



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 2766

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COMPLAINT BEFORE
THE FEDERAL ELECTION COMMISSION

IN THE MATTER OF)

Auto Dealers and Drivers for Free)
Trade Political Action Committee)
Friends of Connie Mack)
Representative Connie Mack)

MUR No. 2766

The Democratic Senatorial Campaign Committee files this
Complaint challenging violations of the Federal Election
Campaign Act of 1971, as amended ("FECA"), 2 U.S.C. §§ 431
et seq., and related regulations of the Federal Election
Commission ("FEC"), 11 C.F.R. §§ 100.1 et seq., by the Auto
Dealers and Drivers for Free Trade Political Action Committee
("Auto Dealers PAC"), the Friends of Connie Mack ("Mack
Committee"), and Representative Connie Mack (referred to
collectively hereinafter as "Respondents").

I. INTRODUCTION

The Auto Dealers PAC is a "political committee" within the
meaning of Section 431(4) of the FECA, registered with and
reporting to the Federal Election Commission. The Auto Dealers
PAC is now spending monies, in support of the general election
campaign of Representative Mack for the United States Senate,
in the hundreds of thousands of dollars -- well in excess of
the \$5,000 limit for multi-candidate political committees, and
therefore in violation of Section 441a(a)(2) of the FECA.

These expenditures are funding "eleventh-hour" media advertisements in support of the Mack candidacy, virtually on the eve of the General Election.

The Auto Dealers PAC, however, treats these expenditures as "independent", thus free of any contribution limitation under the FECA. Whether the Auto Dealers PAC is able to establish the required "independence" to make such expenditures is, on the available facts, highly questionable; and this question of utmost significance should be investigated immediately. For if these expenditures have not been made independently, the Respondents have committed a significant violation of the lawful contribution limits. 2 U.S.C. § 441a(f). Moreover, in failing to accurately report these contributions, the Auto Dealers PAC has violated § 434(b) of the FECA.

Finally, the Mack Committee appears neither prepared nor able to provide the public disclosure which is mandated by law and necessary to present the voters of Florida with a clear picture of its current activities. The Mack respondents are filing 48-hour reports of contributions received without any legally required identification of the contributors. The Commission should also investigate these violations and bring to bear in this resolution the full penalties of the law.

FACTUAL BACKGROUND

The Auto Dealers PAC is producing and airing television and radio ads in support of or in opposition to several Republican Senate candidates. To date, the PAC has already spent over five hundred thousand dollars which it has reported as "independent" expenditures, and this number increases daily as 24-hour reports filed by the PAC reveal more of the same. The amount it may ultimately spend "independently" could be most substantial, by any measure; the PAC reported cash-on-hand as of September 30 of 3 million dollars.^{1/}

A large share of these independent expenditures, some \$300,000, have been made on behalf of the election campaign of Representative Connie Mack, the Republican Senate candidate in Florida.^{2/} According to FEC records, there are additional and substantial relationships between the PAC and the Mack campaign. The Auto Dealers have retained two key consultants, who are also employed by, and acting as legal agents of, the Mack campaign.^{3/} One such firm, Multi-Media Services Corporation, performs time buying services for both Mack and the

^{1/} Because the Auto Dealers PAC's Pre-election Report was not available at the time this Complaint was prepared, these figures are incomplete and thus do not reveal an accurate summary of all activities.

^{2/} See Exhibit A.

^{3/} See Exhibit B.

PAC; the other, Karl Rove and Company, provides direct mail services for both. These vendors are not mere providers of goods for sale but rather consultants on strategy for both the candidate and the PAC. Their contact with each is not occasional but frequent, and they are positioned to become intimately familiar with the strategies and plans of Mack and the Auto Dealers.

While these consultants assist the PAC with its activities in other areas as well, their common ties to Mack and to the Auto Dealers, when that PAC is active in Florida, present prima facie questions about the "independence" of the PAC's expenditures for Mack. The "total" independence envisioned by the Supreme Court in crafting constitutional protection for this type of expenditure is plainly missing. Buckley v. Valeo, 424 U.S. 1, 47 (1976). These collusive arrangements fail any legal test of independence, including those articulated by the Commission in regulations and Advisory Opinions.

II. THE AUTO DEALERS PAC EXPENDITURES DO NOT MEET THE TEST FOR INDEPENDENCE

Applicable Law

The FECA adopts the definition of "independent expenditure" articulated by the Supreme Court in Buckley v. Valeo, 424 U.S. 1 (1976), that is, any expenditure which: (1) expressly advocates

the election or defeat of a clearly identified candidate; and (2) is made without cooperation or consultation with or at the request or suggestion of any candidate or his authorized committee or agent. 2 U.S.C. 431(17).

While there is no question that the "independent" advertisements authorized and paid for by the Auto Dealers PAC expressly advocate the election of Representative Mack, there is certainly a question whether the PAC has "consulted with" or acted "in cooperation with" the agents of Representative Connie Mack.

"Cooperation" or "consultation" exists if there is any arrangement, coordination or direction by the candidate or his agent prior to the publication, distribution, display or broadcast of the communication." 11 C.F.R. § 109.1(b)(4)(i). (Emphasis added.) Thus any degree of coordination between the group making the expenditures and the candidate (or his agent) at any time prior to the broadcast would defeat the requisite "independence" of the activity.

"Cooperation" or "consultation" is presumed by law if it is based on information about the candidate's plans, projects or needs provided to the expending person by the candidate or his agent. This presumption operates automatically when:

(1) the expenditures are based on information provided by the

candidate or candidate's agent; or (2) the expenditures are made "by or through" a person described in 11 C.F.R. § 109.1(b)(4)(i)(B), who maintains or maintained a working or formal relationship, including a legal "agency relationship", to the candidate or candidate's authorized committee. 11 C.F.R. § 109.1(b)(4)(i). Advisory Opinion 1979-80, 1 Fed. Elec. Camp. Fin. Guide (CCH) ¶ 5469.

Key to the enforcement of these regulations is their focus on the relationship to a candidate's "agents." This follows from the recognition that the avoidance of direct contact with the candidate or official campaign staff cannot be a sufficient standard of independence; such a standard would only encourage indirect contacts with "agents" which are equally destructive to true independence. This "indirect" route has been closed by disallowing coordination or consultation with "agents." See Advisory Opinion 1979-80, supra, at p.10,527 ("Thus, if any agency relationship exists or existed . . . the presumption is that the expenditure is not independent").

An "agent" is defined by regulation as a person who has actual oral or written authority, either express or implied, to make or to authorize the making of expenditures on behalf of a candidate or means any person who has been placed in a position within the campaign organization where it would reasonably appear that in the ordinary course of campaign-related

activities he or she may authorize expenditures. 11 C.F.R. § 109.1(b)(5). Thus, the test to determine whether an agency relationship exists between the candidate and the expending committee is broad and inclusive. Expenditures made based on information from or consultation with an agent of the campaign are presumptively nonindependent, and thus in-kind contributions subject to the limitations of 2 U.S.C. § 441a(a).

The Relationship Between the Auto Dealers PAC and the Mack Committee

Both the media firm Multi-Media Services Corporation, and the direct mail firm, Karl Rove and Company, retained by the Auto Dealers PAC play a central and strategic role in the Mack campaign. In modern campaigns, heavily reliant on media broadcast and direct mail to present their messages to the voters, there are no more important strategists in the campaign than the media and direct mail consultants. This is particularly the case in large, populous states like Florida where personal contact and one-on-one campaigning can only affect a small percentage of the voters.

The Mack Committee has used Multi-Media Services as its principal media time buyer.^{4/} Further, based on the

^{4/} While according to the Mack Committee's FEC reports, media expenditures have been made to First Media Services Corporation, the contracts with the broadcast stations appear to be with Multi-Media Services. This discrepancy

(Footnote continued)

Committee's FEC reports, Karl Rove and Company received almost \$100,000 in September alone from the Mack Committee for direct mail expenditures. See Exhibit C. Both of the firms, authorized to expend funds on behalf of the candidate, constitute "agents" of the Mack campaign under the clear terms of the FEC regulations and relevant Advisory Opinions.

As the Mack Committee's media time buyers, Multi-Media Services is authorized "to make or to authorize the making of expenditures on behalf of a candidate [Mack]," namely, in purchasing time for political advertisements. 11 C.F.R. § 109.1(b)(5), FEC Advisory Opinion 1979-80, supra. In this agency capacity, the firm is aware of, if not responsible for, designing the Mack Committee's media strategy, including the timing, placement and targeting of the ads. It receives in the normal course of its activities critical information about the candidate's campaign message, polling, and other plans. In Advisory Opinion 1979-80, the Commission held in similar circumstances that the mere concurrent use of a media buyer by both the candidate and the independent committee would destroy

(Footnote continued)

- 4/ between the name of the actual agent of the Mack Committee and that of the payee on the Committee's reports raises additional questions regarding the accuracy of the Mack Committee disclosures to the FEC, and perhaps the intent to obscure, if not conceal the common relationship. See Exhibits C and D.

any independence that might have been established, since as a matter of law, the buyer was an "agent" of the candidate.

Here, too, an "agent" of Mack, Multi-Media, is operating as the agent of an independent expenditure group spending on Mack's behalf. This is a prima facie refutation of any claim by the PAC to "independence." The FEC has noted in the case of time buyers in particular:

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". . . if [a] time buyer does go to work for the Republican nominee, the time buyer's continued work for [an independent committee] would compromise [the Committee's] ability to make independent expenditures in opposition to the Democratic candidate. This results from Commission regulation § 109.1(b)(4)(B) and the time buyer's authority to expend funds. If the time buyer volunteers his or her professional service to buy media time, the result would be the same; [the Committee's] ability to make independent expenditures would be compromised if the time buyer works for the Committee while simultaneously doing volunteer service for the Republican nominee."

Advisory Opinion 1979-80.

The same analysis establishes an agency relationship between the direct mail consultant and the candidate. A direct mail firm is authorized to make expenditures in the manner of a legal "agent"; it funds copy preparation, printing and other costs on behalf of its candidate. The Mack Committee's direct mail firm certainly also receives extensive information from the campaign about recent polls, new strategies and messages. As election day approaches and the firm is required to act on

short timetables in light of unfolding events in the campaign, quick decisions and strategies can only be formulated if the firm is intimately familiar with the campaign operations.

During this same period, the Auto Dealers PAC has also developed a close working relationship with these two campaign consulting firms. The PAC has used Multi-Media Services to place ads in Nevada, Wyoming, Mississippi, and California on behalf of the campaigns of Senators Chic Hecht and Malcolm Wallop, Representative Lott, and Senator Pete Wilson. Further, Karl Rove and Company was retained to develop the PAC's direct mail on behalf of Senator Hecht. See Exhibit B.

In light of these established contacts between the "independent" committee making expenditures on behalf of the Mack Committee and agents of the Mack Committee, it is clearly appropriate to inquire immediately whether the Auto Dealers PAC is acting based on information provided by Mack "agents" -- Multi-Media Services or Karl Rove and Company -- which is sufficient to destroy the "independence" of the PAC's efforts.^{5/}

5/ This set of facts distinguishes this matter from MUR 2272, where the General Counsel rejected a challenge to independence based on a political committee's sharing of common vendors with the National Republican Congressional Committee. The General Counsel noted that unlike the PAC in this case, the party committee was not involved in the campaign of the candidate in question. Moreover, none of the vendors qualified or were treated as "agents" under FEC regulations.

According to the regulations, any degree of consultation is sufficient to violate the prohibition on "cooperation" or "consultation" between the committees. 11 C.F.R. 109.1(b)(4) (i). The Supreme Court has also emphasized that any degree of contact would destroy independence, stating that independent expenditures must be made "totally independently of the candidate and his campaign." 424 U.S. at 47. And as the United States District Court noted in the landmark Federal Election Commission v. NCPAC, Fed. Election Camp. Fin. Guide (CCH), ¶ 9239, the question of independence, which is so critical to the enforcement of the law, cannot be resolved by technical distinctions, but only by broad reliance on the "spirit" of the prohibition on collusion ("[The actions of the independent committee] overstep the wording of the Advisory Opinion [1979-80] and contradict its underlying spirit as well".) Federal Election Commission v. NCPAC, supra, at p.51,918. Independence means precisely that and nothing less, and it is not likely to be found in this closely woven web of relationships.^{6/} On the contrary, what is found here is the structure of collusion, recognized for what it is in the law.

It appears unlikely on these facts that, given its considerable interest in assisting Congressman Mack's election

6/ It is also noteworthy that the PAC has contributed directly the maximum allowed by law to the Mack Committee in the general election. See Exhibit E. A Commission investigation should address the nature of any direct contacts between the PAC and the Mack respondents which occurred at the time of this contribution.

campaign (the PAC has already made an expenditure of \$300,000, the largest to date for any candidate), the Auto Dealers PAC has not taken every step to ensure its investment in Florida is as sound and strategically placed as possible. The obvious source of precisely the information most needed about the Mack Committee's plans and strategies are the very firms with which the PAC has regular contact.

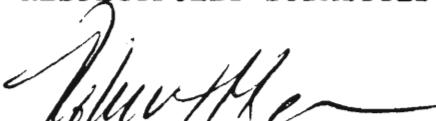
III. THE MACK COMMITTEE HAS VIOLATED FEC REPORTING REQUIREMENTS

The Mack Committee and Representative Connie Mack have demonstrated a total disregard for the reporting requirements under sections 434(b) and 434(a)(6) of the FECA. The Committee has filed 48-hour reports of receipts over \$1,000; the total contributions received during this period has been \$377,550 from over 280 contributors. See Exhibit F. These reports do not list even one address, occupation or employer; nor does the Committee show a good faith effort by, at a minimum, indicating that this contributor information is being sought. These violations of the reporting laws occur at a time when access to accurate and complete contributor information is the most critical. The majority of voters are making their decisions on which candidates to vote for and the media is attempting to provide the most accurate information on candidates running for office. The Mack Committee, by concealing information essential to adequate reporting, is misleading those on whose support it is relying.

IV. CONCLUSION

On the basis of the foregoing, the Complainant requests that the FEC: (1) conduct an expedited investigation of the facts and legal conclusions stated in this Complaint; (2) seek injunctive relief in the appropriate district court of the United States in the State of Florida to prevent further and continuing violations of the Act; (3) enter into prompt conciliation with Respondents to remedy the violation alleged in this complaint and, most importantly, to ensure that no further violations occur; and (4) impose any and all penalties grounded in violations alleged in this Complaint.

RESPECTFULLY SUBMITTED,



Robert F. Bauer, General Counsel
B. Holly Schadler, Counsel
Democratic Senatorial Campaign
Committee
430 South Capitol Street, S.E.
Washington, DC 20003
(202) 244-2447

DISTRICT OF COLUMBIA ss:

SUBSCRIBED AND SWORN BEFORE ME
ON THIS 3rd DAY OF November, 1988.


NOTARY PUBLIC

Notary Commission Expires June 30, 1993

ITEMIZED INDEPENDENT EXPENDITURE

Pages

(1000 MILEWICZ BOSTON INVESTIGATORS) Inc.

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Name of Committee (in Full)

Auto Dealers & Drivers for Free Trade H.D.
PAC

CO0141903

Full Name, Mailing Address & ZIP Code of Each Payee	Purpose of Expenditure	Date (month, day, year)	Amount	Name of Federal Candidate supported or opposed by the expenditure & office sought
Lambert Dale Advertising 1515 Broadway New York, NY 10036	Media- Time Buy	10/31/88	\$100,000.00	Rep. Connie Mack U.S. Senate Florida <input checked="" type="checkbox"/> Support <input type="checkbox"/> Oppose
Karl Rove + Co. P.O. Box 1902 Austin, TX 78767	Direct Mail	10/31/88	\$ 81,816.50	Sen. Chic Hecht U.S. Senate Nevada <input checked="" type="checkbox"/> Support <input type="checkbox"/> Oppose
				<input type="checkbox"/> Support <input type="checkbox"/> Oppose
				<input type="checkbox"/> Support <input type="checkbox"/> Oppose
				<input type="checkbox"/> Support <input type="checkbox"/> Oppose
				<input type="checkbox"/> Support <input type="checkbox"/> Oppose
				<input type="checkbox"/> Support <input type="checkbox"/> Oppose
				<input type="checkbox"/> Support <input type="checkbox"/> Oppose
(a) SUBTOTAL of Itemized Independent Expenditures			\$ 181,816.50	
(b) SUBTOTAL of Unauthorized Independent Expenditures			\$ _____	
(c) TOTAL Independent Expenditures			\$ 181,816.50	

Under penalty of perjury I certify that the independent expenditures reported herein were not made in cooperation, consultation, concert with, or at the request or suggestion of any candidate or any authorized committee or agent of such candidate or authorized committee. Furthermore, these expenditures did not involve the financing of dissemination, distribution, or republication in whole or in part of any campaign materials prepared by the candidate, his campaign committee, or their agent.

10/31/88

Date

Subscribed and sworn to before me this 31st day of
OCTOBER, 1988
 MARGARET ANN HOTTI
 Commissioner of Deeds #3-3247
 Certified in Bronx County
 Commission Expires May 1st, 1991 MARY ELIZABETH

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**FEDERAL ELECTION COMMISSION
POLL AUDITED ITEMIZED INDEPENDENT EXPENDITURES**

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Star Recovery Status for Instrumentation

Under Article 6(2)(b) of the Convention, the independent examinations carried out must not make a decision on constitutionality conduct alone or on the request or suggestion of one candidate or one authorized committee or agent of such candidate or authorized committee. Furthermore, these examinations did not involve the licensing or disqualification distribution or revocation in whole or in part of any documents or certificates prepared by the candidate his examination committee or his agents.

