that he didn't. We never got our W-2's until like after the date we were supposed to get them.

Q. Can you tell me a little bit about that?

A. Or that date.

Q. They were late all the time?

A. Or they were given to us on the very last day that you were supposed to get them, which I don't even know what date that is. But my husband was -- and he has since taken his CPA --so he would do our taxes. He was like, you know, "When are you going to get your forms?" And I would say, "I don't know. As soon as I get them, I'll get them." But I remember them being late.

Q. And you got paid just sort of on a check that Bob would write out?

PENGAD CO. MUNCIE IN 47302 LASER BOND A

2504367215

A. Right, or his wife, I think, maybe helped get those out.

Q. Debra?

A. Right.

Q. Would she sign her name or his name, Debra Johnson, when she wrote out the checks?

A. I don't remember. Maybe both.

Q. Did you have any other conversations with Tim Cloud regarding the $10,000 contribution he made?

A. I think I might have called once or twice and told him that -- to talk with him and Shawn and tell him that I thought he could get -- that he might be getting in trouble for it and that he had better tell the truth, no matter what Mr. Johnson did to pressure him.

Q. Now, this was after the FEC had come into the picture?

A. Right.

Q. And did Tim indicate to you that Bob had given him advice about how to proceed?

A. I don't remember him saying that.

Q. Did you call because you thought maybe Tim might

9 5 0 4 3 6 7 2 1 5 2
PENGAD CO. MUNCIE, IN 47302 LASER BOND A

not tell the truth?

A. I called because I thought it was possible that Mr. Johnson would pressure him, because Mr. Johnson can pretty much talk anybody into doing anything and to lying. And I didn't want to see him get in trouble because he didn't intentionally do anything wrong, although I think he probably should have stood up to Mr. Johnson.

I just didn't want to see him get into any trouble, because he's not a bad person or a dishonest person.

Q. And you were trying to help him out?

A. Yes.

Q. Did you ever talk with Ken Twichell regarding his $10,000 contribution?

A. I think I did, and I think the context was -- I think he got like a Presidential tie or something, and he was wearing it very proudly one day. And I asked him where he got it, and he said he got it because he made the $10,000 contribution.

Q. And when he said, "I made the $10,000 contribution," what did you think?

PENDAD CO MUNCIE IN 47302 (LASER BOND A) 9504367215 3

A. I just thought it was the same one with Tim, and I think maybe Ken might have given some of his own personal money besides that. I don't know.
Q. Now, it's your understanding that -- and I think we've covered this, so let me just sort of recast it a little -- is that Tim got the $10,000 from Bob Johnson and was told to contribute the $10,000 and did so.
A. Right.
Q. Is it your understanding that Ken Twichell also got $10,000 from Bob Johnson and was also told to contribute?
A. Yes.
Q. And how do you know that about Ken?
A. I believe Tim told me that Mr. Johnson had written one to both he and Ken.

I don't remember if there was anybody else that he had done that to or not. If there would have been anybody else, it might have been Steve Schnecke. But I don't know that for sure.
Q. This is going to take you back a long time. Do you recall Steve Schnecke at one point rounding a

PENGAD CO. MUNCIE, IN 47302 (800) 631-6989 LASER BOND A

corner and patting his breast pocket and saying he had just made a contribution to Bush?
A. I can certainly see him doing that.
Q. It's not behavior that would --
A. Right. I think it's very possible, but as to whether I specifically remember him doing that --
Q. Right.
A. I don't know. It's possible.
Q. Did Tim get a tie?
A. I don't remember him getting one.
Q. Or at least he didn't wear it?
A. Yeah. Maybe he got one, he just didn't wear it.
Q. Let me make sure that I understand where we are in terms of Tim told you that Bob Johnson had given both Ken and Tim Cloud each checks for $10,000 with the understanding that Ken and Tim were to contribute that to a political organization associated with George Bush?
A. Right. And he might have possibly mentioned Steve Schnecke's name as also receiving $10,000, but I don't remember.
Q. But it wouldn't have been unusual?

PENGAD CO. MUNCIE, IN 47302 LASER BOND A
92504367215 5

A. No.
Q. Now, Steve Schnecke, he was an in-law of Bob Johnson?
A. Right.
Q. Were they close?
A. No.
Q. And it seems that there was sort of a little family disharmony?
A. Yeah. He pretty much treated Steve Schnecke like dirt and played a lot of mind games with him and pretty much made him miserable. Steve was a real nice guy, but he really -- He told me at one point that he thought that Bob Johnson had ruined his life. Steve would get these migraine headaches and go into severe depression and just be in a huge fight with Bob and not talk to him for a long time. Then he'd go through another phase where he'd be okay for a little while where Bob would be nice to him for a little while. But it was pretty ugly.
Q. And this is all happening at the office?
A. Right.