Author: Bob Kroll **Author's Note:** The following text was written prior to the

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SCHEDULE C

EXHIBIT B

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Page _____ of _____ Pages

ITEMIZED INDEPENDENT EXPENDITURES

Auto Dealers & Drivers for Free Trade PAC

Name of Committee (or PAC)	I.D. No.			
Auto Dealers & Drivers for Free Trade PAC	C00141903			
Full Name, Mailing Address & ZIP Code of Each Payee	Method of Expenditure	Date (MM/DD/YY)	Amount	Method of Payment (check if received or disbursed by mail, telephone & office bought)
Moore Information Services 1133 S.W. Market Street Portland, OR 97201	Polling	10/13/88	18,170.00	Sen. Pete Wilson U.S. Senate California <input checked="" type="checkbox"/> Senator <input type="checkbox"/> Overseas
Moore Information Services 1133 S.W. Market Street Portland, OR 97201	Polling	10/18/88	9,350.00	Sen. Malcolm Wallop U.S. Senate Wyoming <input type="checkbox"/> Senator <input checked="" type="checkbox"/> Overseas
Multi-Media Services 801 N. Fairfax Street ← Alexandria, VA 22314	Media-Time Buy	10/17/88	152,788.50	Sen. Chic Hecht U.S. Senate Nevada <input checked="" type="checkbox"/> Senator <input type="checkbox"/> Overseas
Multi-Media Services 801 N. Fairfax Street ← Alexandria, VA 22314	Media-Time Buy	10/19/88	393,151.50	Rep. Trent Lott U.S. Senate Mississippi <input type="checkbox"/> Senator <input checked="" type="checkbox"/> Overseas
Multi-Media Services 801 N. Fairfax Street ← Alexandria, VA 22314	Media-Time Buy	10/19/88	193,720.50	Sen. Pete Wilson U.S. Senate California <input checked="" type="checkbox"/> Senator <input type="checkbox"/> Overseas
Raiford Communications 928 Broadway New York, N.Y. 10010	Production	10/12/88	16,500.00	Sen. Chic Hecht U.S. Senate Nevada <input type="checkbox"/> Senator <input checked="" type="checkbox"/> Overseas
Subtotal of Itemized Independent Expenditures			\$ 693,680.50	
Subtotal of Unauthorized Independent Expenditures			\$ 8	
Total Independent Expenditures			\$ 693,680.50	

Under penalty of perjury I certify that the independent expenditures reported herein were not made in coordination, consultation, concert with, or at the request or suggestion of any candidate or any authorized committee or agent of such candidate or authorized committee. Furthermore these expenditures did not involve the financing of dissemination distribution, or mobilization in whole or in part of any campaign materials prepared by the candidate, his campaign committee, or their agents.

10/19/88
Date

Subscribed and sworn to before me this 19 day of

OCTOBER 1988

At Washington, D.C.

Notary Public

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FEDERAL ELECTIONS COMMISSION
FALL 1974 **ITEMIZED INDEPENDENT EXPENDITURES**

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[View Previous Posts for This Discussion](#)

Page 1 of 1 Pages

Under penalty of perjury I certify that the independent expenditures recorded herein were not made in cooperation, consultation, concert with or at the request or suggestion of any candidate or any authorized committee or agent of such candidate or authorized committee. Furthermore, these expenditures did not involve the financing of dissemination, distribution, or reproduction on a website or in part of any communication(s) prepared by the candidate, his campaign committee, or their agents.

Submitted and sworn to before me this _____ day of

October 10, 55

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NOTA 97 PUBLIC

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FEDERAL ELECTION COMMISSION
ITEMIZED INDEPENDENT EXPENDITURES**

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Page 1 of 1 Pages

(See Reverse Side for Instructions)

Name of Committee (or PAC)	P.O. No.			
Auto Dealers & Drivers for Free Trade PAC	C00141903			
Full Name, Mailing Address & ZIP Code of Each Person	Purpose of Expenditure	Date incurred, day, year	Amount	Name of Federal C. -- who supported or opposed by the expenditure & office sought
Karl Rove + Co. P.O. Box 1902 Austin, TX 78767 ←	Direct Mail	10/21/88	\$35,350.00	Sen. Chic Hecht U.S. Senate Nevada <input checked="" type="checkbox"/> Support <input type="checkbox"/> Oppose
Praxis List Co. P.O. Box 2352 Austin, TX 78768	List Rental	10/21/88	\$ 6,850.73	Sen. Chic Hecht U.S. Senate Nevada <input checked="" type="checkbox"/> Support <input type="checkbox"/> Oppose
Prime Lists and Mailing E. 92nd Street York, NY 10128	Direct Mail	10/21/88	\$35,000.00	Rep. Richard Stallings U.S. House of Reps. ID-02 <input checked="" type="checkbox"/> Support <input type="checkbox"/> Oppose
Prime Lists and Mailing 245 E. 92nd Street New York, NY 10128	Direct Mail	10/21/88	\$70,000.00	Rep. David Skaggs U.S. House of Reps. CO-02 <input checked="" type="checkbox"/> Support <input type="checkbox"/> Oppose
				<input type="checkbox"/> Support <input type="checkbox"/> Oppose
				<input type="checkbox"/> Support <input type="checkbox"/> Oppose
				<input type="checkbox"/> Support <input type="checkbox"/> Oppose

a) SUBTOTAL of Itemized Independent Expenditures

\$ 147,200.73

b) SUBTOTAL of Unitemized Independent Expenditures

\$ -0-

c) TOTAL Independent Expenditures

\$ 147,200.73

I, [Signature], certify that the independent expenditures recorded herein were not made in coordination consultation, concert with, or at the request or suggestion of any candidate or any authorized committee or agent of any candidate or authorized committee. Furthermore, these expenditures did not aid in the financing or dissemination distribution of communication in any form or part of any campaign material prepared by the candidate, his campaign committee or their agents.

Signature

10/21/88

Date

Subscribed and sworn to before me this _____ day of

Oct 21, 1988

My Commission Expires

10/21/88

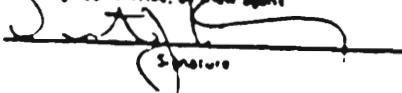
NOTARY PUBLIC

ITEMIZED INDEPENDENT EXPENDITURES

Page 2 of 3 PagesSee Reverse Side for Instructions

Name of Committee (or PAC)	I.D. No.			
Auto Dealers & Drivers for Free Trade PAC	C00141903			
Full Name, Mailing Address & ZIP Code of Each Payee	Purpose of Expenditure	Date Expend. Occurred, Mo. Year	Amount	Name of Federal Candidate Supported or Opposed by the Expenditure & Other Details
Larry McCarthy 108 9th Street, S.E. Washington, DC 20003	Creative	10/25/88	5,500.00	Sen. Malcolm Wallop U.S. Senate Wyoming <input checked="" type="checkbox"/> Success <input type="checkbox"/> Oppose
Larry McCarthy 108 9th Street, S.E. Washington, DC 20003	Creative	10/25/88	3,500.00	Rep. Trent Lott U.S. Senate Mississippi <input checked="" type="checkbox"/> Success <input type="checkbox"/> Oppose
Larry McCarthy 108 9th Street, S.E. Washington, DC 20003	Creative	10/25/88	3,500.00	Sen. Pete Wilson U.S. Senate California <input checked="" type="checkbox"/> Success <input type="checkbox"/> Oppose
Karl Rove & Co. P.O. Box 1902 Austin, TX 78767	Direct Mail	10/25/88	5,814.75	Sen. Chic Hecht U.S. Senate Nevada <input checked="" type="checkbox"/> Success <input type="checkbox"/> Oppose
Moore Information 1133 S.W. Market Street Portland, OR 97201	Polling	10/25/88	11,550.00	Rep. Connie Mack U.S. Senate Florida <input checked="" type="checkbox"/> Success <input type="checkbox"/> Oppose
Moore Information 1133 S.W. Market Street Portland, OR 97201	Polling	10/25/88	5,150.00	Sen. Chic Hecht U.S. Senate Nevada <input checked="" type="checkbox"/> Success <input type="checkbox"/> Oppose
(b) SUBTOTAL of Itemized Independent Expenditures			35,014.75	
(b) SUBTOTAL of Unitemized Independent Expenditures			8	
(b) TD. AL. Independent Expenditures			8	35,014.75

Under penalty of perjury I certify that the independent expenditures reported herein were not made in coordination, consultation, concert with, or at the request or suggestion of any candidate or any authorized committee or agent of such candidate or authorized committee. Furthermore, these expenditures did not involve the financing of dissemination, distribution, or reproduction where or in part of any campaign materials prepared by the candidate, his campaign committee, or their agents.


Signature

10/25/88
Date

Subscribed and sworn to before me this 25 day of
OCTOBER, 1988

My Commission expires
11/1/88


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ITEMIZED INDEPENDENT EXPENDITURES

Page 1 of 1 Pages

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Name of Committee (in Full)		I.D. No.		
Auto Dealers & Drivers for Free Trade PAC	HAND DELIVERED TO	C00141903		
Lambert Dale Advertising 1515 Broadway New York, NY 10036	Media- Time Buy	10/31/88	\$100,000.00	Rep. Connie Mack U.S. Senate Florida <input checked="" type="checkbox"/> Support <input type="checkbox"/> Oppose
Karl Rove + Co. P.O. Box 1902 Austin, TX 78767 ←	Direct Mail	10/31/88	\$ 81,816.50	Sen. Chic Hecht U.S. Senate Nevada <input checked="" type="checkbox"/> Support <input type="checkbox"/> Oppose
				<input type="checkbox"/> Support <input type="checkbox"/> Oppose
				<input type="checkbox"/> Support <input type="checkbox"/> Oppose
				<input type="checkbox"/> Support <input type="checkbox"/> Oppose
				<input type="checkbox"/> Support <input type="checkbox"/> Oppose
				<input type="checkbox"/> Support <input type="checkbox"/> Oppose
(a) SUBTOTAL of Itemized Independent Expenditures			\$ 181,816.50	
(b) SUBTOTAL of Unitemized Independent Expenditures			\$	
(c) TOTAL Independent Expenditures			\$ 181,816.50	

Under penalty of perjury I certify that the independent expenditures reported herein were not made in cooperation, consultation, concert with, or at the request or suggestion of any candidate or any authorized committee or agent of such candidate or authorized committee. Furthermore, these expenditures did not involve the financing of dissemination, distribution, or republication in whole or in part of any campaign materials prepared by the candidate, his campaign committee, or their agent.

Signature

10/31/88

Date

Subscribed and sworn to before me this 31st day of
OCTober, 1988MARGARET A. FOOTE
Commissioner of Deeds #3-3247
Certified in Broward County
Commission Expires May 1st, 1993*M.A. Foote*

SCHEDULE E

ITEMIZED INDEPENDENT EXPENDITURES

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HAND DELIVERED

Name of Committee (in Full)	I.D. No.			
Auto Dealers & Drivers for Free Trade PAC	C00141903			
Full Name, Mailing Address & ZIP Code of Each Payee	Purpose of Expenditure	Date (month, day, year)	Amount	Name of Federal Candidate Supported or Opposed by the Expenditure & Other Information
Multi-Media Services 801 North Fairfax Street Alexandria, VA 22314 ←	Media-Time Buy	11/1/88	\$27,035.00	Sen. Malcolm Wallop U.S. Senate Wyoming
				<input checked="" type="checkbox"/> Support <input type="checkbox"/> Oppose
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				<input type="checkbox"/> Support <input type="checkbox"/> Oppose
				<input type="checkbox"/> Support <input type="checkbox"/> Oppose
(a) SUBTOTAL of Itemized Independent Expenditures	\$ 27,035.00			
(b) SUBTOTAL of Unitemized Independent Expenditures	\$ _____			
(c) TOTAL Independent Expenditures	\$ 27,035.00			

Under penalty of perjury I certify that the independent expenditures reported herein were not made in cooperation, consultation, concert with, or at the request or suggestion of any candidate or any authorized committee or agent of such candidate or authorized committee. Furthermore, these expenditures did not involve the financing, dissemination, distribution, or republication whole or in part, of any campaign materials prepared by the candidate, his campaign committee, or their agent.

Signature

11/1/88

Date

Subscribed and sworn to before me this 1, 51 day of

November, 1988

VIMF Edition No. 5071
Commissioner of Deeds #33247
Certified in Prince County 90
Commission Expires May 24, 1990

NOTARY PUBLIC

V.A. Birt.

SCHEDULE B

ITEMIZED DISBURSEMENTS

Use separate schedule(s)
for each category of the
Detailed Summary Page

PAGE 1 OF 37

FOR LINE NUMBER 17

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

NAME OF COMMITTEE (in Full)

FRIENDS OF CONNIE MACK

A. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
Ramada Hotel Airport P. O. Box 06957 Ft. Myers, FL 33906	travel Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	8/19/88	239.16
B. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
Radisson Plaza Hotel 60 S. Ivanhoe Blvd. Orlando, FL 32804	travel Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	8/19/88	186.00
C. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
Miami Airport Hilton & Marina 5101 Blue Lagoon Dr. Miami, FL 33126	travel Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	8/19/88	185.82
D. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
Jack Mowell 5125 Tampa West Blvd. Tampa, FL 33634	travel Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	8/19/88	404.00
E. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
Kentucky Fried Chicken 951 S. Federal Highway Stuart, FL 34994	reception expense Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	8/19/88	1,095.00
F. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
Michelle Rubin 6150 Amberwoods Dr. Boca Raton, FL 33433	professional services Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	8/19/88	1,002.55
G. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
Adolfo Lantigua 4230 S.W. 108th Ave. Miami, FL 33165	travel Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	8/19/88	432.11
H. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
General Development Corp. 1111 S. Bayshore Drive Miami, FL 33131	travel Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	8/19/88	3,481.00
I. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
First Media Services Corp. McLean, VA	media services Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	8/19/88	95,889.03

SUBTOTAL of Disbursements This Page (optional)

TOTAL This Period (last page this line number only)

SCHEDULE B

ITEMIZED DISBURSEMENTS

Use separate schedule(s)
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Detailed Summary Page

PAGE OF
5 37
FOR LINE NUMBER
17

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NAME OF COMMITTEE (in Full)

FRIENDS OF CONNIE MACK

A. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
United Telephone Co. of Fla. P. O. Box 370 Ft. Myers, FL 33904	telephone Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	8/23/88	222.90
B. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
Triple J Air Charter P. O. Box 30383 Tampa, FL 33630	travel Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	8/24/88	597.00
C. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
ComCar Industries, Inc. P. O. Drawer 67 Auburndale, FL 33823	travel Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	8/24/88	1,125.00
D. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
First Media Services Corp. McLean, VA	media services Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	8/24/88	80,746.03
E. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
Orlando Airport Marriott 7499 Augusta National Dr. Orlando, FL 32822	meeting expense Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	8/25/88	208.71
F. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
RMRS System P. O. Box 7150M St. Louis, MO 63195	postage Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	8/26/88	2,500.00
G. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
U. S. Postmaster Tampa, FL 33601	postage Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	8/26/88	1,250.00
H. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
Delores Shea 30 Primrose Court Marco Island FL 33937	reception exp.-in kind Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	8/26/88	300.00
I. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
Thomas Shea 30 Primrose Court Marco Island FL 33937	reception exp.-in kind Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	8/26/88	300.00

SUBTOTAL of Disbursements This Page (optional)

TOTAL This Period (last page this line number only)

SCHEDULE B

ITEMIZED DISBURSEMENTS

Use separate schedule(s)
for each category of the
Detailed Summary Page

PAGE OF

13 37

FOR LINE NUMBER

17

on for the purpose of soliciting contributions or for commercial
purposes, other than using the name and address of any person.

NAME OF COMMITTEE (in Full)

FRIENDS OF CONNIE MACK

A. Full Name, Mailing Address and ZIP Code

Karl Rove & Company
1609 Shoal Creek Blvd.
Austin, TX 78701



Primary General

... (specify)

Date (month,
day, year)

9/01/88

Amount of Each
Disbursement This Period

25,000.00

B. Full Name, Mailing Address and ZIP Code

Blackwell Stieglitz
25 W. Flagler St.
Miami, FL 33130

Purpose of Disbursement

reception exp.-in kind

Disbursement for: Primary General
 Other (specify)

Date (month,
day, year)

9/01/88

Amount of Each
Disbursement This Period

216.25

C. Full Name, Mailing Address and ZIP Code

Curtis Carlson
25 W. Flagler St.
Miami, FL 33130

Purpose of Disbursement

reception exp.-in kind

Disbursement for: Primary General
 Other (specify)

Date (month,
day, year)

9/01/88

Amount of Each
Disbursement This Period

216.25

D. Full Name, Mailing Address and ZIP Code

John C. Strickroot
1240 Blue Road
Coral Gables FL 33146

Purpose of Disbursement

reception exp.-in kind

Disbursement for: Primary General
 Other (specify)

Date (month,
day, year)

9/01/88

Amount of Each
Disbursement This Period

216.25

E. Full Name, Mailing Address and ZIP Code

Robert N. Allen, Jr.
25 W. Flagler St.
Miami, FL 33130

Purpose of Disbursement

reception exp.-in kind

Disbursement for: Primary General
 Other (specify)

Date (month,
day, year)

9/01/88

Amount of Each
Disbursement This Period

216.25

F. Full Name, Mailing Address and ZIP Code

Brown's Trophies, Inc.
P. O. Box 13214
Tampa, FL 33611

Purpose of Disbursement

specialty advertising

Disbursement for: Primary General
 Other (specify)

Date (month,
day, year)

9/02/88

Amount of Each
Disbursement This Period

651.90

G. Full Name, Mailing Address and ZIP Code

First Florida Bank
P. O. Box 1810
Tampa, FL 33601

Purpose of Disbursement

payroll taxes

Disbursement for: Primary General
 Other (specify)

Date (month,
day, year)

9/06/88

Amount of Each
Disbursement This Period

4,598.06

H. Full Name, Mailing Address and ZIP Code

Alfredo Zayden
601 S. Miami Ave.
Miami, FL 33130

Purpose of Disbursement

equipment rental

Disbursement for: Primary General
 Other (specify)

Date (month,
day, year)

9/06/88

Amount of Each
Disbursement This Period

800.00

I. Full Name, Mailing Address and ZIP Code

Alamo Jet, Inc.
12689 New Brittany Blvd.
Ft. Myers, FL 33907

Purpose of Disbursement

travel

Disbursement for: Primary General
 Other (specify)

Date (month,
day, year)

9/06/88

Amount of Each
Disbursement This Period

2,486.00

SUBTOTAL of Disbursements This Page (optional)

TOTAL This Period (last page this line number only)

SCHEDULE B

ITEMIZED DISBURSEMENTS

Use separate schedule(s)
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Detailed Summary Page

PAGE OF
14 37
FOR LINE NUMBER
17

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NAME OF COMMITTEE (in Full)

FRIENDS OF CONNIE MACK

A. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
General Development Corp. 1111 S. Bayshore Drive Miami, FL 33131	travel Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input checked="" type="checkbox"/> Other (specify)	9/06/88	1,004.00
Praxis List Company P. O. Box 2352 Austin, TX 78768	direct mail expense Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input checked="" type="checkbox"/> Other (specify)	9/06/88	15,268.24
Karl Rove & Company 1609 Shoal Creek Blvd. Austin, TX 78701	direct mail expense Disbursement for: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input checked="" type="checkbox"/> Other (specify)	9/07/88	42,319.94
RMRS System P. O. Bpx 7150M St. Louis, MO 63195	postage Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input checked="" type="checkbox"/> Other (specify)	9/08/88	2,500.00
U. S. Postmaster Tampa, FL 33601	postage Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input checked="" type="checkbox"/> Other (specify)	9/08/88	2,500.00
Sheraton Maitland Hotel P. O. Box 6300 Orlando, FL 32853	meeting expense Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input checked="" type="checkbox"/> Other (specify)	9/08/88	124.14
Arthur J. Finklestein & Assoc. 16 N. Astor Irving, NY 10533	polling Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input checked="" type="checkbox"/> Other (specify)	9/08/88	33,987.84
Michelle Rubin 6150 Amberwoods Dr. Boca Raton, FL 33433	professional services Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input checked="" type="checkbox"/> Other (specify)	9/09/88	1,079.81
J. G. M. Enterprises 175 Fountainebleau, #2H6 Miami, FL 33172	travel Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input checked="" type="checkbox"/> Other (specify)	9/09/88	2,393.25

SUBTOTAL of Disbursements This Page (optional)

TOTAL This Period (last page this line number only)



AGREEMENT FORM FOR POLITICAL BROADCASTS

STATION AND LOCATION WPTV-TV, West Palm Beach, Fl 11-2 10.88
 (check) In behalf of Connie Mack

a legally qualified candidate of the Republican political party for the office of Senate

In the General election to be held on 11-8-88, do hereby request station time as follows:

LENGTH OF BROADCAST NOTE DAYS TIMES PER WEEK TOTAL NO WEEKS RATE

See Attached

A. L. Mack Jr.

DATE OF FIRST BROADCAST	DATE OF LAST BROADCAST	Total Charges:
<u>11-3-88</u>	<u>11-7-88</u>	<u>9,953.00</u>
		<u>1/1988</u>
		<u>ca. 260.05</u>

The broadcast time will be used by Connie Mack. I represent that the advance payment for the above-described broadcast time has been furnished by At. for by Connie Mack for Senate.

and you are authorized to so describe that sponsor in your log and to announce the program as paid for by such person or entity. The entity furnishing the payment, if other than an individual person, is a corporation, a committee, an association, or other unincorporated group. The names and offices of the chief executive officers of the entity are Robert Workers.

It is my understanding that, if the time is to be used by the candidate himself within 45 days of a primary or primary runoff election, or within 60 days of a general or special election, the above charges represent the lowest unit charge of the station for the same class and amount of time for the same period. Where the use is by a person or entity other than the candidate or by the candidate but outside the aforementioned 45 or 60 day periods, the above charges do not exceed the charges made for comparable use of such station by other users.

It is agreed that use of the station for the above-stated purposes will be governed by the Communications Act of 1934, as amended, and the FCC's rules and regulations, particularly those provisions reprinted on the back hereof, which I have read and understand. I further agree to indemnify and hold harmless the station for any damages or liability that may ensue from the performance of the above-stated broadcasts. For the above-stated broadcasts I also agree to prepare a script or transcription, which will be delivered to the station at least _____ before the time of the scheduled broadcasts. (Note: the two preceding sentences are not applicable if the candidate is personally using the time).

Date: _____

(Candidate, Supporter or Agent)

Accepted)
Rejected)

Oscar S. Almeida

Title: Mgr.,政治-Sales Operation

This application, whether accepted or rejected, will be available for public inspection for a period of two years in accordance with FCC regulations (Sections 73.1526 and 73.194(d).)

WPTV 5

P.O. BOX 810, PALM BEACH, FLORIDA 33480
 PHONE: (305) 868-6468 TWX: (610) 882-7808
 A SCRIPPS HOWARD TELEVISION STATION

- SEC I - NON-PREEMPTIBLE
- SEC II - TWO WEEKS NOTICE
- SEC III - IMMEDIATE PREEMPTION
- ROS - IMMEDIATE PREEMPTION
NO AT STATION DISCRETION

SPOT TELEVISION CONFIRMATION/CONTRACT

AGENCY ADDRESS MULTI MEDIA ADU 801 N. FAIRFAX ST., STE 312 ALEXANDRIA, VA 22314		BIN NUMBER 811101-000083 11 1 2	DATE 11/02/88 615315B PAGE
		ADVERTISER CT99 RT99	STATION/MARKET POLICUNNIE MACK FOR SENATE-TV PALM BEACH, FL PRODUCT REPUBLICAN CONTRACT YEAR
FOR STATION USE 974		CANCELLATION NOTICE REQUIRED AS EARNED/BLANKET	SALESMAN/OFFICE PHIL/ RIZZUTO, DEE CONFlict CODE <input type="checkbox"/> 974 MANUFACTURER NUMBER <input type="checkbox"/>
START DATE 11/02/00	END DATE 11/07/00	BILLING WEEKS TH 1	RATE CARD 1F.
			FUTURE RATE CARD NU EFFECTIVE

LINE NO.	DAYS	TIME		TYPE	EFFECTIVE DATES	CLASS	SEC.	FREQ. SPOTS OR PER PLAN	SPOTS PER WEEK	EARNED RATE/SPOT
		FROM	TO							
INVOICE COMMENTS DISC1 PD FOR BY CUNNIE MACK FOR SENATE TREABI ROBERT WATKINS.										
1	TH-F,M	638A	900A	10	11/03-11/07		1		3	20000
2	TH-F,M	1138A	227P	10	11/03-11/07		1		3	12500
6	TH-F,M	358P	437P	10	11/03-11/07		1		3	20000
3	TH-F,M	558P	630P	10	11/03-11/07		1		3	46300
4	TH-F,M	1101P	1130P	10	11/03-11/07		1		3	47500
7	TH-F,M	1130P	1230A	10	11/03-11/07		1		3	16300
10	SA	558P	630P	10	11/03		1		1	22500
9	SA	658P	757P	10	11/03		1		1	15000
5	SA	858P	1000P	10	11/03		1		1	1,40000
11	SA	1101P	1130P	10	11/03		1		1	37500
13	SA	1130P	100A	30	11/03		1		1	12500
12	SU	858P	100P	10	11/06		1		1	1,10000
NOV-BR 7,953.00										

NOTES:
 *TIMES LISTED REPRESENT PROGRAMMING AND/OR ADJACENCIES AS DECLARED AT TIME OF SALE. PROGRAMS RUNNING LATER BECAUSE OF NETWORK CHANGES WILL HOLD THE SAME RATE.

PLEASE READ ENTIRE CONTRACT BEFORE SIGNING

SALES FILE

PRODUCTION AT STANDARD STA
RIES AS PUBLISHED.
ILLED SEPARATELY



APPROVED FOR WPTV

WPTV 5

P.O. BOX 810, PALM BEACH, FLORIDA 33480
PHONE: (305) 669-8466 TWX: (510) 662-7800

SPOT TELEVISION CONFIRMATION/CONTRACT

SEC I	- NON-PREEMPTIBLE
SEC II	- TWO WEEKS NOTICE
SEC III	- IMMEDIATE PREEMPTION
ROB	- IMMEDIATE PREEMPTION NO AT STATION DISCRETION

NOTE: TIMES LISTED REPRESENT PROGRAMMING AND/OR ADJACENCIES AS DECLARED AT TIME OF BALE PROGRAMS RUNNING LATER BECAUSE OF NETWORK CHANGES WILL HOLD THE SAME RATE.

PLEASE READ ENTIRE CONTRACT BEFORE SIGNING

SALVO FILE

PRODUCTION AT STANDARD STATION
DATES AS PUBLISHED.
RECORD SEPARATELY

APPROVED FOR MPV

COMPAINT FINANCE SYSTEM

Not Before 10-16-1988

(100) Auto Dealers & Drivers PAC

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Name-Address/Purpose of Disbursement/Date-Amount This Period/Election
for the period 09-01-88 thru 09-30-88 Over \$200 TTB TYPE: C

Hyden for Congress P.O. Box 12673	100-00973-C	09-12-88	650.00	General
Portland, OR 97212	CR-3			
	Year to date: \$2,000.00			
Slade Gorton for Senate 500 Wall Street #621	100-01037-C	09-16-88	5,000.00	General
Seattle, WA 98121	WA Senate			
	Year to date: \$10,000.00			
Democratic Congressional Campaign Committee 430 South Capitol Street Washington, DC 20003	100-01113-C	09-08-88	5,000.00	
	Year to date: \$5,000.00			
Donforth for Senate 755 New Bellas Road South Suite 280 St. Louis, MO 63141	100-01176-C	09-16-88	5,000.00	General
	MO Senate			
	Year to date: \$5,000.00			
Friends of Dick Lugar P.O. Box 44081	100-01177-C	09-16-88	3,000.00	General
	IN Senate			
	Year to date: \$5,000.00			
Both Senate Committee P.O. Box 105	100-01195-C	09-16-88	5,000.00	General
	DE Senate			
	Year to date: \$8,000.00			
Hatch Election Committee 640 1st Street, NW Suite 600 Washington, DC 20001	100-01196-C	09-16-88	5,000.00	General
	UT Senate			
	Year to date: \$5,000.00			
Friends of Connie Mack P.O. Box 1180	100-01198-C	09-16-88	5,000.00	General
	FL Senate			
	Year to date: \$9,000.00			

Page Total 833,650.00

ROBERT WATKINS AND CO - R KIMS
610 SOUTH BLVD SUITE 100
TAMPA FL 33607 01AM

Western Union Mailgram



4-0390438306 11/01/88 ICS IPMMTZZ CSP WHBB
5132543369 MGMB TDMT TAMPA FL 250 11-01 0624P EST

HAND DELIVERED

RECEIVED
SECRETARY OF THE SENATE
MAIL

11/01/88 - 2 AM 9 13

► SECRETARY OF THE SENATE
OFFICE OF PUBLIC RECORDS
232 HART SENATE OFFICE BUILDING
WASHINGTON DC 20510

THE FOLLOWING CONTRIBUTIONS WERE RECEIVED ON OCTOBER 28
 1 SOUTHERN BELL FEDERAL PAC \$3,000
 2 MARK SANFORD \$3,000
 3 LITTON EMPLOYEES POLITICAL ASSISTANCE COMMITTEE \$2,000
 4 LISA M CORNWALL \$2,000
 5 SPAMELA H FAIGIN \$2,000
 6 BURL C BURNHAM \$2,000
 7 SMAC-PAC \$2,000
 8 ADM PAC \$2,000
 9 CABOT SEDGWICK \$1,000
 10 SARA L O'BRIEN \$1,000
 11 J ALBERT BURNETT \$1,000
 12 RONALD H FOSTER \$1,000
 13 WILLIAM P HARRIS \$1,000
 14 C HERMAN TERRY \$1,000
 15 USA STONEPAC \$1,000
 16 JOHN D BAKER II \$1,000
 17 FLORIDA ROCK GOOD GOVERNMENT COMMITTEE \$1,000
 18 WAYLAND T COPPEDGE JR \$1,000
 19 J RICHARD BAKER SR \$1,000
 20 MRS WILLIAM A READ JR \$1,000
 21 LLOYD H SMITH \$1,000
 22 KENNETH J SCHWARTZ \$1,000
 23 D O ANDREAS \$1,000
 24 MRS D INEZ ANDREAS \$1,000
 25 R JAMES MACALEER \$1,000
 26 HUYT R BARNETT \$1,000
 27 HOWARD M JENKINS \$1,000
 28 NORMAN FREIUKIN \$1,000
 29 MICHAEL D EPSTEIN \$1,000
 30 CUNAGRA GOOD GOVERNMENT ASSOCIATION \$1,000
 31 KIMBERLY H SPIRO \$1,000
 32 DONALD W SPIRO \$1,000
 33 EVELYN M SPIRO \$1,000
 34 CURYLEE J SPIRO \$1,000
 35 CURYLEE J SPIRO \$1,000
 36 DONALD TORESCO \$1,000
 37 BARBARA L DEMARCO \$1,000
 38 J GARFIELD DEMARCO \$1,000
 39 WALTER BLEJWAS JR \$1,000

Western Union MailgramRECEIVED
LIBRARY OF THE SENATE

NOV -2 AM 9 13

AND DELIVERED

1 MATCO PAC \$1,000
2 ALICE B CLARK \$1,000
3 ALAN REYNOLDS \$1,000
4 GEOFF PETTY \$1,000
5 HENRY A F YOUNG \$1,000
6 ALFRED N MARULLI \$1,000
7 CUURTNEY COWART \$1,000
8 JUDE T. WANNISKI \$1,000
9 MIDPAC \$1,000
10 WATSON PAC \$1,000
11 NATSOPAC \$1,000

→ CANDIDATE IS CONNIE MACK. OFFICE SOUGHT IS US SENATE.
FROM FRIENDS OF CONNIE MACK FEC NO. C00218230 1211 NORTH WESTSHORE
BLVD SUITE 300 TAMPA FL 33607
ROBERT I WATKINS
TREASURER

18123 EST

MGMCOMP

RUBERT. WATKINS AND CO
610 SOUTH BLVD SUITE 100
TAMPA FL 33606 28PM



4-0470788302 10/28/88 ICS IPMMTZZ CSP WHSB
8132543369 MGMB TDMT TAMPA FL 471 10-28 0703P EST

RECEIVED
SECRETARY OF THE SENATE

1533 OCT 31 AM 11:21

HAND DELIVERED □

► SECRETARY OF THE SENATE
OFFICE OF PUBLIC RECORDS
232 MART SENATE OFFICE BLDG
WASHINGTON DC 20510

THE FOLLOWING CONTRIBUTIONS WERE RECEIVED ON OCTOBER 26 AND OCTOBER
27

3 3 8
1 FREE CUBA PAC \$5000
2 JURGE L MAS \$2000
3 ARIZONA POLITICALLY INTERESTED CITIZENS \$1000
4 MAX H PEAKSON \$1000
5 WILLIAM B SNYDER \$1000
6 INDEPENDENT BANKERS PAC \$1000
7 UPS PAC \$1000
8 LEE R LIGHT \$1000
9 BEN G NORDELL \$1000
10 T A TINCHER \$1000
11 EVELYN J THOMAS \$1000
12 RALPH LANDAU \$1000
13 GEORGE O'NEILL \$1000
14 ABBY M O'NEILL \$1000
15 DUANE OTTENSTROER \$1000
16 FRANK S CANNONA \$1000
17 CARL MATTHEWS \$1000
18 DONALD R TAAFFE \$1000
19 PETER MONROE \$1000
20 BAYPAC \$1000
21 LINDA C YOUNG \$1000
22 JOE M REJEIRO \$1000
23 FELICIANO M FOYO \$1000
24 J E MARTIN JR \$1000
25 EDGAR W MCCURRY JR \$1000
26 A DANO DAVIS \$1000
27 IMC FERTILIZER INC PAC \$1000
28 HUGHES AIRCRAFT CO/HUGHES ACTIVE CITIZENSHIP FUND \$1000
29 HUGHES AIRCRAFT CO/HUGHES ACTIVE CITIZENSHIP FUND \$1000
30 FUND FOR A REPUBLICAN MAJORITY \$3000
31 BURG/WARNER PAC \$1000
32 EMPAC \$1000
33 THE RIGHT TO WORK PAC \$2000
34 WARREN ELLIOTT \$1000
35 FEDERATION OF AMERICAN HELP SYSTEMS FED PAC \$1500
36 KELLYPAC \$1000
37 RUBERT W MATSCHULLAT \$1000

TO REPLY BY MAILGRAM MESSAGE, SEE REVERSE SIDE FOR WESTERN UNION'S TOLL-FREE PHONE NUMBERS

ROBERT WATKINS AND CO R. WATKINS
610 SOUTH BLVD SUITE 100
TAMPA FL 33606 27AM



4-0122608301 10/27/88 ICS IPMMTZZ CSP WHSB
#132543369 MGMR TDMT TAMPA FL 103 10-27 1141A EST

RECEIVED
SECRETARY OF THE SENATE

REG'D OCT 28 AM 9:03

HAND DELIVERED

SECRETARY OF THE SENATE
OFFICE OF PUBLIC RECORDS
230 HART SENATE OFFICE BLDG
WASHINGTON DC 20510

THE FOLLOWING CONTRIBUTIONS WERE RECEIVED ON OCTOBER 27, 1988.