PENCAD CO. MUNCIE, IN 47302 LASER FLORIDA 2504367211556

Q. Did Debra Johnson ever say anything about it?
A. No.
Q. Let me just back up for one second. Did Tim Cloud tell you how he knew that Ken Twichell got the $10,000 to contribute to political parties?
A. No.
Q. Was it your impression that they were in the room together when it happened or that they had talked about it?
A. That maybe they had talked about it, but I don't know.
Q. Do you remember Tim getting any invitations to fund raisers as a result of his contribution?
A. No, I don't know.
Q. And you don't recall a necktie?
A. No.
BY MS. LERNER:
Q. Is Cloud the kind of guy who wore a necktie?
A. No.
BY MS. REILLY:
Q. Other than the $10,000 contributions we've just discussed, do you know of any other employee

PENGAD CO. MUNCIE, IN 47302 (800) 631-6989 2504367215 7

contributions that were made which were reimbursed by the corporation?

A. No.

Q. You testified before that Mr. Johnson was involved in the Durenberger campaign.

A. That he knew Durenberger.

Q. Well, then the question is: Do you know if he was involved in the Durenberger campaign?

A. No. I just knew that he was friends with Durenberger. And it seems like he perhaps helped Durenberger in some way, but I don't know exactly how or what his involvement was.

Q. Do you know whether or not Randy King had a fund raiser for Durenberger?

A. No. I somehow remember some type of cocktail reception or some type of reception they had for Durenberger. Now whether it was a fund raiser, I don't know.

Q. But, for example -- Oh, I'm sorry. The cocktail reception they had, where was that held?

A. Where was it?

Q. Yeah.

PENGAD CO. MUNCIE, IN 47302 LASER FORMS 9504365721558

A. It was in Minnesota.
Q. Do you know who went to it?
A. No.
Q. Did Bob go?
A. Ken and Bob went. That's when they went and got the limo, I think, that picked up Durenberger.
Q. Do you have any idea when that occurred?
A. No. I know it was after we moved into the other offices.
Q. Let me back up for a second on something else. We discussed for a little bit your travel advances, how they were handled.
A. Yes.
Q. That you got cash and then you would spend it and then return the change.
A. Right.
Q. Was that the standard policy in the office for people who traveled?
A. Yes. Really not that many people traveled.
Q. So we're essentially looking at Ken, I guess?
A. Bob.
Q. Bob. Anyone else?

PENGAD CO MUNCIE IN 47302 (800) 631-6989 9504367215 9

A. Me. And then there were a couple of people that were hired for my old position, and I think that they made a few trips, perhaps traveled.

Steve Schnecke might have gone, and Todd probably went on several.

Q. Todd is the --

A. Todd Johnson, the son.

Q. -- employee of Todd Publishing?

A. Right. Or actually he really worked with the International Real Estate Institute.

Q. As far as you know, the way that you were given your advances, was that standard company policy?

A. Yes.

Q. People would receive cash?

A. Right.

Q. Do you recall any instances where people got checks for travel?

A. Prior to?

Q. Prior to going, yeah.

A. It's possible. I don't -- It seems like I always got cash, but now that you say that, I mean, it's possible that I was given a check and it was my

PENDAD CO. MUNCIE, IN 47302 25043672160

responsibility to cash it before I left. I don't remember.

Q. So it really could have been sort of one or the other?

A. Right. And the more I think about it, perhaps they did give me a check and it was my responsibility to cash it.

Q. And perhaps that would depend upon the amount of money involved?

A. Right.

Q. And you had your corporate American Express anyway?

A. Right.

Q. And then your bills were added onto the hotel bill anyway --

A. Right.

Q. -- so you weren't really responsible for a lot of it anyway.

Now you used a number of vendors during this period to sort of print and do letterhead and mail labels and stuff like that. Did Mr. Twichell

PENGAD CO. MUNCIE, IN 47302 1-800-631-6989 9504336721611

solicit any of the vendors who came by for campaign contributions?

A. Possibly.

Q. And what's your basis for "possibly"? Do you recall at all?

A. I don't remember if this happened. What I seem to remember is that we had a vendor that was a gentleman, and I think his name was Steve, and he did a lot of our typesetting. And I think I remember him laughing or saying something that Ken had asked him if he wanted to contribute to the Bush campaign.

Q. And did he contribute?

A. I don't remember. I think maybe he did.

Q. Was Bob sort of talking up the campaign a lot at the office, Bob Johnson?

A. Yeah. He was pretty proud of himself about the whole thing, I mean, just that he, you know, was supposedly so involved.

Q. And did he solicit people who came in, vendors? You know, "Would you like to contribute to Bush?"

A. I don't remember. I really don't remember. I

PENGAD CO MUNCIE IN 47302 LASER BONDA 2504367216 2

remember we had, you know, printers and stuffers and people like that. But we didn't have a lot of people coming into our office. Our members were all in other cities, and so there wasn't a lot of traffic in there.

Q. Do you ever recall either Bob Johnson or Ken Twichell saying, "We won't use this vendor anymore because they won't contribute"?