1 RITA DUKES BAROCO \$2,000
2 JOSEPH AMATURO \$2,000
3 ALLEN G. TEN BROEK \$2,000
4 JOYCE WATKINS \$3,000
5 ARTHUR LOEV \$2,000
6 GARRETT W. WALTON \$1,400
7 WINIFRED K. AMATURO \$2,000
CONNIE M. DUNN \$2,500
STEPHEN J. CABOT \$1,500
H BOWIE KUHN \$1,000
11 JEFFREY A. LICHTENBERG \$2,000
12 THOMAS L. RHODES \$1,500
13 ANNE W. SOLLOWAY \$1,000
14 ANNE W. SOLLOWAY \$1,000

CANDIDATE IS CONNIE MACK. OFFICE SOUGHT IS U.S. SENATE.

FRIENDS OF CONNIE MACK
FEC NUMBER C00218230
1211 NORTH WESTSHORE BLVD SUITE 300
TAMPA FL 33607

11144 EST

MGMCOMP



1 BRUCE LEVIN \$1,000
2 CATHERINE C GOLDSTEIN \$1,000
1 MARY PICCOLA \$1,000
1 MARK GINSBURG \$1,000
5 ROBERT A O'BRIAN \$1,000
6 NEIL D LEVIN \$1,000
7 MORTON H LEVIN \$1,000
8 GERALD A EPPNER \$1,000
9 LLOYD S CLAREMAN \$1,000
10 MICHAEL J HOROWITZ \$1,000
11 JOSEPH J GRANO \$1,000
12 JOSEPH H REITER \$1,000
13 LAWRENCE BLADES \$1,000
14 DANIEL J COOPER \$1,000
15 HARVEY D MYERSON \$1,000
16 LAWRENCE H PANITZ \$1,000
17 ARTHUR H RUEGGER \$1,000
18 AMBASSADOR FAITH R WHITTLESEY \$1,000
19 SAMUEL A STERRETT \$1,000
20 GREGOR F GREGORICH \$1,000
ALAN M GELB \$1,000
RICHARD O BALDWIN JR \$1,000

CANDIDATE IS CONNIE MACK. OFFICE SOUGHT IS U.S. SENATE.
FROM FRIENDS OF CONNIE MACK SEC #C00218230
1211 NORTH WESTSHORE BLVD, SUITE 300, TAMPA, FL 33607

18158 EST

MGMCOMP



1 DUNALD A MOORE JR \$1000
2 HERBERT H DOW \$1000
3 CIGNA CORP PAC \$1000
4 AUTO DEALERS AND DRIVERS FOR FREE TRADE PAC \$5000
5 OWENS/CORNING BETTER GOVERNMENT FUND \$1000
6 RJR PAC \$5000
7 JOSEPH E SEAGRAM INC PAC \$3000
8 SOS PAC \$1000
9 TEXACO POLITICAL INVOLVEMENT COMMITTEE \$1000
10 TORCHMARK CORP FEDERAL PAC \$4000
11 WINE AND SPIRITS WHOLESALERS OF AMERICA INC PAC \$1000
12 FLEETWOOD PAC \$1000
13 N JEAN AMBROSE \$1000
14 WILLIAM M DAVIDSON \$1000
15 SAM FOX \$1000
16 JUAN C COLES \$1000
17 JAMES W GLANVILLE \$1000
18 ROBERTO NOVO \$2000
19 DAVID H MCCLAIN \$1000
20 J MICHAEL STEPHENS \$1000
21 LUOMIS C LEEDY JR \$1000
22 HUGH J JONES JR \$1000
23 MRS MARCUS M MOORE \$1000
24 ASSOCIATED BUILDERS AND CONTRACTORS PAC \$1000
25 E BRUCE BOWERS \$1000
26 THOMAS P JONES JR \$1000
27 ✓HUDSON VALLEY PAC \$2000
28 ✓DELAWARE VALLEY PAC \$2500—
29 EUGENE A NOSER JR \$1000
30 IRVING A RUBIN \$1000
31 ELI LILLY AND CO PAC \$2000
32 NATIONAL REPUBLICAN CONGRESSIONAL COMMITTEE \$5000
33 NABISCO BRANDS PROGRAM FOR ACTIVE CITIZENSHIP \$1000
34 O W HUDSON, EARMARKED THROUGH HARRIS FEPAC \$1000
35 KATHERINE B ANDERSON \$1000
36 ELLAGWEN SHAW GREEN \$1000
37 BANK AMERICA FED ELECTION FUND \$1000
38 DUVAL VICTORY FUND \$2000
39 GEORGE HODGES JR \$2000
40 BURTON A LANDY \$1000
41 FRED M CONE JR \$1000
42 MARK F BAILEY \$1000
43 R F KING \$1000
44 WALTER J LORENZ \$1000
45 LAWRENCE LEWIS JR \$1000
46 DANIEL M COPELAND \$1000
47 G W WHITMIRE JR \$1000
48 ✓ULITICAL ACTION COMMITTEE \$1000
49 ✓DELORES PASS \$1000
50 ✓HERBERT H PEYTON \$1000
51 GATES PAC \$1000
52 LARRY SMITH \$1000

Western Union Mailgram®



1 JOHN KOPELOUSOS \$1000
2 ROBERT L FLECKENSTEIN \$1000
3 TOM PETWAY \$1000
4 CSX TRANSPORTATION INC PAC \$1000
5 RAYMOND S BARBONE \$1000
6 RUBERT L STEIN \$1000

CANDIDATE IS CONNIE MACK, OFFICE SOUGHT IS US SENATE. THIS MESSAGE IS
FROM FRIENDS OF CONNIE MACK FEC #C00218230 1211 NORTH WESTSHORE
BOULEVARD SUITE 300 TAMPA FL 33607.
ROBERT I WATKINS
TREASURER

19804 EST

MGMCOMP

ROBERT WATKINS AND CO
910 SOUTH ALVD SUITE 100
TAMPA FL 33606 25AM



R-0379148299 10/25/88 ICS IPWMTZZ CSP WHSB
R132543369 MGM8 TDHT TAMPA FL 277 10-25 0655P EST

SECRETARY OF THE SENATE OFFICE OF PUBLIC
RECORDS
232 HART SENATE BLDG
WASHINGTON DC 20010

THE FOLLOWING CONTRIBUTIONS WERE RECEIVED ON OCTOBER 24:

1 WESTVACO POLITICAL PARTICIPATION PROGRAM \$4,000
2 LIBERTY MUTUAL INSURANCE CO PAC \$2,500
3 THE MORGAN COMPANY PAC \$5,000
4 [REDACTED] PAC \$1,000
5 [REDACTED] E CASCADE CORP PAC \$4,000
6 [REDACTED] PUP EMPLOYEE PAC \$2,000
7 BUDD CITIZENSHIP COMMITTEE \$1,000
8 LUCIO A NOTO, \$1,000
9 EATON PUBLIC POLICY ASSOCIATION \$3,000
10 JSJ PAC \$1,000
11 GUY BOSTIC \$1,000
12 BETTY COLLIER, \$1,000
13 GEORGE W GIBBS \$1,000
14 FLORIDA HEALTH PAC \$1,000
15 THE CAMPAIGN ACCOUNT FOR COUNCIL OF ELEPHANTS \$1,000
16 BOCA RATON MENS REPUBLICAN CLUB \$1,000
17 JEREMY M JACOBS \$1,000
18 MARSHALL I WOLPER \$1,000
19 LUCEE WALPER \$1,000
20 ROGER H DEAN \$1,000
21 ROBERT M TAYLOR \$1,000
22 HERMAN KAHAN \$2,000
23 LEAH KAHAN \$2,000
24 AVIEZER COHEN \$2,000
25 ELAINE COHEN \$2,000
26 EUGENE MILLER \$2,000
27 STEPHEN W HAYWOOD \$1,000
28 MICHAEL E LEWIS \$1,000
29 WAYNE SCHWEITZER \$1,000
30 JIAM M SIMONS \$1,000
31 MORT A BREGMAN \$1,000
32 MARC A LINDEN \$1,000
33 NELSON LOPEZ, \$1,000
34 LFE H GREENE, \$1,000
35 IPA PARDO \$1,000
36 RICHARD M BREGMAN, \$1,000

TO REPLY BY MAILGRAM MESSAGE SEE REVERSE SIDE FOR WESTERN UNION'S TOLL - FREE PHONE NUMBERS

ROBERT WATKINS AND CO "WATKINS"
610 SOUTH BLVD SUITE 100
TAMPA FL 33606 27AM

Western Union Mailgram

RECEIVED
LIBRARY OF THE SENATE
OCT 28 AM 9 04

R&D DELIVERED □

SECRETARY OF THE SENATE
OFFICE OF PUBLIC RECORDS
232 HART SENATE OFFICE BLDG
WASHINGTON DC 20510

THE FOLLOWING CONTRIBUTIONS WERE RECEIVED ON OCTOBER 25TH AND 26TH

- 1 PHILLIP D YONGE \$1000
- 2 JAMES S ENGLISH \$1000
- 3 THOMAS R KINNEBREW \$1000
- 4 NMRI PAC \$1000
- 5 BEATRIZ FERRO \$1000
- 6 ADOLFO M ALBAISA \$1000
- 7 BEN BAILEY III \$1000
- 8 ROBERT J FIGEN \$1000
- 9 H IRWIN LEVY \$1000
- 10 H BERT MACK \$1000
- 11 MORTON THIOKOL PAC \$1000
- 12 TURNER BROADCASTING SYSTEM PAC \$1000
- 13 NORMAN STALLINGS \$1000
- 14 THOMAS A PEPIN \$1000
- 15 ROBERT M TAYLOR \$1000
- 16 LINDA K TAYLOR \$1000
- 17 FLORIDA NATIONAL GOOD GOVERNMENT COMMITTEE \$2000
- 18 JAMES RIVER EMPLOYEES POLITICAL INVOLVEMENT FUND \$1000
- 19 FOREST PAC \$1000
- 20 OWEN-ILLINOIS INC EMPLOYEES GOOD CITIZENSHIP FUND \$1000
- 21 THE MALONE AND HYDE COMMITTEE FOR RESPONSIBLE GOVERNMENT \$5000
- 22 PHILLIP H POTTER \$1000
- 23 WACKENHUT PAC \$4000
- 24 BAKER AND HOSTETLER PAC \$1000
- 25 GRUMMAN PAC \$1000
- 26 BROWN & WILLIAMSON TOBACCO CORP EMPLOYEE PAC \$1000
- 27 NRA POLITICAL VICTORY FUND \$2000
- 28 ITW PAC \$1000
- 29 GENERAL AMERICAN-LIFE ASSOCIATES FEDERAL PAC \$1000
- 30 AGC OF AMERICA PAC \$5000
- 31 POLITICAL ACTION COORS EMPLOYEES \$2500 —
- 32 HOPE PAC \$1000
- 33 CH2M HILL PAC \$1000
- 34 ABBOTT LABORATORIES BETTER GOVERNMENT FUND \$1000
- 35 BLTPAC \$1000
- 36 K-MART CORP PAC \$1000
- 37 HUEPAC \$1000
- 38 EMPAC \$1500 —
- 39 UTAH INTERNATIONAL INC NO-PARTISAN \$1000

TO REPLY BY MAILGRAM MESSAGE, SEE REVERSE SIDE FOR WESTERN UNION'S TOLL-FREE PHONE NUMBERS

5241(R7/28)

R WATKINS AND COMPANY
610 SOUTH BLVD SUITE 100
TAMPA FL 33606 21AM

Western
Union

Mailgram



4-040993S295 10/21/88 ICS IPMMTZ CSP WHSB
8132543369 MGMB TDMT TAMPA FL 100 10-21 0526P EST

MAILED BY MAILGRAM
10/21/88 10:26 AM

SECRETARY OF THE SENATE
OFFICE OF PUBLIC RECORDS
232 HART SENATE OFFICE BLDG.
WASHINGTON DC 20510

THE FOLLOWING CONTRIBUTIONS WERE RECEIVED ON OCTOBER 21:

1. JAMES B. CAIN, \$1,000
2. JOSEPH R. ARRIOLA, \$1,000
3. BRISTOL-MYERS PAC, \$1,500 —
4. WILLIAM RUGER, \$1,000
5. FEDERAL EXPRESS PAC, \$2,000
6. ECKPAC, \$2,000
7. SQUARE D COMPANY SALARIED EMPLOYEES PAC, \$1,000
8. CLOROX EMPLOYEES PAC, \$1,000
9. FLORIDA LEAGUE OF FINANCIAL INSTITUTIONS PAC, \$4,000
10. RUFF PAC, \$2,500—

CANDIDATE IS CONNIE MACK. OFFICE SOUGHT IS US SENATE.

FRIENDS OF CONNIE MACK

FEC NO. C00218230

1211 NORTHWEST SHORE BLVD, SUITE 300
TAMPA, FLORIDA 33607

17:28 EST

MGMCO4P

88 OCT 20 PM 1:24

1. NAME OF COMMITTEE (if N/A)

Auto Dealers & Drivers for Free Trade PAC

ADDRESS (number and street) Check if different than previously reported

153-12 Hillside Avenue

CITY, STATE AND ZIP CODE

Jamaica, NY 11432

2. FEC IDENTIFICATION NUMBER

C00141903

3. This committee qualified as a multicandidate committee DURING THIS Reporting Period
on _____ (date).

4. TYPE OF REPORT

- (a) April 15 Quarterly Report
 July 15 Quarterly Report
 October 15 Quarterly Report
 January 31 Year End Report
 July 31 Mid Year Report (Non-election Year Only)
 Termination Report

Monthly Report Due On:

- | | | |
|--------------------------------------|---------------------------------------|--|
| <input type="checkbox"/> February 20 | <input type="checkbox"/> June 20 | <input checked="" type="checkbox"/> October 20 |
| <input type="checkbox"/> March 20 | <input type="checkbox"/> July 20 | <input type="checkbox"/> November 20 |
| <input type="checkbox"/> April 20 | <input type="checkbox"/> August 20 | <input type="checkbox"/> December 20 |
| <input type="checkbox"/> May 20 | <input type="checkbox"/> September 20 | <input type="checkbox"/> January 31 |

- Twelfth day report preceding _____
 election on _____ in the State of _____
 Thirteenth day report following the General Election on _____
 in the State of _____

(b) Is this Report an Amendment? YES NO

SUMMARY

	COLUMN A This Period	COLUMN B Calendar Year-to-Date
5. Covering Period	09/01/88 through 09/30/88	
6. (a) Cash on Hand January 1, 1988		\$ 1,877,392.57
6. (b) Cash on Hand at Beginning of Reporting Period	\$ 3,267,596.32	
6. (c) Total Receipts from Line 6b	\$ 95,703.28	\$ 2,235,626.35
6. (d) Subtotal - add Lines 6(b) and 6(c) for Column A and Lines 6(a) and 6(c) for Column B	\$ 3,358,299.60	\$ 4,113,018.92
7. Total Disbursements (from Line 2b)	\$ 351,393.45	\$ 1,106,112.77
8. Cash on Hand at Close of Reporting Period (subtract Line 7 from Line 6(d))	\$ 3,006,906.15	\$ 3,006,906.15
9. Debts and Obligations Owed TO the Committee (Itemized on Schedule C and/or Schedule D)	\$ -0-	For further information contact: Federal Election Commission 999 E Street NW Washington, DC 20463 To File 800-424-9535 Local 202-376-3120
10. Debts and Obligations Owed BY the Committee (Itemized on Schedule C and/or Schedule D)	\$ -0-	

I certify that I have examined this Report and to the best of my knowledge and belief it is true, correct
and complete.Type or Print Name of Treasurer
Edward G. Connally

Signature of Treasurer

Date

10-18-88

NOTE: Submitting or causing to be submitted erroneous or incomplete information may subject the person signing this Report to the penalties of 2 U.S.C. §437c

FEC FORM 3X

(revised 4/87)

DETAILED SUMMARY PAGE

of Receipts and Disbursements
(Page 2, FEC FORM 30)

Name of Committee (in full) Auto Dealers & Drivers for Free Trade PAC	Report Covering the Period From: 08-01-88	To: 08-31-88
	COLUMN A Total This Period	COLUMN B Calendar Year-To-Date
I RECEIPTS		
11. CONTRIBUTIONS (other than loans) FROM:		
(a) Individuals/Persons Other Than Political Committees	31,397.00	2,097,587.01
(i) Itemized (use Schedule A)		
(ii) Unitemized		
(iii) Total of contributions from individuals	31,397.00	2,097,586.01
(b) Political Party Committees		
(c) Other Political Committees (such as PACs)		
(d) TOTAL CONTRIBUTIONS (add 11(a)(ii), (b), and (c))	31,397.00	2,097,586.01
12. TRANSFERS FROM AFFILIATED/OTHER PARTY COMMITTEES		
13. ALL LOANS RECEIVED		
14. LOAN REPAYMENTS RECEIVED		
15. OFFSETS TO OPERATING EXPENDITURES (Refunds, Rebates, etc.)		
16. REFUNDS OF CONTRIBUTIONS MADE TO FEDERAL CANDIDATES AND OTHER POLITICAL COMMITTEES		
17. OTHER RECEIPTS (Dividends, Interest, etc.)	6,063.54	42,337.06
18. TOTAL RECEIPTS (add 11(d), 12, 13, 14, 15, 16 and 17)	37,460.54	2,139,923.07
II. DISBURSEMENTS		
19. OPERATING EXPENDITURES	35,161.00	349,919.32
20. TRANSFERS TO AFFILIATED/OTHER PARTY COMMITTEES		
21. CONTRIBUTIONS TO FEDERAL CANDIDATES AND OTHER POLITICAL COMMITTEES	53,000.00	400,600.00
22. INDEPENDENT EXPENDITURES (use Schedule E)		
23. COORDINATED EXPENDITURES MADE BY PARTY COMMITTEES (2 U.S.C. 441a(c) (use Schedule F))		
24. LOAN REPAYMENTS MADE		
25. LOANS MADE	0.00	4,000.00
26. REFUNDS OF CONTRIBUTIONS TO		
(a) Individuals/Persons Other Than Political Committees		
(b) Political Party Committees		
(c) Other Political Committees (such as PACs)		
(d) TOTAL CONTRIBUTION REFUNDS (add 26.a., (b), and (c))		
27. OTHER DISBURSEMENTS		
28. TOTAL DISBURSEMENTS (add 19, 20, 21, 22, 23, 24, 25, 26(d) and 27)	88,161.00	754,719.32
III. NET CONTRIBUTIONS/OPERATING EXPENDITURES		
29. TOTAL CONTRIBUTIONS (other than loans) (from Line 11(d))	31,397.00	2,097,586.01
30. TOTAL CONTRIBUTION REFUNDS (from Line 26(d))	31,397.00	2,097,586.01
31. NET CONTRIBUTIONS (other than loans) (subtract Line 30 from 29)	35,161.00	349,919.32
32. TOTAL OPERATING EXPENDITURES (from Line 19)	35,161.00	349,919.32
33. OFFSETS TO OPERATING EXPENDITURES (from Line 15)		
34. NET OPERATING EXPENDITURES (subtract Line 33 from 32)	35,161.00	349,919.32



RECEIVED
SERIALS OF THE SENATE

2000 Oct 28 AM 9:04

HANDBELIVÉRÉÜ

- 1 SUNPAC \$1000
- 2 OLIN GOOD GOVERNMENT FUND
- 3 AMOCO PAC \$1000
- 4 MAPCO PAC \$1000
- 5 PREMARK INTERNATIONAL INC PAC \$1000
- 6 HALLPAC \$2000
- 7 CONGRESSIONAL ACTION COMMITTEE \$3000
- 8 ELIZARETH C PINES \$1100
- 9 CARL E JONES \$2000
- 10 M ANTHONY BURNS \$1000
- 11 S R KIRRY \$1550
- 12 JAMES R LEWIS \$1000
- 13 MARY J NORGAARD \$1000
- 14 RICHARD J RAZOOK \$1000
- 15 M E RTINKER \$1000
- 16 GEORGE F BATCHELOR \$1000
- 17 RAYMOND K MASON \$1000

CANDIDATE IS CONNIE MACK. OFFICE SOUGHT IS U.S. SENATE.
FRINEDS OF CONNIE MACK FEC #C00218230
1211 NORTH WESTSHORE BLVD SUITE 300
TAMPA FL 33607

08123 EST

MGM COMP



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

flm
November 4, 1988

SPECIAL DELIVERY

Robert F. Bauer, General Counsel
B. Holly Schadler, Counsel
Democratic Senatorial Campaign
Committee
430 S. Capitol Street, SE
Washington, DC 20003

RE: MUR 2766

Dear Mr. Bauer and Ms. Schadler:

This letter acknowledges receipt on November 3, 1988, of your complaint against the honorable Connie Mack, Friends Of Connie Mack and Robert J. Watson, as treasurer, and the Auto Traders And Drivers For Free Trade PAC and Edward B. Connally, as treasurer, alleging violations of the Federal Election Campaign Act. A staff member has been assigned to analyze your allegations. The responsible will be notified of this complaint within 14 days. You will be notified as soon as the Commission takes final action on your complaint. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Please be advised that this letter shall remain confidential in accordance with 5 U.S.C. Section 552(e)(4) and 5 U.S.C. 553(d), unless the responsible notify the Commission in writing within ten days of the letter to be made public.

Sincerely,

Lawrence M. Lowe
General Counsel

Lawrence M. Lowe
Associate General Counsel

Enclosure
Enclosures



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 4, 1988

SPECIAL DELIVERY

Richard E. Messick, Esquire
2550 M Street, NW
Washington, DC 20037

RE: MUR 2766
Auto Dealers And Drivers
For Free Trade PAC and
Edward G. Connally, as
treasurer

Dear Mr. Messick:

This letter is to notify you that on November 3, 1986, the Federal Election Commission received a complaint which alleges that your clients, the Auto Dealers And Drivers For Free Trade PAC and Edward G. Connally, as treasurer, may have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We believe this matter is MUR 2766. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against your client in this matter. Please submit any factual or legal references which you believe are relevant to the Commissioner's analysis of this matter. Your statement should be submitted under oath or affirmation. Your statement should be addressed to the General Counsel's Office. It will be submitted with the original receipt of this letter. You are encouraged to respond to this letterificationally. In order to facilitate a prompt response, we have enclosed a pre-addressed, postage paid, special delivery envelope. If no response is received within 10 days, the Commission will take further action based on the available information.

The complaint may be dismissed by the Commission prior to the receipt of your response if the evidence submitted does not indicate that a violation of the Act has been committed. Should the Commission dismiss the complaint, you will be notified by overnight air mail.

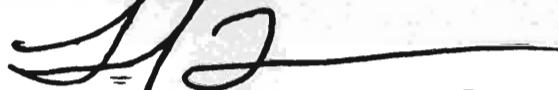
This letter will remain confidential in accordance with Section 477g(a)(3) and Section 477g(a)(10) of Title 2, United States Code, unless the Commission or whomever it may designate, determines to release public.

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 George Rishel at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel



By: Lois G. Lerner
Associate General Counsel

Enclosures
Complaint
Procedures
Envelope
Form

5 1
4 6 4 1
8 0 7 0 0 0 0
2 0 0 4 0 7 0 0



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

November 4, 1988

SPECIAL DELIVERY

Robert I. Watkins, Treasurer
Friends Of Connie Mack
1211 N. Westshore Blvd.
Suite 300
Tampa, FL 33607

RE: MUR 2766

Friends Of Connie Mack
and Robert I. Watkins,
as treasurer

Dear Mr. Watkins:

This letter is to notify you that on November 3, 1988, the Federal Election Commission received a complaint which alleges that Friends Of Connie Mack and you, as treasurer, may have violated certain sections of the Federal Election Campaign Act of 1971, as amended. The "Act". A copy of the complaint is enclosed. It has been numbered MUR 2766. Please refer to it by number on all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you and Friends Of Connie Mack on this matter. Please submit any factual or legal information which you believe are relevant to the Commission's analysis of this matter. Your statements should be submitted under oath. Your response should be addressed to the General Counsel's Office, just be submitted within 15 days of receipt of this letter. You are encouraged to respond to this complaint promptly. In order to facilitate an expeditious response, we have enclosed a pre-addressed postage paid, special delivery envelope. If no response is received within 15 days, the Commission may take further action based on the available information.

The complaint may be dismissed by the Commission prior to the receipt of your response if the evidence submitted does not indicate that a violation of the Act has been committed. Should the Commission dismiss the complaint, you will be notified by overnight delivery mail.

This letter will remain confidential in accordance with Section 407(e)(2) and Section 407(e)(2)(B) of Title I 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 George Rishel at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel



By: Lois G. Lerner
Associate General Counsel

Enclosures
Complaint
Procedures
Envelope
Filing

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 4, 1988

SPECIAL DELIVERY

The Honorable Connie Mack
3906 SE 11th Place
Unit 603
Cape Coral, FL 33904

RE: MUR 2766
The Honorable Connie
Mack

Dear Mr. Mack:

This letter is to notify you that on November 3, 1988, the Federal Election Commission received a complaint which alleges that you may have violated certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 2766. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate or withstand 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. These statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, should be submitted within 15 days of receipt of this letter. If you are unable to respond to this notification promptly, in order to receive a full and accurate response, we urge you to contact us at once. Please send your response by airmail, postage paid, special delivery envelope. If no response is received within 15 days, the Commission will take further action based on the available information.

The complaint may be discussed by the Commission prior to the receipt of your response if the evidence submitted does not indicate that a violation of the Act has been committed. Should the Commission discuss the complaint, you will be notified by overnight express mail.

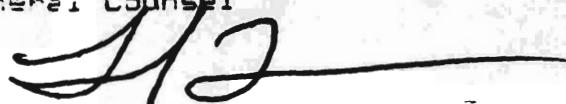
This letter will remain confidential in accordance with Section 477g(e)(4)(B) and Section 477g(a)(12)(A) of Title 2 unless you notify the Commission in writing that you wish the matter to be made public.

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 George Rishel at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel



By: Lois G. Lerner
Associate General Counsel

Enclosures
Complaint
Procedures
Envelope
Filing

OGC# P72

MUR 2766

**AUTO DEALERS & DRIVERS FOR FREE TRADE
Political Action Committee**

November 3, 1988

33 WOY-3 P115:11

RECEIVED
FEDERAL BUREAU OF INVESTIGATION
U.S. DEPARTMENT OF JUSTICE

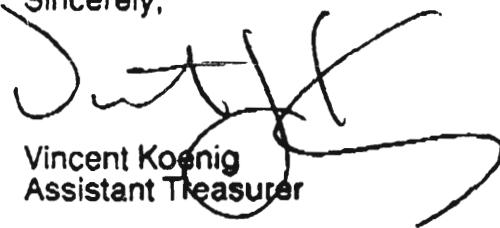
Mr. Lawrence Noble
General Council
Federal Election Commission
999 E. Street, N.W.
Washington, D.C. 20463

Dear Mr. Noble:

Auto Dealers & Drivers for Free Trade Political Action Committee hereby designates the law firm of Patton, Boggs & Blow in the complaint filed by the Democratic Senatorial Campaign Committee (DSCC) this day in regards to our independent expenditures in Florida.

Please direct all correspondence to Richard E. Messick at Patton, Boggs & Blow at 2550 M Street, N.W. Washington, D.C. 20037, (202) 457-6000.

Sincerely,



Vincent Koenig
Assistant Treasurer

cc: Richard E. Messick

88 NOV -4 PM 2:20

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

SENSITIVE

EXPEDITED FIRST GENERAL COUNSEL'S REPORT

MUR: 2766
STAFF: George F. Rishel

COMPLAINANT: Democratic Senatorial Campaign Committee

RESPONDENTS: Auto Dealers and Drivers for Free Trade Political Action Committee and Edward G. Connelly, as treasurer;

Friends of Connie Mack and Robert I. Watkins, as treasurer; and

Rep. Connie Mack

SUMMARY OF ALLEGATIONS

On November 3, 1988, at 5:37 p.m., the Democratic Senatorial Campaign Committee filed a complaint against the Auto Dealers and Drivers for Free Trade PAC, Friends of Connie Mack, and Rep. Connie Mack. The complaint alleges that the Auto Dealers and Drivers for Free Trade PAC (the "Auto Dealers PAC") is making expenditures on behalf of Rep. Mack's senatorial campaign that are not, in fact, independent but instead constitute contributions to the Mack campaign. Thus, the complaint alleges that the Auto Dealers PAC has exceeded the contribution limitations of 2 U.S.C. § 441a(a)(2) and has not reported these payments properly pursuant to 2 U.S.C. § 434(b) and that the Mack

campaign has knowingly accepted such contributions in excess of the limitations in violation of 2 U.S.C. § 441a(f). The complaint also alleges the Mack campaign has filed 48-hour contribution reports without the identification of the contributors as required by 2 U.S.C. § 434(a)(6)(A).

The complaint asks for:

- (1) an expedited investigation;
- (2) injunctive relief; and
- (3) prompt conciliation.

With regard to the complainant's request for injunctive relief, the Federal Election Campaign Act of 1971, as amended (the "Act"), authorizes the Commission to seek such relief if it is unable to correct or prevent a violation of the Act or to enforce the provisions of the Act. 2 U.S.C. §§ 437d(a)(6) and 437g(a)(6). Because the Act and regulations give respondents 15 days to answer a complaint before the Commission makes any finding or takes any action against a respondent, the Commission has generally not sought injunctive relief prior to the running of this period. See, Durkin for U.S. Senate v. FEC, 2 Fed. Elec. Camp. Fin. Guide (CCH) § 9147 (D. N.H. 1980).

In considering whether injunctive relief should be sought, the Commission has used the standard for obtaining a preliminary injunction as the appropriate criteria. This standard examines the requested relief in these terms:

- (1) whether there is a substantial likelihood that a violation of the Act has or is about to occur;
- (2) whether the failure by the Commission to obtain an injunction will result in irreparable harm to the complainant or some other party;
- (3) whether injunctive relief will not result in undue harm or prejudice to the interests of other persons; and
- (4) whether the public interest would be served by such injunctive relief.

It is under these standards that we turn to the complainant's request for injunctive relief.

The complainant asserts that the Mack campaign and the Auto Dealers PAC are using two common consultants: (1) Multi-Media Services Corporation for time buying; and (2) Karl Rove and Company for direct mailings. The complainant argues that this relationship fails the test for independence set out by the Supreme Court in Buckley v. Valeo, 424 U.S. 1, 47 (1976), and as further interpreted by the district court in FEC v. NCPAC, 647 F. Supp. 987 (S.D. N.Y. 1986). The complainant further relies on Commission regulations at 11 C.F.R. § 109.1(b)(4) to argue that cooperation or consultation (which will destroy independence) is presumed if the expenditures are based on information about the candidate's plans, projects, or needs, etc., and specifically refers to the discussion of time buyers in Advisory Opinion

1979-80. The complaint notes that the work these two consultants are doing for the Auto Dealers PAC is in states other than Florida, but contends that the on-going relationship would still permit the exchange of key information. The allegations of the complainant were also the subject of a new story in today's Washington Post. See Attachment 1.

The complaint also claims that the Mack campaign has filed 48-hour reports disclosing the receipt of \$377,550 from 280 contributors without listing any address, occupation or employer. Thus, it alleges a violation of the reporting provisions of the Act which require the "identification" of such contributors. The Act defines "identification" to include a contributor's address as well as his or her occupation or employer. The complaint asserts that the 48-hour reports indicate no effort by the Mack campaign to obtain such information.

Although the complaint raises the potential of serious violations of the Act, this Office recommends that the Commission decline to seek injunctive relief or to initiate an immediate investigation in order to consider the responses to the complaint, given that there are factual questions such as the extent of contacts among the consultants and the respondents. This Office has prepared the appropriate notification letters, which follow those approved by the Commission in MUR

' and a blank certification form used in expedited enforcement matters. See Attachments 2 and 3. A copy of the designation of counsel form for the Auto Dealers PAC is also attached. See Attachment 4.

RECOMMENDATIONS

1. Decline to seek injunctive action or initiate an investigation at this time.
2. Approve the attached letters advising the complainants and respondents of the Commission's decision not to undertake injunctive action or initiate an investigation at this time in order to consider the responses to the complaint.
3. Authorize the mailing of notification letters.

Lawrence M. Noble
General Counsel

11-4-88
Date

BY :


Lois G. Lerner
Associate General Counsel

Attachments

1. News Report
2. Proposed letters (4)
3. Blank Certification
4. Designation of Counsel

BEFORE THE FEDERAL ELECTION COMMISSION

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal
Election Commission, do hereby certify that the Commission,
on Monday, November 7, 1988, by a vote of
6 to 0, adopted the
recommendations contained in the First General Counsel's Report
in MUR 2766, dated November 4, 1988.

Voting for the Recommendations: Commissioners Aikens,
Ellictt, Josefiak, McDonald, McGarry and Thomas.