A. That sticks in my head that that was perhaps said. I don't remember the specific circumstances of who they were or.... I mean, I just don't remember specifically. I mean, that sounds extremely familiar that that happened.

Q. And certainly it doesn't strike you as something that didn't happen?

A. Right.

Q. Do you remember the Christmas party you had in December of '87? That would be, I guess, your first Christmas party there.

A. Yes.

Q. And where was it held?

A. Where?

PENGAD CO. MUNCIE, IN 47302 LASER BOND-A 2504336721663

Q. Yes.
A. I remember -- I can see it. I don't remember the name of it. It was like a corporate-type hotel/resort that was in Scottsdale.
Q. Was it held after work hours?
A. Yes.
Q. And were members there of the Associations?
A. Oh, there was a Christmas party for members. But I thought you were talking about an employee Christmas party.
Q. Let's start with the members and then we'll get to the employees.
A. Okay.
Q. Tell me a little bit about the members Christmas party.
A. That was at a resort, and I don't remember the exact name. It was one of the many resorts in Scottsdale. I remember that letters were sent out inviting local members, but I really don't remember that much about it. I mean, I can kind of picture where it was, and I remember that we had a fairly good turnout, and I remember being

PENGAD CO. MUNCIE, IN 47302 LASER BOND
9504367216 4

there, but I don't remember that much about it.
Q. Do you recall a meeting before the party where Mr. Johnson instructed the employees to talk up Bush, Bush's candidacy?
A. That sounds familiar, yes.
Q. Did he in fact tell employees to talk up George Bush?
A. I believe he did, yes. I mean, he told us that in general.
Q. Was that sort of office policy?
A. Right.
Q. From when to when?
A. I guess that whole year surrounding the election.
Q. Was it office policy that, for example, you were supposed to talk up George Bush when you were talking to members on other things?
A. If the occasion was right, yes.
Q. And if the occasion was raised, was it your job to raise it or did it have to come up in the conversation before you were allowed to do it?
A. I'm sure he never told us that it had to come up in the conversation before we could talk about it.

PENGAD CO. MUNCIE IN 47302 LASER BONDA 2504367211665

Q. And Bob was clearly talking up George Bush?
A. Yes.
Q. While he was there at the Associations, and Ken too?
A. Right.
Q. Anyone else?
A. No, not that I can think of.
Q. Now this incident regarding the Christmas party, do you recall people being upset that they had to talk up George Bush?
A. Probably. Yeah. I remember -- I mean, I remember -- Now that you say that, I remember that. I don't remember exactly.

Maybe Jean was. I think she was a Democrat. I don't -- I mean, I remember in general that that happened, but I don't remember specifically who was upset about it.

Q. Is it your impression that people were afraid they would lose their jobs if they didn't talk up George Bush?
A. Yes.
Q. And did anyone in fact lose their jobs because

PENGAD CO. MUNCIE, IN 47302 LASER BONDA 2504367211666

they didn't talk up George Bush?
A. I don't remember.
Q. And then you had this Christmas party, and did you go and talk up Bush?
A. I'm sure I did if I was told to.
Q. And presumably so did everyone else?
A. Yes. I don't think people did as much as he probably would like to believe everybody did, because I don't think I was even comfortable doing things like that.
Q. "He" being Bob Johnson?
A. Right.
Q. But, nevertheless, those were the instructions you were given?
A. Yes.
Q. Were there any other social events during the year where members were there where you were given instructions to promote George Bush?
A. I'm sure we were. We had two big annual conventions that were like September and October. So perhaps that September and October between -- before the election.

PENGAD CO. MUNCIE, IN 47302 (LASER BONDA) 95043672167

Q. You don't have any specific recollections?
A. No.
Q. On election night do you recall Bob sending a telegram to Bush early so that he would be one of the first telegrams to reach him?
A. Yeah.
Q. That actually happened?
A. I remember something like that happening.
Q. Did you send the telegram or did he do it?
A. I don't remember.
Q. During 1988 did Debra Johnson and Bob Johnson have a child?
A. Yes.
Q. Was there any discussion regarding whether George Bush would be the godfather?
A. I don't remember.
Q. You would probably remember that, yes?
A. I don't remember. I mean, now that you say that, I kind of remember hearing something like that. But I don't specifically remember him telling me that.
Q. I may have asked you this already. Did you know

PENCAD CO MUNCIE IN 47302 LASER BONDA 9504367211688

if Bob sent his resume to Washington?
A. I think he did for the ambassadorship position that he thought he might be up for.
Q. Do you know to whom he sent it?
A. No.
Q. But it's your understanding that he did?
A. Right.
Q. And how do you know that?
A. Because he discussed with me the possibility of him getting an ambassadorship.
Q. And so, consequently, he had to send his resume?
A. Right.
Q. Do you know if he had any prior experience in the Nixon White House, Bob Johnson?
A. I don't know.
Q. He never discussed it with you?
A. No.
Q. As a result of their contributions, was Tim Cloud invited to a California fund raiser?
A. I don't know.

MS. REILLY: Let's go off the record.

[Luncheon recess from 12:30 p.m. to 2:00

PENGAD CO. MUNCIE, IN 47302 (800) 631-6989

p.m.]

MS. REILLY: We're returning after our lunch break, and if I can remind the witness that the instructions that we gave you this morning regarding giving complete and full answers, telling the complete truth, the fact that we are reminding you that you are under oath, all of which still apply.

THE WITNESS: Right.

BY MS. REILLY:

Q. Is there anything that you wanted to clarify or modify regarding your testimony this morning?

A. No.

Q. I just have a couple of more points, one of which is you testified this morning regarding the fact that you had called Shawn to discuss the fact that Tim may be in some sort of trouble regarding his $10,000 contribution; is that correct?

A. Right.

Q. Okay. How did you know -- What did you say to Shawn regarding the contributions in question?

A. I'm not sure I really talked to Shawn about it. I

950433672110
PENGAD CO. MUNCIE, IN 47302 LASER BOND A

mean, I probably briefly spoke with her and then said, "I need to speak with Tim."

Q. Did Shawn know about it?

A. I believe she did, yes.

Q. Do you recall what Shawn told you about the contributions that Tim had made?

A. I don't remember specifically what she told me, but I do remember her knowing about it and her telling me that she was glad that he had not asked her to do the same thing. And I think I remember her telling me that he was not real comfortable doing it.

Q. So Shawn said she was glad that Bob Johnson hadn't asked her, and she said that Tim was not comfortable about making the $10,000 contribution?

A. Right. About the whole situation with the $10,000 contribution.

Q. And so it was your understanding that Tim had told Shawn that he had received $10,000 from Mr. Johnson --

A. Right.

Q. -- and that he was supposed to make a $10,000

PENRAD CO. MUNCIE IN 47303 LASER BONDA 95043672111

contribution with that money?
A. Right.
Q. So we know that --
MS. REILLY: Off the record for one second.
[Discussion off the record.]
MS. REILLY: Back on the record, please.
BY MS. REILLY:
Q. Just to briefly summarize, we had discussed the fact that you had called Shawn Fitzgerald at one point; is that correct?
A. Yes.
Q. And in your conversations with her, you briefly discussed the fact that Tim had been given $10,000 by Mr. Johnson in order that Tim could make a contribution of $10,000; is that correct?
A. Right. I didn't discuss that specifically when I called. But we in the past had discussed the fact that Tim had been given the $10,000 and made the contribution. And when I called, I perhaps told her that I needed to speak with Tim about that.
Q. Do you remember in the past when you spoke with

PENGAD CO MUNCIE IN 47302 LASER BONDA 95043672172

her? Do you remember the specific occasion?
A. No. I think it probably was on several different occasions that we talked about that.
BY MS. LERNER:
Q. Was it close in time to when you learned from him that it had occurred?
A. Yeah, the first time. I'm pretty sure she knew about it right when it happened.
Q. When you spoke to her, this was not news that you were presenting to her? She was already aware of it; is that right?
A. Right.
BY MS. REILLY:
Q. So Tim had apparently told Shawn about it --
A. Right. Well, they lived together. So, I mean, I think she pretty much knew everything that was going on.
Q. And so Tim told Shawn that he had been reimbursed for the contribution and Tim told you that he had been reimbursed for the contribution. Do you know who else Tim told?
A. Possibly the girls that worked in the computer

PENGAD CO. MUNCIE, IN 47302 LASER FLORIDA 2504367217 3

room.
Q. And those would be? I'm sorry. What are their names?
A. I think Heather and Lisa. I'm not sure if they're still there or not.
Q. Those are the ones who had been there for an extended period of time?
A. Uh-huh.
Q. And you didn't see a copy of the $10,000 check?
A. No.
Q. But it's your understanding that Tim Cloud had made a copy of it?
A. Yes.
Q. Now in this conversation that you had with Shawn where you called out there, did you speak with Tim?
A. Yes.
Q. And what did you discuss with him?
A. I think I told him -- I think this was around the time that I faxed this stuff. And I think I told him that I had been contacted by the Federal Elections Commission and that I thought that they

PENGAD CO. MUNCIE, IN 47302 (800) 631-6989
950436721174

were doing an investigation and that he probably should be prepared to be contacted, and that I thought it was very important that he tell the truth, and that he not let Mr. Johnson intimidate him in any way, in asking -- you know, intimidating him into telling lies about the situation.

And I think that was really the gist of the conversation.

Q. Now, when you say that you had faxed some material, are you referring to Exhibit No. 3?

A. Yes.

Q. And the fax date on that is October 26, 1989?

A. Right.

Q. So it's about October of 1989. What did Tim say in response to you?

A. I think he was pretty surprised to learn that there would be any investigation going on, and he sounded a little worried and assured me that he was not going to lie for Mr. Johnson.