Voting Against the Recommendations: None

Absences or Abstentions (Indicate): None

Attest:

November 4, 1988
Date

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



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

November 9, 1988

plm

AIRBORNE EXPRESS

Robert F. Bauer, General Counsel
B. Holly Schadler, Counsel
Democratic Senatorial Campaign Committee
430 South Capitol Street, S.E.
Washington, D.C. 20003

RE: MUR 2766

Dear Mr. Bauer and Ms. Schadler:

On November 3, 1988, the Federal Election Commission received your letter alleging that the Auto Dealers and Drivers for Free Trade Political Action Committee, Friends of Connie Mack, and Rep. Connie Mack may have or are about to violate the Federal Election Campaign Act of 1971, as amended.

Your letter seeks immediate action to prevent these Respondents from making expenditures on behalf of Rep. Mack. The Commission has determined that at this time there is insufficient evidence to warrant the Commission's taking such action. The respondents have been given the prescribed time to respond to the complaint.

If you have any questions, please contact me at (202) 376-5690.

Sincerely,

Lawrence M. Noble
General Counsel



BY: Lois G. Lerner
Associate General Counsel



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

November 9, 1988

AIRBORNE EXPRESS

Richard E. Messick
Patton, Boggs & Blow
2550 M Street, N.W.
Washington, DC 20037

RE: MUR 2766
Auto Dealers and Drivers
for Free Trade Political
Action Committee and
Edward G. Connelly, as
treasurer

Dear Mr. Messick:

On November 4, 1988, the Federal Election Commission notified you of a complaint alleging that your clients, Auto Dealers and Drivers for Free Trade Political Action Committee and Edward G. Connelly, as treasurer, may have or are about to violate certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act"). A copy of the complaint was forwarded to you at that time.

The Complaint seeks immediate action to prevent your clients from continuing to make expenditures on behalf of Rep. Connie Mack. Please be advised that on November 7, 1988, the Commission determined not to commence any action for injunctive relief or initiate an investigation at this time in order to consider your response to the complaint.

If You have any further questions, please contact George F. Rishel, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

November 9, 1988

AIRBORNE EXPRESS

Robert I. Watkins, Treasurer
Friends of Connie Mack
1211 N. Westshore Blvd., Suite 300
Tampa, FL 33607

RE: MUR 2766
Friends of Connie Mack and
Robert I. Watkins, as
treasurer

Dear Mr. Watkins:

On November 4, 1988, the Federal Election Commission notified you of a complaint alleging that Friends of Connie Mack and you, as treasurer, may have or are about to violate certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act"). A copy of the complaint was forwarded to you at that time.

The Complaint seeks immediate action to prevent the Auto Dealers and Drivers for Free Trade Political Action Committee from continuing to make expenditures on behalf of Rep. Connie Mack. Please be advised that on November 7, 1988, the Commission determined not to commence any action for injunctive relief or initiate an investigation at this time in order to consider your response to the complaint.

If You have any further questions, please contact George F. Rishel, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

BY: 
Lois G. Lerner
Associate General Counsel



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

November 9, 1988

AIRBORNE EXPRESS

The Honorable Connie Mack
3906 S.E. 11th Place, Unit 603
Cape Coral, FL 33904

RE: MUR 2766
Rep. Connie Mack

Dear Rep. Mack:

On November 4, 1988, the Federal Election Commission notified you of a complaint alleging that you may have or are about to violate certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act"). A copy of the complaint was forwarded to you at that time.

The Complaint seeks immediate action to prevent the Auto Dealers and Drivers for Free Trade Political Action Committee from continuing to make expenditures on your behalf. Please be advised that on November 7, 1988, the Commission determined not to commence any action for injunctive relief or initiate an investigation at this time in order to consider your response to the complaint.

If You have any further questions, please contact George F. Rishel, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

A handwritten signature in black ink, appearing to read "LMN".

BY: Lois G. Lerner
Associate General Counsel

DELIVERED 06C#
RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM 930

PERKINS COIE

A LAW PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
1110 VERNON AVENUE, N.W. • WASHINGTON, D.C. 20005 • (202) 887-9030

88 NOV -7 PM 12:41

November 7, 1988

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

Dear Commissioners:

On November 3, 1988, the Democratic Senatorial Campaign Committee ("DSCC") filed a Complaint with the Commission, alleging that the Auto Dealers and Drivers for Free Trade PAC ("Auto PAC") have violated, and continue to violate, the legal limits on its spending on behalf of the Senate candidacy of Connie Mack in the State of Florida.

The Complaint charged specifically that, while the Auto PAC was purporting to make "independent" expenditures on behalf of Mack, ostensibly avoiding any spending limits, the PAC's expenditures could not, in fact, be independent because it had retained as a consultant a legal "agent" of the Mack campaign. As a result, these PAC expenditures constituted an in-kind contribution to Mack in an amount exceeding \$300,000 -- more than a quarter of million dollars over the lawful limit. DSCC has called for an expedited Commission investigation and the pursuit by the Commission, in a court of competent jurisdiction, of injunctive relief.

By this amendment, DSCC seeks to add yet another count to its Complaint, this one also challenging the "independence" of Auto PAC expenditures. Today, however, the state in which these fresh violations have occurred is Nevada, not Florida. The candidate who is benefitting from this illegal spending is Chic Hecht, the Republican Senate nominee in that state.

In the last week to 10 days, the Auto PAC has funded a 30-second advertisement attacking Hecht's opponent, Democratic nominee Richard Bryan. This ad repeats -- point-by-point, theme-for-theme -- the content of advertisements by Hecht's principal campaign committee running during this period. In fact, the Auto PAC ad, 30-seconds in length, appears designed as a "summary" of various 60-second Hecht ads which contain the same messages. Attached as Exhibits A and B are the scripts of the Auto PAC and Hecht ads, respectively.

88 NOV -7 PM 1:25

Two questions immediately present themselves for Commission investigation and enforcement action. First, there is every possibility that the fully overlapping Auto PAC and Hecht advertising messages are the product of an unlawful collaboration of the PAC and the Republican candidate. There is still additional evidence that such collaboration may have occurred. Direct mailings by candidate Hecht, recently arriving at Nevada households, bear an extraordinary similarity to newspaper advertisements financed by the Auto PAC. See Exhibits C and D. In particular, the Commission should note that the Hecht mailer and the Auto PAC ad track in, almost identical language, the same claim about Mr. Hecht's service in years past in military intelligence. It would be the most extreme of coincidence, if the Hecht campaign and the Auto PAC would have arrived at the same point with the same wording without any hint, much less consultation, passing between the two.

In any event, whatever the Commission's findings on the question of direct collaboration, there is an additional question presented by the Auto PAC mimicry of the Hecht television advertisements. The Commission regulations state in pertinent part as follows.

The financing of the dissemination, distribution, or republication, in whole or in part, of any broadcast. . . prepared by a candidate [or] his campaign committees. . . shall be considered a contribution for the purpose of contribution limitations and reporting responsibilities by the person making the expenditure. . .

11 C.F.R. Sec. 109.1(d)(1)

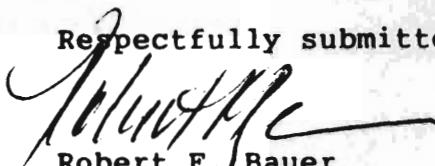
The scheme of the Auto Dealers, to borrow and rebroadcast the Hecht television message, constitutes a contribution to the Hecht campaign under Part 109. The contribution thereby made exceeds without question the lawful limit; and the amount of this violation runs into the hundreds of thousands of dollars.

Accordingly, the DSCC requests that its November 3 Complaint be amended to name as additional Respondents Senator Chic Hecht, and his principal campaign committee; and that yet another violation of the contribution limits by the Auto PAC, this time in the State of Nevada, be added to an expanded Commission investigation.

Federal Election Commission
November 7, 1988
Page 3

The activities of the Auto Dealers in Nevada, Florida, and perhaps other states, has assumed the dimensions of a national scandal. Nothing short of extraordinary enforcement action by the Commission will be sufficient to address the enormity of what is taking place.

Respectfully submitted,



Robert F. Bauer
General Counsel
Democratic Senatorial
Campaign Committee
430 South Capitol Street, S.W.
Washington, DC 20003
(202) 224-2447

DISTRICT OF COLUMBIA, ss:

SUBSCRIBED AND SWORN BEFORE ME
ON THIS 7th DAY OF November 1988.



NOTARY PUBLIC

My Commission Expires June 30, 1993

0435E

Auto Dealers and Drivers for Free Trade PAC
130 TV ad General Anti-Bryan

(Visuals: Photo of Bryan grows larger on screen)

Male Announcer:

Enacted the biggest tax increase in Nevada's history.

Broke his repeated pledge to cut the sales tax.

Spent three million tax dollars to buy a luxury plane.

Wants to walk off the job in the middle of his term as governor.

Supports Michael Dukakis even though Dukakis abruptly changed his position and pledges to stick Nevada with the nuclear dump.

Six years of Richard Bryan.

For a senator who fights and wins for Nevada, reelect Dixie Huht.

Subtitle:

(Paid for by Auto Dealers and Drivers for Free Trade PAC. Not authorized by any candidate or candidate committee.)

Hecht :30 TV ad
(Paid for by NRBC, authorized by Hecht Relection Committee)
"Bryan tax increases"

Woman announcer:

Governor Bryan calls himself a fiscal conservative. But the Nevada Appeal said "Bryan pushed through the largest tax increase in the state's history."

Property taxes up 29 percent.

Gas taxes up 71 percent.

Hunting license fees up 30 percent.

Fishing license fees up 40 percent.

Auto registration up 66 percent.

Drivers license fees up 66 percent.

While Governor Bryan has been busy increasing your taxes,
Chic Hecht has consistently voted to cut your taxes.

(Paid for by Republican Senatorial Campaign Committee)

Hecht 130 TV ad
Bryan/nuke dump

Male Announcers:

As a state senator, Richard Bryan voted in favor of building a nuclear waste dump.

As governor, he created Bullfrog County, sending out a message that Nevada would accept the dump.

Bryan even missed the deadline for filing our state's response to the Yucca Mountain study.

Now he supports Dukakis for president and Dukakis supports the dump.

Eric Hecht on the other hand is fighting the dump, working to require reprocessing nuclear waste just like they do in France, Japan and even the Soviet Union.

(Paid for by Hecht Reelection Committee)

Hecht \$30 Private Jet TV spot

Am.

Woman: Nevada is now the only Western state with a private jet. We have one of the worst high school dropout rates, one of the lowest pupil-teacher ratios, and our highways are badly in need of repair.

But, we have that private jet. It doesn't make sense.

And while Governor Bryan was buying a \$3 million private jet with your taxes, Chic Hecht was returning to the federal treasury over \$400,000 in staff salaries and expenses he saved.

Chic Hecht. Fighting for all of us, every day.

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Hecht :60 Radio ad
Jet II

Woman announcer:

Governor Bryan is trying to make you think he didn't buy a private jet for the state because the Department of Transportation made the purchase. Well let's look at the facts.

Fact one: in 1987 the Legislature tried to create a commission to oversee the Department of Transportation. Governor Bryan vetoed that law and now the Department reports directly to the Governor.

Fact two: the state Department of Transportation, with the Governor's approval, bought a three million dollar private jet with your taxes.

Fact three: that same three million dollars could have gone to repair our roads. The Department of Transportation now says we're about a billion dollars short of highway repair funds, and they're considering an increase in the gas tax.

The question is, Governor, if we're short of money to repair our roads and highways, why did you spend three million dollars on a private jet the state doesn't need?

Or, since you've already raised gas taxes 7%, did you think the taxpayers wouldn't notice another increase?

Hecht: Paid for by the Hecht Relection Committee.

Hecht 38 TV ad
"Leaving ~~the~~ term"

Male Announcer:

When Nevada became the 36th state in 1864, it was a rugged frontier. Residents of the Silver State were known for their hard work and for sticking it out through the tough times.

Nevada's first governor was Henry Blasdel. Twenty-five governors from different political parties have served Nevada. But only one governor in over 100 years decided to run for another office in the middle of his four year term. And if Bryan wins, he'll leave the state to an unknown Lieutenant governor.

Shouldn't Bryan finish his job as governor first.

(Paid for by Hecht Reelection Committee)

2. Hecht 130 TV ad
Dukakis-Bryan / Bush-Hecht comparison

Male announcer

Alternating pictures
of Dukakis and Bryan:

Governor Michael Dukakis and Governor
Richard Bryan. They have a lot in
common.

(captions
under)

Governor Dukakis increased state spending to
record levels. So did Bryan.

Governor Bryan paid for the increase by raising
taxes more than any governor in Nevada history.
So did Dukakis.

Governor Dukakis tried to use public employee
retirement funds to his state budget. So did
Bryan.

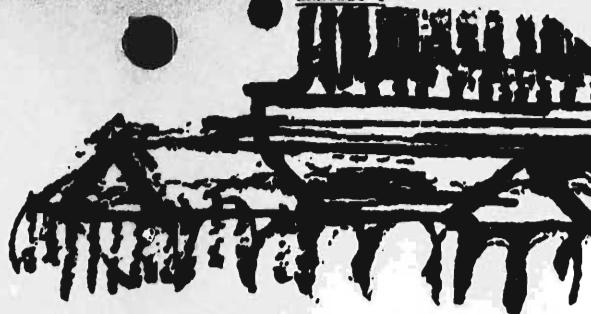
Picture of Bush: Vice President Bush on the other hand has
pledged no new taxes.

Bush pic pulls back to half screen aside picture of Hecht:

So has Hecht. Bush and Hecht. The right
team for Nevada's future.

Paid for by Hecht Reelection Committee

Hecht
Congressman
Chic
Hecht
Nevadans



Senator Chic Hecht Has The Experience

Chic Hecht is a man of action. As Nevada's Senior Senator, he has fought for what is right for Nevada and America. George Bush and Chic Hecht will keep America strong.

- Chic Hecht served behind the Iron Curtain as an Army Intelligence officer.
- Chic Hecht was the first Member of Congress to be sworn into the Military Intelligence Hall of Fame.
- Chic Hecht is the only member of the Select Committee on Intelligence with actual military intelligence experience.
- Chic Hecht played a key role in convincing Congress and the Administration to provide Stinger Missiles to the Afghan Freedom Fighters. Now the Soviets are withdrawing their troops from Afghanistan.
- Chic Hecht has visited more intelligence installations around the world than any other Senator.
- Chic Hecht is leading the fight to keep the Strategic Defense Initiative on track in Congress.

What Nevada Senator Wh. Nevadans... Hecht Has I

- Chic Hecht cast the de speed limit to 65 mph
- Chic Hecht wrote the Lake Basin National Park.
- Chic Hecht prevented raising the price of He
- Chic Hecht wrote the Lake Wildlife Refuge.
- Chic Hecht is fighting nuclear waste dump at Yucca Mountain. Just like we reprocess
- Chic Hecht wrote eight Nuclear Waste Policy &
- Chic Hecht voted to save
- Chic Hecht voted for the Superfund Act.
- Chic Hecht introduced a bill on child pornography.
- Chic Hecht voted for the extension of the Social Security Bye
- Chic Hecht introduced the limit on earnings by Social Security recipients to earn more.
- Chic Hecht wrote the law on geothermal power

RE-ELECT

HECHT

yes

20040704677



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

=
November 15, 1988

Robert F. Bauer, General Counsel
B. Holly Schadler, Counsel
Democratic Senatorial Campaign
Committee
430 South Capitol Street, S.E.
Washington, D.C. 20003

RE: MUR 2766

Dear Mr. Bauer and Ms. Schadler:

This letter acknowledges receipt on November 7, 1988, of the amendment to the complaint you filed on November 3, 1988, against Rep. Connie Mack; Friends of Connie Mack and Robert Watkins, as treasurer; and Auto Dealers and Drivers For Free Trade Pac and Edward G. Connelly, as treasurer. The respondents will be sent copies of the amendment. 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



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 15, 1988

Richard E. Messick, Esquire
2550 M Street, N.W.
Washington, D.C. 20037

RE: MUR 2766
Auto Dealers and Drivers
for Free Trade PAC and
Edward G. Connelly, as
treasurer

Dear Mr. Messick:

On November 4, 1988, you were notified that the Federal Election Commission received a complaint from Robert F. Bauer 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 November 7, 1988, the Commission received additional information from the complainant pertaining to the allegations in the complaint. Enclosed is a copy of this additional information. As this new information is considered an amendment to the original complaint, you are hereby afforded an additional 15 days in which to respond to the allegations.

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

Sincerely,

Lawrence M. Noble
General Counsel

A handwritten signature in black ink, appearing to read "LGL".

BY: Lois G. Lerner
Associate General Counsel

Enclosure



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 15, 1988

Glen N. Mauldin, Treasurer
Hecht Re-Election Committee
Post Office Box 2139
Las Vegas, NV 89125

RE: MUR 2766
Hecht Re-Election
Committee and
Glen N. Mauldin, as
treasurer

Dear Mr. Mauldin:

The Federal Election Commission received a complaint which alleges that the Hecht Re-Election Committee ("Committee") 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 2766. Please refer to this number in all future correspondence.

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

This matter will remain confidential in accordance with
2 U.S.C. § 437g(A)(4)(B) and 437g(a)(12)(A) unless you notify the
Commission in writing that you wish the matter to be made public.

Glen N. Mauldin
Page 2

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 Michael Marinelli, the attorney assigned to this matter at (202) 376-8200. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble
General Counsel



BY: Lois G. Lerner
Associate General Counsel

Enclosures-

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



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

- November 15, 1988

The Honorable Chic Hecht
47 Country Club Lane
Las Vegas, NV 89109

RE: MUR 2766
The Honorable Chic Hecht

Dear Senator Hecht:

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 2766. Please refer to this number in all future correspondence.