Q. Did you have any other conversations with him after that?

PENGAD CO., MUNCIE IN 47302 1-800-631-6989 2504367217 5

A. It seems like I've talked to him perhaps twice since I left, but I don't remember. I mean, that's the conversation I specifically remember is the one in -- I think it was in October.
Q. And in that conversation he told you that he did not intend to lie?
A. Right.
Q. And then you think you had two other possible conversations?
A. No, I think I had another conversation with him. But it perhaps was before that because I don't really remember talking to him since then. Shawn and Tim broke up after -- and I don't know exactly when -- but -- so the last few times I've only spoken with Shawn, and even that has been quite a while.
Q. And have you discussed the contribution reimbursement situation with Shawn?
A. Not since that time.
Q. So to the best that you can recall, the last conversation you had with either Shawn or with Tim would be right about the time that you faxed --

PENGAD CO. MUNCIE, IN 47302 (800) 631-6989 9504367211/6

A. No, I've spoken with Shawn since then.
Q. About the contribution reimbursement?
A. No. Just in general. Perhaps it was mentioned. I might have asked her if she knew that Tim had had his deposition taken, and I don't think she knew. I mean, we just talked about things in general. We didn't talk about this. And I would say that was maybe six months ago.
Q. And so at that point you were living in Houston?
A. Yes. Both times. When I called Tim that other time, I was in Houston, too.
Q. And other than to say he wouldn't lie, was there anything else that he mentioned?
A. I think he probably -- I think he might have briefly said that things were about the same around there and that those two girls in the computer room were still working there.

I probably asked him if he was going to continue working there, and I think he said as long as Bob left him alone and he was paid well, he would probably stay. I don't remember any

PENGAD CO. MUNCIE IN 47302 LASER BONDA 95043677217

other part of the conversation.
Q. Did you offer him any advice?
A. Not besides just telling the truth.
Q. Did he tell you that anyone from the Commission had come to the Associations' offices?
A. I remember -- I think I remember him saying at some point that somebody had come to the Association office, but I don't remember if he said it was the Commission or if it was the Labor Department.
Q. But there was definitely someone from a federal --
A. I think so. And perhaps it was the Labor Department because I think he was pretty surprised when I told him about the -- that he might have his deposition taken or that the FEC might be contacting him.
Q. Did you discuss with anyone else the fact that Tim's deposition might be taken?
A. I think I've talked with Jean Johnson a couple of times since then because -- In fact, I moved and I couldn't -- I didn't know Robert Raich's number and I got subpoenaed before, the one that was

2504367217 8
PENRAD CO MUNCIE IN 47302 LASER BONDA

quashed or whatever; and I called her to see if she knew anything, and she gave me Robert Raich's phone number because I didn't have it.

And I think perhaps at that time we might have talked about it. And I maybe have talked to her two other times since I moved.

Q. And she's no longer with the Associations?

A. No.

Q. Do you know if she has discussed it with anyone else?

A. No.

Q. So it's sort of a closed set about who knows about the reimbursed contributions? Bob Johnson does; Ken Twichell does; Tim Cloud does; you, Jean Johnson, Shawn.

A. Maybe Steve Schnecke.

Q. Maybe Steve Schnecke. And in fact maybe Steve Schnecke was reimbursed?

A. Perhaps.

Q. Is there anyone else that you can think of who would have knowledge about these events?

A. Debra Johnson probably would. I don't know if

PENGAD CO. MUNCIE IN 47302 LASER BONDA 9504367217 9

Kelly Rossy would know anything about it or not. She's an ex-employee.

Q. And she was a stuffer?

A. No. She was an employee. She's the one that got pregnant and got fired.

I'm sure probably the stuffer who stuffed the letters knows, I mean, not about the $10,000, but about the mailing.

Q. But in terms of the $10,000, that would be the universe of people?

A. Right. And perhaps those two girls in the computer room. They might have heard Tim Cloud talking about --

Q. I'm sorry. It was Heather --

A. I think it's Heather and Lisa.

Q. Do we know their last names?

A. No.

Q. Okay. Regarding the mailings in question that went out, the people who would have the information about that would be Mr. Johnson, Twichell, you to some extent, to the extent you've testified, Jean Johnson because of her election

PENGAD CO. MUNCIE, IN 47302 (800) 631-6989

expertise, the people who actually stuffed it.
A. Tim Cloud.
Q. Tim Cloud, right, because he ran the computer.
Is there anyone else you can think of who would also have knowledge about that?
A. Did you say the stuffers?
Q. The stuffers, yeah.
A. No. Again, probably Debby Johnson knew about it.
Q. Now, she was sort of in and out of the Associations during that time; right?
A. Right.
Q. She was not a full-time employee?
A. No.
Q. In 1988, roughly, how many hours a week would she work?
A. She never -- I mean, if she came in, she'd come in for an hour at the most. I mean, she didn't come in and actually work. She had a baby during that time, so she was....
Q. Would Todd Johnson have any information about the reimbursed contributions?
A. He might.

PENGAD CO. MUNCIE, IN 47302 (800) 631-6989

Q. What about Jeff Johnson?
A. I doubt it. Perhaps.
Q. He was also working at the Associations during 1988; is that right?
A. Probably towards the end of '88. I don't really remember him working in the old building. In the new building he did.
Q. And what about Randy King? What's your sense of what he knows?
A. If he would know about it? I'm sure he knows about it now. Whether he knew about it at that time, I don't know.
Q. Let me return just briefly to the move and the moving trucks. Do you know who would know what company was used?
A. Bob Johnson would know; Ken Twichell would know. It seems like we moved some of our own things over there. I was thinking about that. And perhaps Tim Cloud moved the computers because he didn't trust the movers to move the computers.

But I know there were some people there who moved -- who did not work with us who moved

PENGAD CO MUNCIE IN 47302 LASER BONDA 95043672182

boxes.

Q. And this would be people who, for example, weren't in the mailroom? They were strangers to you?

A. Right.

MS.REILLY:Okay. At this point I'm going to hand to the court reporter for marking what I think is our last exhibit for today.

[Deposition Exhibit No. 4 was marked for identification and made a part of the record.]

BY MS. REILLY:

Q. I'm going to ask the witness to please take a look at this document.

A. [Reviews document]

Q. Have you had a chance to examine this document?

A. Yes.

Q. This purports to be an eight-page, double-sided -- in some instances double-sided -- collection of checks from the National Association of Real Estate Appraisers.

What I'd like you to do, if you would, please, is turn to the very last page of the

PENGAD CO. MUNCIE, IN 47302 LASER BONDA 950436721683

document. Actually it's Check No. 8690.

A. Yes.

Q. It's a check dated January 25th, 1988, for $2400 made out to E. Kenneth Twichell.

The signature in the lower right part of the page, do you recognize that?

A. It looks like Robert Johnson's signature.

Q. And that's what Mr. Johnson's signature would generally look like, fairly illegible?

A. Yes.

Q. And if you turn to the previous page, page seven, it indicates that Check No. 8690 -- this is a page from the check register -- was for a bonus for January 25th, 1988 for $2400.

If you turn to the next page, previous is six, for Check No. 9470, also a check from the National Association of Real Estate Appraisers dated July 19th, 1988, to E. Kenneth Twichell for $10,000; do you see that?

A. Uh-huh.

Q. The signature on that check, do you recognize it?

A. Robert Johnson's signature.

2504336721834
PENGAD CO. MUNCIE, IN 47302 LASER BONDA

Q. And if you turn one page backwards, I guess, you can see the check register page for that. Do you see the check register for 9470?
A. Yes, uh-huh.
Q. And the purpose for that expense, the $10,000, do you see what that is?
A. It says "moving expense." It says something and then "moving expense." Actually, it looks like it started to say "reimbursement."
Q. It does look like that, doesn't it?
A. Yes.
Q. Did Kenneth Twichell do anything in preparation for the move that in your estimation he would have incurred $10,000 in expenses?
A. No.
Q. If I told you that he had received a sizeable bonus on July 5th for a few thousand dollars, would that indicate to you that this was something other than a bonus?
A. Yes.
BY MS. LERNER:
Q. Let me ask you one question. When you received

PENGAD CO MUNCIE IN 47302 LASER BONDA 950436721 8 5

your checks, for example, a bonus check or reimbursement check, in general, was there some kind of notation in the bottom left-hand corner indicating what it was for?

A. I don't remember there ever being anything except for our paychecks maybe, you know, like a date or something.

BY MS. REILLY:

Q. And that would say the dates for the pay period?

A. I think so, but I don't remember them always having something in that corner.

Q. Once you cashed your paycheck, you didn't have any documentation left, did you?

A. No.

Q. If you would turn to page four of this document, please, Check No. 8815. This is a check to E. Kenneth Twichell dated March 4th, 1988 for $520. It's noted in the bottom left corner of the check as reimbursement for seminar.

Now, the signature on this check, do you recognize that?

A. Well, it says Robert Johnson, but it doesn't look

PENGAD CO. MUNCIE, IN 47302 800-LASERBOND.A 9504367218 6

like his signature.

Q. And if you compare it to the signature on the very last page, page eight, they appear to be very different; is that correct?

A. Yes.

Q. Do you have any idea whose signature this is?

A. No.

Q. And the universe of possibilities would be?

A. His secretary or the receptionist or his wife.

Q. There are no other possible people?

A. Not that I recall, no.

Q. And if you turn to page three of this document, again the check register for Check No. 8815, it says "Seminar Reimbursement." Now this morning you talked a little bit about the fact that occasionally Mr. Johnson would make payments from the corporate till and actually indicate that they were for office supplies or whatever else.

Is it your experience that he would use the category, seminar reimbursement, for something other than seminar reimbursement?