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

This matter will remain confidential in accordance with 2 U.S.C. § 437g(A)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public.

The Honorable Chic Hecht
Page 2

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 Michael Marinelli, the attorney assigned to this matter at (202) 376-8200. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble
General Counsel



BY: Lois G. Lerner
Associate General Counsel

Enclosures

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

06C#1096

PATTON, BOGGS & BLOW
2550 M STREET, N.W.
WASHINGTON, D.C. 20037-1350
(202) 457-6000
TELECOPIER: 457-6315

ITT TELEX: 440324 TRT TELEX: 197780

250 WEST PRATT STREET
 BALTIMORE, MARYLAND 21201
 (301) 659-5600

JAMES R. PATTON, JR.
 GEORGE BLODGETT
 JOSEPH L. BROWN
 THOMAS HALE BOGGS, JR.
 TIMOTHY J. MAY
 HARRY A. INMAN
 ELLIOT H. COLE
 J. GORDON ARBUCKLE
 WILLIAM C. FOSTER
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JAMES B. CHRISTIAN, JR.
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 THEODORE G. KNOMMILLER
 HARRY R. HUGHES*
 JOHN A. MOAG, JR.*
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ANDREW S. NEWMAN
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 JEAN V. MCNAUL
 JEFFREY L. TURNER
 CHARLES E. VALHMAN
 IRVING FISHBERG
 PAUL A. J. WILSON
 DEAN M. DILLEY
 DEBORAH F. HEPFNER
 MARY CRAWFORD DOWDIE
 JONATHAN N. HALPERN
 JOHN C. MARTIN
 DEBORAH M. LODGE
 MARY ELIZABETH BOBO
 MITCHELL R. BERGER
 KATHLEEN M. MILLER
 WILLIAM F. J. MURKIN
 KENNETH L. GLAZER
 PHILLIP L. ROBINSON
 ROSS E. EICHBERG

JUDITH BARNETT
 DANIEL E. WALTZ*
 RACHEL A. SHUB
 JAMES R. STUART, III *
 KEVIN B. DWYER
 SUSAN J. HACKETT
 STEPHEN D. PARKER
 CRAIG V. BRECHER*
 JOSEPH B. MAHALY
 LISA ANNE BANKS*
 ELLIOTT P. LAWIS
 MARTHA M. KENDRICK
 PETER D. ROBERTSON
 R. BRUCE PHILLIPS*
 ELI GOTTEBONNER*
 DAVID J. FLORES*
 CHANG P. OH
 JOHN F. FITCHAN
 RICHARD E. MESSICK*

OF COUNSEL

WILLIAM D. HATHAWAY
 ALEXANDER M. LANKLER
 PEMELOPE S. FARTHING
 STEPHEN H. LACHER
 JOHN B. WHITE
 JOSEPH A. KLAUSNER*

*Not admitted in D.C.

*Admitted in Maryland only

3 NOV 18 AM 11:0:27

November 14, 1988

(202) 457-6523

Michael G. Marinelli, Esquire
 General Counsel's Office
 Federal Election Commission
 999 E Street, N.W.
 Washington, D.C. 20463

Re: MUR 2766

Dear Mr. Marinelli:

Enclosed please find a Statement of Designation of Counsel designating Kate Boyce and myself as counsel to the Auto Dealers & Drivers for Free Trade PAC in MUR 2766.

Ms. Boyce's direct dial is 202/457-6094; mine is 202/457-6523. Communications about MUR 2766 may be directed to either one of us.

Sincerely,

Richard E. Messick

cc: Katherine R. Boyce, Esq.

Enclosure

STATEMENT OF DESIGNATION OF COUNSEL

MUR 2766

NAME OF COUNSEL: Katherine Boyce/Richard E. Messick

ADDRESS: Patton, Boggs & Blow

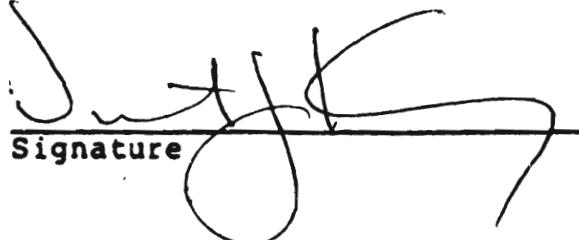
2550 M Street, N.W.

Washington, D.C. 20037-1350

TELEPHONE: (202) 457-6094/6523

The above-named individual is hereby designated as my
counsel and is authorized to receive any notifications and other
communications from the Commission and to act on my behalf before
the Commission.

Date 11/11/88

Signature 

RESPONDENT'S NAME: Auto Dealers & Drivers For Free Trade PAC

ADDRESS: 153-12 Hillside Avenue

Jamaica, NY 11432

HOME PHONE: 718-886-3066

BUSINESS PHONE: (718) 291-6900

OGC 1134

National Republican Senatorial Committee
FEDERAL ELECTION COMMISSION

BENJAMIN L. GINSBERG
LEGAL COUNSEL

88 NOV 21 PM 3:26

November 21, 1988

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

RE: Matter Under Review 2766
Friends of Connie Mack
Robert I. Watkins, as Treasurer

Dear Mr. Noble:

As counsel for the respondents in the above-captioned Matter Under Review, the undersigned respectfully requests an extension of 30 days in which to answer the Complaint received from the Commission. Respondents received notification from the Commission on November 9, 1988, so that the response would be due on December 9, 1988.

This extension is requested because I have just been retained by the Respondents and am currently in the midst of several recounts. The additional time is needed so that I may confer with the Mack campaign and so that the campaign can gather the information needed for the response.

Thank you for your consideration.

Sincerely,

Benjamin L. Ginsberg

cc: Robert I. Watkins
George F. Rishel, Esq.

STATEMENT OF DESIGNATION OF COUNSEL

MUR 2766

NAME OF COUNSEL: Benjamin L. Ginsberg

ADDRESS: 440 First Street, NW, Suite 600
Washington, DC 20001

TELEPHONE: (202) 347-0202

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.

November 9, 1988
Date


Signature Robert I. Watkins

RESPONDENT'S NAME: Friends of Connie Mack and Robert I. Watkins,
as treasurer

ADDRESS:

Post Office Box 1835

Tampa, FL 33601-1835

HOME PHONE:

BUSINESS PHONE: (813) 254-3369



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 22, 1988

plm

Benjamin L. Ginsberg, Esquire
National Republican Senatorial Committee
440 First Street, N.W., Suite 600
Washington, D.C. 20001

RE: MUR 2766
Congressman Connie Mack
for U.S. Senate and
Robert I. Watkins, as
treasurer

Dear Mr. Ginsberg:

This is in response to your letter dated November 21, 1988, which we received on November 21, 1988, requesting an extension of 30 days until January 9, 1989, to respond to the complaint. 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 January 9, 1989.

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

Sincerely,

Lawrence M. Noble
General Counsel

A handwritten signature in black ink, appearing to read "LMN".

BY: Lois G. Lerner
Associate General Counsel

OGC#1142

PATTON, BOGGS & BLOW

2550 M STREET, N.W.

WASHINGTON, D.C. 20037-1350

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ITT TELEX: 440324

TRT TELEX: 197780

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ROSS E. EICHBERG

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KEVIN B. DWYER
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CRAIG V. WITCHER*
JOSEPH B. MAHALAY
LISA M. KELLY
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MARTHA M. KENDRICK
PETER D. ROBERTSON
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ELI GOTTEBENDER
DANIEL M. FLORES*
DAVID J. PARBER*
CHANG S. OH*
JOHN P. FITIAN
RICHARD E. MESSICK*

250 WEST PRATT STREET
BALTIMORE, MARYLAND 21201
(301) 659-5600

November 22, 1988

WRITER'S DIRECT DIAL

(202) 457-6523

Michael G. Marinelli, Esquire
General Counsel's Office
Federal Election Commission
999 E. Street, N.W.
Washington, D.C. 20463

Re: MUR 2766

Dear Mr. Marinelli:

This is to request, on behalf of Auto Dealers and Drivers for Free Trade Political Action Committee (the "PAC"), four additional days to respond to the allegations made by Robert F. Bauer, counsel to the Democratic Senatorial Campaign Committee.

On November 16th I received from the Commission a copy of an amendment that Mr. Bauer filed to his original complaint. This amendment pertains to a different Senate race and raises issues separate from those in the initial complaint.

In order to respond to the initial complaint within 15 days, one of the PAC's employees, Mr. Frank Glacken, moved his post-election vacation to late November. After completing his response to the original allegations, Mr. Glacken then left for vacation. The new allegations were asserted just after he left.

Mr. Glacken will not return until shortly before expiration of the 15-day time period to reply to the complaint, as amended. As he is the person most knowledgeable about the allegations in the amendment, we ask that the time for responding be extended to permit Mr. Glacken to assist in preparing a response.

By my count the PAC's response is due December 1st. I would ask that this be moved forward to December 5th.

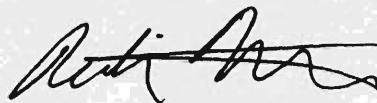
38 NOV 22 MIL 12

FEDERAL ELECTORAL COMMISSION

PATTON, BOGGS & BLOW
Michael G. Marinelli, Esquire
November 22, 1988
Page 2

Thank you for your attention to this request.

Sincerely,



Richard E. Messick

cc: Katharine R. Boyce, Esq.

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

flmn

November 23, 1988

Richard E. Messick, Esquire
Patton, Boggs & Blow
2550 M Street, N.W.
Washington, D.C. 20037

RE: MUR 2766
Auto Dealers and Drivers
for Free Trade PAC and
Edward G. Connelly, as
treasurer

Dear Mr. Messick:

This is in response to your letter dated November 22, 1988, which we received on November 22, 1988, requesting an extension of 4 days until December 1, 1988, to respond to the complaint. After considering the circumstances presented in your letter, I have granted the requested extension. Accordingly, your response is due by the close of business on December 5, 1988.

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

Sincerely,

Lawrence M. Noble
General Counsel

Lois G. Lerner
BY: Lois G. Lerner *by AFM*
Associate General Counsel

OBC1196

STATEMENT OF DESIGNATION OF COUNSEL

MUR 2766

NAME OF COUNSEL: Benjamin L. Ginsberg

ADDRESS: National Republican Senatorial Committee
440 First Street, NW Suite 600
Washington, D.C. 20001

TELEPHONE: (202) 347-0202

68 NOV 29 AM 10:52

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.

November 29, 1988
Date

Glen N. Mauldin
Signature

RESPONDENT'S NAME: GLEN N. MAULDIN, The Honorable Architect

ADDRESS: 302 Hart Senate Office Bldg., OR
PO Box 2139
LAS VEGAS, NV 89125

HOME PHONE: 703 438-6513

BUSINESS PHONE: 202-224-6244

1988

28 NOV 15 PM 4:14



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SENSITIVE

November 14, 1988

MEMORANDUM

TO: The Commission

FROM: Lawrence M. Noble
General Counsel

BY: Lois G. Lerner *SL*
Associate General Counsel

SUBJECT: MUR 2766 Auto Dealers and Drivers for Free Trade
Political Action Committee and Edward G.
Connelly, as treasurer;

Hecht Re-Election Committee and Glen N.
Mauldin, as treasurer; and

Senator Chic Hecht

INJUNCTIVE RELIEF

On November 7, 1988, the Democratic Senatorial Campaign Committee filed an amendment to a complaint against the Auto Dealers and Drivers for Free Trade PAC. The amendment alleges that the Auto Dealers and Drivers for Free Trade PAC (the "Auto Dealers PAC") made expenditures on behalf of Senator Hecht's senatorial campaign that are not, in fact, independent but instead constitute contributions to the Hecht campaign. Thus, the complaint alleges that the Auto Dealers PAC has exceeded the contribution limitations of 2 U.S.C. § 441a(a)(2) and has not reported these payments properly pursuant to 2 U.S.C.

§ 434(b) and that the Hecht campaign has knowingly accepted such contributions in excess of the limitations in violation of 2 U.S.C. § 441a(f).

The amendment incorporates the actions requested in the complaint:

- (1) an expedited investigation;
- (2) injunctive relief; and
- (3) prompt conciliation.

The Federal Election Campaign Act of 1971, as amended (the "Act"), authorizes the Commission to seek such relief if it is unable to correct or prevent a violation of the Act or to enforce the provisions of the Act. 2 U.S.C. §§ 437d(a)(6) and 437g(a)(6). Because the Act and regulations give respondents 15 days to answer a complaint before the Commission makes any finding or takes any action against a respondent, the Commission has generally not sought injunctive relief prior to the running of this period. See, Durkin for U.S. Senate v. FEC, 2 Fed. Elec. Camp. Fin. Guide (CCH) § 9147 (D. N.H. 1980).

In considering whether injunctive relief should be sought, the Commission has used the standard for obtaining a preliminary injunction as the appropriate criteria. This standard examines the requested relief in these terms:

- (1) whether there is a substantial likelihood that a violation of the Act has or is about to occur;
- (2) whether the failure by the Commission to obtain an injunction will result in irreparable harm to the complainant or some other party;
- (3) whether injunctive relief will not result in undue harm or prejudice to the interests of other persons; and
- (4) whether the public interest would be served by such injunctive relief.

It is under these standards that we turn to the complainant's request for injunctive relief.

The complainant asserts that the alleged similarity between the political advertisements used by Hecht campaign and the Auto Dealers PAC's political advertisement supporting Senator Hecht's re-election campaign is evidence of direct collaboration. The complainant further states that Auto PAC's alleged mimicry of the Hecht campaign's television advertisements amounts to the redistribution and republication of these advertisements and must be considered a contribution to the Hecht campaign under 11 C.F.R. § 109.1(d)(1).

Although the complaint raises the potential of serious violations of the Act, this Office recommends that the Commission decline to seek injunctive relief or to initiate an immediate investigation in order to consider the responses to the amendment given that there are factual questions such as the extent of contacts among the respondents. This recommendation is consistent with the recommendations accepted by the Commission in the Expedited First General Counsel's Report where complainant's initial request for injunctive relief was denied in order to permit the respondents to reply to allegations concerning independent expenditures on behalf of the Mack senatorial campaign.

RECOMMENDATIONS

1. Do not seek injunctive action at this time.
2. Approve the attached letters advising the complainant and the following respondents of the Commission's decision not to undertake injunctive action at this time: the Auto Dealers and Drivers for Free Trade PAC, and Edward G. Connelly, as treasurer; the Hecht Re-Election Committee and Glen N. Maudlin, as treasurer; and Senator Chic Hecht.

Attachments

1. November 7, 1988 amendment to complaint
2. Letters (4)

Staff assigned: Michael Marinelli



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/JOSHUA MCFADDEN
COMMISSION SECRETARY

DATE: NOVEMBER 17, 1988

SUBJECT: OBJECTION TO MUR 2766 - General Counsel's
Memorandum to the Commission dated November 14, 1988

The above-captioned document was circulated to the
Commission on Wednesday, November 16, 1988 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 _____ X
Commissioner Josefiak _____
Commissioner McDonald _____
Commissioner McGarry _____
Commissioner Thomas _____

This matter will be placed on the meeting agenda
for December 1, 1988.

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

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)

Auto Dealers and Drivers for Free Trade)
Political Action Committee and Edward)
G. Connally, as treasurer)

Hecht Re-Election Committee and Glen) MUR 2766
N. Mauldin, as treasurer;)

Senator Chic Hecht)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of November 30, 1988, do hereby certify that the Commission decided by a vote of 4-0 to take the following actions in MUR 2766:

1. Decline to seek injunctive action at this time.
2. Approve the letter advising the complainant of the Commission's decision not to undertake injunctive action at this time, as recommended in the General Counsel's memorandum dated November 14, 1988, and amended during the discussion at the meeting.

(continued)

Federal Election Commission
Certification for MUR 2766
November 30, 1988

Page 2

3. Approve the letters advising the following respondents of the Commission's decision not to undertake injunctive action at this time, as recommended in the General Counsel's report dated November 14, 1988: the Auto Dealers and Drivers for Free Trade PAC, and Edward G. Connelly, as treasurer; The Hecht Re-Election Committee and Glen N. Mauldin, as treasurer; and Senator Chic Hecht.

Commissioners Aikens, Elliott, McDonald, and McGarry voted affirmatively for the decision; Commissioners Josefia and Thomas were not present at the time of the vote.

Attest:

12-1-88

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

Corrected 1/9/89



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 6, 1988

Robert F. Bauer, General Counsel
B. Holly Schadler, Counsel
Democratic Senatorial Campaign
Committee
430 South Capitol Street, S.E.
Washington, D.C. 20003

RE: MUR 2766

Dear Mr. Bauer and Ms. Schadler:

On November 7, 1988, the Federal Election Commission received your letter alleging that the Auto Dealers and Drivers for Free Trade Political Action Committee, Hecht Re-Election Committee and Senator Chic Hecht may have or are about to violate the Federal Election Campaign Act of 1971, as amended.

Your letter seeks immediate action to prevent these respondents from making expenditures on behalf of Senator Chic Hecht. The Commission has determined that at this time there is insufficient evidence to warrant the Commission's seeking an injunction. The respondents have been given the prescribed time to respond to the amended complaint.

If you have any questions, please contact me at (202) 376-5690.