A. I don't know.

PENCAD CO. MUNCIE IN 47302 LASER BONDA 9504367 2 1 8 3 7

Q. And the reason why you don't know is because why?
A. Because I wasn't involved in, number one, the checkwriting; and, number two, I was never given that I recall any type of check that said seminar reimbursement that was either, number one, for seminar reimbursement or, number two, for --to actually reimburse me.
Q. Given your knowledge of Mr. Johnson's business practices as we've discussed them today, would it surprise you that he would use the category of seminar reimbursement for expenses other than seminar expenses?
A. No.
Q. If you could turn to page two of this document, please, which is a check numbered 9093 dated 5-10-88 for $156 made out to E. Kenneth Twichell, also signed by Robert Johnson, indicating for seminar expenses.

The signature at the bottom right, is that Mr. Johnson's?

A. No.
Q. In May of '88 the only people who would be signing

PENGAD CO. MUNCIE, IN 47302 1-800-631-6989
2504367211 8 8

for him would be the receptionist, his secretary or possibly his spouse; is that correct?

A. Right.

Q. And again on the front of this document, the check register appears noting that the $156 is for seminar expenses. That's an odd sum, isn't it?

A. Yes. It is possible that it was for seminar expenses except that I cannot imagine ever -- or at least on a continuing basis for Ken Twichell not to get enough money or a check ahead of time to cover the expenses of his travel. And he didn't travel a lot for the seminars. When he traveled, he would travel with Mr. Johnson. But as far as the seminars went, I traveled more than anybody else did.

Q. And during 1988, roughly, how many trips would you have made? One a month or two a month?

A. Maybe an average of two a month.

Q. So within the range of possibilities, perhaps you went on twenty to twenty-four trips, roughly, given vacation time?

A. Roughly.

PENGAD CO. MUNCIE, IN 47302 (800) LASER BONDA 9504367218 9

Q. And it's your testimony that Ken Twichell would have been advanced sufficient money ahead of time that he shouldn't be seeking reimbursements as a rule?
A. As a rule, I would think that. It's possible that he didn't receive enough money, but he had an American Express; and I know he had cash. So I can't imagine why he would be needing to be reimbursed afterwards.
Q. And Bob Johnson was fairly generous with advancing money; is that correct?
A. Right.
Q. Because you testified it was rare for you to come back without returning money --
A. Right.
Q. -- as opposed to them owing you money.

Can you think of any other reasons why Bob Johnson would be writing checks for seminar expenses, other than seminars?
A. No. I mean, I'm sure -- I can think of a few things, but I don't know why or specifically have an answer as to why he would write these checks

PENGAD CO. MUNCIE IN 47302 (800) 631-6989 9504367219 0

for something other than seminar reimbursement.
Q. But you don't have a lot of confidence in the integrity of his bookkeeping, do you?
A. No.
Q. And other than what we've discussed today, the mailing that went out for the Bush campaign, the $10,000 in reimbursed contributions that were made, was there any other sort of political activity that was going on in the office that you are aware of, either in terms of other mailings for the candidates, other contributions reimbursed, anything else like that?
A. No.
Q. Have you given full and complete answers in your testimony today?
A. Yes.
Q. Do you wish to modify or change any of your answers?
A. No.
Q. Could you tell me how many miles you came today?
A. I believe it was seven miles.
BY MS. LERNER:

PENDAD CO. MUNCIE, IN 47302 LASER BONDA 9504367211

Q. Is there anything else that we haven't gone over that you think is important for us to know?
A. I'm sure I'll think of something after we leave.
MS. REILLY: You can call me.
MS. LERNER: Please call us if you do.
THE WITNESS: Okay. But right now, no.
BY MS. REILLY:
Q. Do you want to make a statement for the record?
A. Well, I can honestly say that I'm pleased that something is being done and that you have all this because he's a very dishonest person and he deserves for justice to be brought up in this case. There's no doubt about it. He thinks he's above the law, and I hope that in the end the truth will come out. And it looks like it is.
MS. REILLY: That will conclude the deposition for today. And what we're going to do it is continue it rather than close it. Essentially what that means is if we should need to come back to town, we wouldn't have to get a new subpoena. The Commission thanks you for your cooperation.

PENGAD CO. MUNCIE IN 47302 LASER BONDA 950436721992

[Discussion off the record.]

MS. REILLY: What we will do is we will go back to the FEC, calculate out the milegae and send you a witness fee check, plus your mileage, which we will put in the mail.

THE WITNESS: Okay.

MS. REILLY: Thank you very much.

[Discussion off the record.]

MS. REILLY: Back on the record.

BY MS. REILLY:

Q. We just wanted to clarify one thing, the $10,000, which was paid to employees, is that an unusual amount of money for a bonus?

A. Yes.

Q. Is it far in excess of the amount of a bonus?

A. In my opinion, yes. I never knew exactly how much other employees were getting for a bonus, but I would think that anything over a couple thousand dollars would be in excess.

MS. REILLY: Thank you.

[Whereupon at 2:30 p.m. the deposition was adjourned.]

PENDAD CO. MUNCIE, IN 47302 LASER BONDA 9504336721923

CORRECTIONS AND SIGNATURE

PAGE/LINE CORRECTION REASON FOR CHANGE

===

____

____

____

____

____

____

____

____

(Attach additional pages if necessary.)

I, PATRICIA CURTIS DAVIDSON, have read the foregoing deposition and hereby affix my signature that same is true and correct, except as noted herein.

____
PATRICIA CURTIS DAVIDSON

STATE OF TEXAS)

Subscribed and sworn to before me by the said witness, PATRICIA CURTIS DAVIDSON, on the _____ day of ___________________, A.D., 1991.

____
Notary Public in and for the
State of Texas.
My Commission expires

PENGAD CO. MUNCIE, IN 47302 LASER BOND A

2504367219 4

STATE OF TEXAS)

I, MARY L. BAGBY, a Certified Shorthand Reporter duly commissioned and qualified in and for the State of Texas, do hereby certify that pursuant to the notice hereinbefore set forth, there came before me on the 22nd day of February, 1991, at 9:00 a.m., at the Conference Room of the Department of Justice, Third Floor, 515 Rusk, Federal Building, Houston, Texas, the following-named person, to wit: PATRICIA CURTIS DAVIDSON, who was by me duly sworn to testify the truth and nothing but the truth of her knowledge touching and concerning the matters in controversy in this cause; and that she was thereupon carefully examined upon her oath and her examination reduced to writing under my supervision; that to the best of my ability the deposition is a true record of the testimony given by the witness, same to be sworn to and subscribed by said witness before any Notary Public, pursuant to the agreement of the parties.

I further certify that I am neither attorney nor counsel for, nor related to or employed by, any of the parties to the action in which this deposition is taken, and further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, or financially interested in the action.

In witness whereof, I have hereunto set my hand this 9th day of March, 1991.

Mary L. Bagby

MARY L. BAGBY, CSR-CVR
6413 Darwood
Fort Worth, Texas 76116
Certificate No. 572

MARY L. BAGBY
Notary Public, State of Texas
Commission Expires Oct. 12, 1993

PENGAD CO. MUNCIE, IN 47302 (800) 631-6989 2504336721295

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

THIS IS THE END OF MUR # 2984

DATE FILMED 7/31/95 CAMERA NO. 1

CAMERAMAN SMH

95043672196

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Date: 5/29/98

✓ Microfilm

_____ Press

THE ATTACHED MATERIAL IS BEING ADDED TO CLOSED MUR 2984

9004300174

FILED
UNITED STATES BANKRUPTCY COURT
DISTRICT OF ARIZONA, PHOENIX DIVISION

MAY 20 1998

KEVIN E. O'BRIEN, CLERK
UNITED STATES
BANKRUPTCY COURT
FOR THE DISTRICT OF ARIZONA

CLOSED

In re:

CLOUD, TIMOTHY MARK
SSN: 318-52-2352

Debtor.

Chapter 13

Case No. 93-11379-PHX-RTB

(MR 2984)

DISCHARGE OF DEBTOR(S)

The debtor(s) having filed a Chapter 13 petition, the court finds that the debtor(s') plan has been confirmed and that the debtor(s) have fulfilled all requirements under the plan. **IT IS ORDERED THAT:**

1. Pursuant to 11 USC §1328(a), the debtor(s) are discharged from all debts provided for by the plan or disallowed under 11 USC §502, except any debt:
(a) provided for under 11 U.S.C. §1322(b)(5) and on which the last payr due after the date on which the final payment under the plan was due;
(b) in the nature of alimony to, maintenance for, or support of a spou former spouse, or child of the debtor in connection with a separation agreement, divorce decree or other order of a court of record, or property settlement agreement, as specified in 11 USC §523(a)(5);
(c) for a student loan or educational benefit overpayment as specified U.S.C. §523(a)(8), in a case commenced on or after November 15, 1990;
(d) for a death or personal injury caused by the debtor(s)' unlawful operation of a motor vehicle while intoxicated from using alcol drug, or another substance, as specified in 11 U.S.C. §523(a)(9), in a case commenced on or after November 15, 1990;
(e) for restitution included in a sentence on the debtor(s)' convictio crime, in a case commenced on or after November 15, 1990; or
(f) for a fine included in a sentence on the debtor(s)' conviction of a in a case commenced on or after October 22, 1994.

2. Pursuant to 11 USC §1328(d), the debtor(s) are not discharged from any debt based on an allowed claim filed under 11 USC §1305(a)(2) if prior approval by the trustee of the debtor('s) incurring such debt was practicable and was not obtained.

3. Notwithstanding the provisions of Title 11, United States Code, the debtor(s) are not discharged from any debt made non-dischargeable by 18 USC §3613(f), by certain provisions of titles 10,37,38,42, and 50 of the United States Code, or by any other applicable provision of law.

4. All creditors are prohibited from attempting to collect any debt that has been discharged in this case.

May 20, 1998

HONORABLE Redfield T. Baum
United States Bankruptcy Judge

27

#01

27 N

328242063 30273