Sincerely,

Lawrence M. Noble
General Counsel

A handwritten signature in black ink, appearing to read "L M Noble".

BY: Lois G. Lerner
Associate General Counsel



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 6, 1988

Richard E. Messick, Esquire
Patton, Boggs & Blow
2550 M Street, N.W.
Washington, DC 20037

RE: MUR 2766
Auto Dealers and Drivers
for Free Trade Political
Action Committee and
Edward G. Connelly, as
treasurer

Dear Mr. Messick:

On November 10, 1988, the Federal Election Commission notified you of a amendment to a complaint alleging that your clients, Auto Dealers and Drivers for Free Trade Political Action Committee and Edward G. Connelly, as treasurer, may have or are about to violate certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act"). A copy of the amended complaint was forwarded to you at that time.

The the amended complaint seeks immediate action to prevent your clients from continuing to make expenditures on behalf of Senator Chic Hecht. Please be advised that on November 30 1988, the Commission determined not to commence any action for injunctive relief or initiate an investigation at this time in order to consider your response to the complaint.

If You have any further questions, please contact Michael Marinelli, the attorney, assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

A handwritten signature in black ink, appearing to read "L.M.N." followed by a stylized surname.

BY: Lois G. Lerner
Associate General Counsel



FEDERAL ELECTION COMMISSION
WASHINGTON, DC 20463

December 6, 1988

Glen N. Mauldin, Treasurer
Hecht Re-Election Committee
Post Office Box 2139
Las Vegas, NV 89125

RE: MUR 2766
Hecht Re-Election
Committee and
Glen N. Mauldin, as
treasurer

Dear Mr. Mauldin:

On November 10, 1988, the Federal Election Commission notified you of a complaint alleging that the Hecht Re-Election Committee and you, as treasurer, may have or are about to violate certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act"). A copy of the amended complaint was forwarded to you at that time.

The complaint seeks immediate action to prevent the Auto Dealers and Drivers for Free Trade Political Action Committee from continuing to make expenditures on behalf of Senator Chic Hecht. Please be advised that on November 30, 1988, the Commission determined not to commence any action for injunctive relief or initiate an investigation at this time in order to consider your response to the complaint.

If You have any further questions, please contact Michael Marinelli, the attorney, assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

A handwritten signature in black ink, appearing to read "L.M.N." followed by a stylized surname.

BY: Lois G. Lerner
Associate General Counsel



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 6, 1988

The Honorable Chic Hecht
47 Country Club Lane
Las Vegas, NV 89109

RE: MUR 2766
The Honorable Chic Hecht

Dear Senator Hecht:

On November 10, 1988, the Federal Election Commission notified you of a complaint alleging that you may have or are about to violate certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act"). A copy of the amended complaint was forwarded to you at that time.

The complaint seeks immediate action to prevent the Auto Dealers and Drivers for Free Trade Political Action Committee from continuing to make expenditures on your behalf. Please be advised that on November 30, 1988, the Commission determined not to commence any action for injunctive relief or initiate an investigation at this time in order to consider your response to the complaint.

If You have any further questions, please contact Michael Marinelli, the attorney, assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

A handwritten signature in black ink, appearing to read "L.M.N." followed by a stylized surname.

BY: Lois G. Lerner
Associate General Counsel

066 1347

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2550 M STREET, N.W.
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 CHARLES E. TALSMAN
 IRA A. FISHMAN
 PAUL A. J. WILSON
 DEAN M. DILLEY
 DEBORAH F. NEIPRIS
 JONATHAN N. HALPERN
 JOHN C. MARTIN
 DEBORAH M. LODGE
 MARY ELIZABETH BOSCO
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 GERALD J. LAPORTE
 M. DIANNE SULLIVAN*

December 12, 1988

WINTERS DIRECT DIAL

(202) 457-6523

OF COUNSEL
 WILLIAM D. HATHAWAY
 ALEXANDER M. LANKLER
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 STEPHEN J. RACHTER
 JOHN S. WHITE
 JOSEPH A. KLAUBNER*
 LANSING B. LEE, III*

*Not admitted in D.C.
 *Admitted in Maryland only

BY: MESSENGER

Michael G. Marinelli, Esquire
 General Counsel's Office
 Federal Election Commission
 999 E. Street, N.W.
 Washington, D.C. 20463

Re: MUR 2766

Dear Mr. Marinelli:

Enclosed please find an original and one copy of the Auto Dealers & Drivers for Free Trade Political Action Committee's response to the Democratic Senatorial Campaign Committee's complaint of November 3, 1988, and supplemental complaint of November 7, 1988.

Per my conversation with George Rishel last Monday, this response is being filed today.

Please let us know if you need additional copies of Auto PAC's response.

Sincerely,



Richard E. Messick

cc: Katharine R. Boyce, Esq.

Enclosures

BEFORE
THE FEDERAL ELECTION COMMISSION

38 DEG 12 ENCL 4

IN THE MATTER OF)

Auto Dealers and Drivers For)
Free Trade Political Action)
Committee)
Friends of Connie Mack)
Representative Connie Mack)

MUR No. 2766

RESPONSE BY AUTO DEALERS AND DRIVERS
FOR FREE TRADE POLITICAL ACTION COMMITTEE

Last November the Auto Dealers and Drivers for Free Trade Political Action Committee ("Auto PAC") aired a number of television spots in support of the Republican candidate for the U.S. Senate in Florida, Connie Mack. On the eve of the election, the Democratic Senatorial Campaign Committee ("DSCC") filed a complaint with the Commission suggesting that Auto PAC might be coordinating its expenditures with the Mack campaign. The sole basis for this suggestion was that a direct mail firm and a media buyer had been retained by both Auto PAC and the Mack campaign.

Before filing its complaint DSCC officials contacted Auto PAC to express concern that Auto PAC's expenditures might lead to the defeat of the Democratic Senate candidate in Florida. During these conversations DSCC officials mentioned that it appeared that Auto PAC and the Mack campaign might be sharing two vendors in Florida. Auto PAC replied that neither vendor worked for it in the Florida Senate race. Moreover, it stressed that both vendors were under strict instructions not to discuss or

otherwise communicate any aspect of the Florida Senate campaign with any representative of Auto PAC. Although it appeared that this explanation had ended the matter, the DSCC later called to say that because of "political pressures" it was filing a complaint anyway.

During these same discussions, the DSCC said it was afraid that Auto PAC's activities in Nevada on behalf of the Republican Senate candidate, Chic Hecht, might tip that race in favor of the Republicans as well. At no time did the DSCC indicate it had any evidence that Auto PAC's expenditures were anything but independent of the Hecht campaign. Nevertheless, the day before the election the DSCC amended its complaint to suggest that there might be coordination between Auto PAC's expenditures and the Hecht campaign. The sole basis for the DSCC's suggestion about the Nevada race was that Auto PAC's ads and those of the Hecht campaign addressed the same topics.

In response to these suggestions, Auto PAC submits this response along with the sworn statements of its Director and three of its vendors. These statements demonstrate that the two vendors named in the complaint never worked for Auto PAC in Florida nor did they ever communicate any information to Auto PAC about the Mack campaign. The affidavit of Auto PAC's Director and the third vendor disprove any allegation that Auto PAC's advertisements in Nevada were developed in consultation with the Hecht campaign or indeed that there was any contact whatsoever between Auto PAC and the Hecht campaign.

I. The General Precautions Auto PAC Follows to Ensure Its Expenditures Are Made Independently of Any Campaign.

Since established as a "non-connected" political action committee in 1981, Auto PAC has supported candidates who favor free trade. Affidavit of Francis H. Glacken, Director of Auto PAC, at ¶1, Exhibit 1 hereto ("Glacken Affidavit"). At the end of the 1985-86 election cycle, Auto PAC began an "independent expenditures" program. Id. at ¶2. The employee with the sole responsibility for conducting the PAC's independent expenditures program during the 1985-86 election cycle and the 1987-88 election cycle was Francis H. Glacken, now Director of Auto PAC. Id. Before initiating this program Mr. Glacken reviewed the statutory and regulatory requirements governing independent expenditures. Id.

As a result of this review, Mr. Glacken screens all media buyers, direct mail firms and consultants before retaining them. Id. at ¶4. Mr. Glacken specifically inquires as to what campaigns, if any, a potential Auto PAC vendor is assisting; this ensures that Auto PAC hires no person or firm to help it make independent expenditures in a race where that individual or entity has already been retained to do work. Id. As an additional precaution, before hiring any vendor to assist with Auto PAC's independent expenditures program, Mr. Glacken requires the would-be vendor to sign a statement certifying that the vendor is not employed or engaged by, or has otherwise provided

services for, the candidate on whose behalf Auto PAC's independent expenditures are to be made. Id. at ¶5.

II. The Actions Auto PAC Took To Maintain Its Independence From the Mack Senate Campaign.

In early October, 1988, Mr. Glacken met with Anthony Fabrizio of Multi Media Services to discuss retaining him to purchase media for Auto PAC in various campaigns. Id. at ¶6; Affidavit of Anthony M. Fabrizio, President of Multi Media Services Corp., at ¶2, Exhibit 2 hereto ("Fabrizio Affidavit"). Mr. Glacken specifically asked Mr. Fabrizio if any Senate campaign had retained his services. Glacken Affidavit at ¶7. When Mr. Fabrizio indicated he was working for candidate Mack in Florida, Mr. Glacken directed Mr. Fabrizio to say nothing at all to Mr. Glacken, or to anyone else associated with Auto PAC about the Florida Senate race. Id. at ¶9. Mr. Fabrizio agreed to this, and at all times honored this commitment. Fabrizio Affidavit at ¶2. From that moment, neither Mr. Glacken nor anyone else at the PAC discussed the Florida race with Mr. Fabrizio or others at Multi Media Services. Glacken Affidavit at ¶9; Fabrizio Affidavit at ¶¶4-5.

In late September or early October of 1988, Mr. Glacken interviewed Karl Rove, President of Karl Rove & Company, about providing direct mail services to Auto PAC. Glacken Affidavit at ¶11. At the outset of these discussions Mr. Rove disclosed that he had been retained by the Mack Senate campaign. Id. at ¶12. Mr. Glacken then directed him to say nothing at all to anyone

associated with Auto PAC about the Florida Senate race. Id. at ¶13. Neither Mr. Rove nor anyone else at the Rove Company performed any services whatsoever for Auto PAC in connection with the Mack campaign. Affidavit of Karl C. Rove, President of Karl Rove & Company, at ¶¶4-5, Exhibit 3 hereto ("Rove Affidavit"). Nor did Mr. Rove or anyone else at Rove Company ever discuss the Mack campaign with anyone associated with Auto PAC. Id.

The only independent expenditures Auto PAC made in the Florida Senate race were the purchase of television time to advocate the election of candidate Mack. Glacken Affidavit at ¶15. This time was bought by the Lambert-Dale Advertising Company of New York, New York. Id. at ¶16. This media buyer was retained, in part, because it had never had any association with the Mack campaign or any of the campaign's media consultants. Id. To confirm that this was the case, Mr. Glacken secured from this vendor a signed statement that it had no involvement with the Mack campaign. See Exhibit II to Glacken Affidavit.

Auto PAC's expenditures on behalf of Mack were made without any information about the plans, projects, or needs of the Mack campaign. Id. at ¶17. None of these expenditures were made by or through any individual with any relationship with the Mack campaign. Id. Nor was any expenditure made at the suggestion or request of anyone connected with the Mack campaign. Id. Indeed, prior to the election no one at Auto PAC ever had any contact with anyone associated in any way with the Mack campaign. Id. at ¶9.

III. The Actions Auto PAC Took to Maintain Its Independence From the Hecht Senate Campaign.

In September, 1988, Mr. Glacken interviewed Robert L. Ziemer about doing research on the issues in the Nevada Senate. Id. at ¶18. Mr. Glacken retained Mr. Ziemer only after Mr. Ziemer assured Mr. Glacken that he had no connection whatsoever with the Senate campaign of Chic Hecht. Id. at ¶19. To confirm this, Mr. Glacken had Mr. Ziemer execute a statement certifying that Mr. Ziemer had had no involvement with the Hecht campaign. Id.; see also Exhibit III to Glacken Affidavit. Mr. Glacken then directed Mr. Ziemer not to have any contact with the Hecht campaign when conducting his research. Id.; Affidavit of Robert L. Ziemer, political consultant, at ¶7, Exhibit 4 hereto ("Ziemer Affidavit").

Mr. Ziemer spent almost a month reviewing the issues in the Nevada Senate race. Ziemer Affidavit at ¶3. He gathered news clips, video tapes, state legislative records and other materials in Nevada. Id. at ¶4. He supplemented this work with material from the Portland, Oregon, public library. Id. at ¶5. Based on this work he prepared a series of memos for Auto PAC, such as the one attached to his affidavit. Exhibit I to Ziemer Affidavit. All his research was carried out independently of the Hecht campaign; Mr. Ziemer had no contact with Senator Hecht or anyone associated with his campaign. Ziemer Affidavit at ¶8.

Auto PAC's expenditures for public advertisements on behalf of Senator Hecht consisted of airing television spots and sending direct mail. Glacken Affidavit at ¶ 20. The scripts for the

television ads and the copy for the direct mail letters were drawn from the material Mr. Ziemer supplied, supplemented by news reports of the campaign. Id. No other source of information was used to prepare either the scripts or the direct mail letters. Id.

Each television advertisement Auto PAC aired and each direct mail letter Auto PAC sent advocating Senator Hecht's election was created independently of the Hecht campaign. Id. at ¶23. Auto PAC did not make a copy of any Hecht television spot and rebroadcast in whole or in part; nor did Auto PAC copy any Hecht print ad or brochure and republish it in whole or in part. Id. At no time did anyone at Auto PAC have any contact with Senator Hecht, or with any representative or agent of his campaign, about the Nevada Senate race. Id. at ¶22. All Auto PAC's activities in Nevada were undertaken without any coordination or consultation with Senator Hecht or any representative or agent of his campaign. Id. No one at Auto PAC had any knowledge of the plans, projects or needs of the Hecht campaign. Id.

IV. Standing Alone, Concurrent Use of Two Vendors By Auto PAC and the Mack Campaign Provides No Legal Basis to Attack the Independence of Auto PAC's Expenditures.

The DSCC complaint offers little but hyperbole to suggest that Auto PAC either coordinated its expenditures with the Mack campaign or otherwise compromised the independence of its efforts on Mack's behalf. The best it can muster is to point to two vendors -- Multi Media Services and Karl Rove & Company -- that were retained by both Auto PAC and the Mack Campaign. This, it

says, "present[s] prima facie questions about the 'independence' of the PAC's expenditures for Mack." Complaint at 4. In a typical example of overstatement, the DSCC asserts that "these collusive arrangements fail any legal test of independence. . . ." Id. No authority is cited for this claim.

The concurrent use of a vendor by a political committee and a candidate without more is not enough, by itself, to destroy the independence of an expenditure made by the committee on the candidate's behalf. See A.O. 1979-80, 1 Fed. Elec. Camp. Fin. Guide (CCH) ¶5469 (March 12, 1980). In A.O. 1979-80 the National Conservative Political Action Committee ("NCPAC") had asked whether a committee contemplating independent expenditures in states A, B and C could hire the same polling firm that had been retained by the candidate the committee intended to support in state A. A unanimous Commission opined that it could so long as it only used the firm in states B and C. The Commission said that NCPAC's concurrent use, in states B and C, of the same polling firm being used by the candidate in state A did not destroy the independence of its efforts on behalf of the state A candidate.

The Commission then went on to rule that NCPAC could not use this polling firm in state A. The Commission thus distinguished between the concurrent use of the same vendor in different states and the sharply different situation where a committee and a candidate share the same vendor. Concurrent use of the same vendor raises no special concern about coordination, whereas in

the latter circumstance, where vendors are shared, the opportunity for coordination is great, a fact the Commission's regulations recognize. See 11 C.F.R. § 109.1(b)(4)(i)(1988).^{1/} Later in the opinion the Commission suggested that a committee contemplating making independent expenditures might want to screen potential vendors to ensure the vendor is not already employed by a candidate on whose behalf independent expenditures are to be made.

The facts in the Florida Senate campaign are indistinguishable in all material aspects from those set out A.O. 1979-80.

Auto PAC hired Multi Media and Rove to work for it in other states while the Mack campaign made use of Multi Media and Rove's services in Florida. This is the same as NCPAC using a polling firm in states B and C that was being concurrently utilized by the Republican candidate NCPAC was supporting in state A.

Accordingly, under the Federal Election Campaign Act Auto PAC is entitled to rely upon the Commission's ruling in A.O. 1979-80 here. 2 U.S.C. § 437f(c) (1982). Indeed, as the Glacken affidavit reveals, Auto PAC has instituted procedures for screening its vendors that reflect the advice the Commission proffered in A.O. 1979-80.

^{1/} See also A.O. 1982-20, 1 Fed. Elec. Camp. Fin. Guide (CCH) ¶5665 (media buyer working both for independent PAC supporting Republican candidate and for candidate himself would compromise the "independence" of PAC's expenditures on candidate's behalf); In the Matter of Friends of Alaska, MUR 1272 (Jan. 27, 1981)(nonindependence may exist when vendor hired by candidate is later hired by PAC to make expenditures in support of the candidate or in opposition to his opponent).

The DSCC offers no evidence to suggest Auto PAC's expenditures were not made independently of the Mack campaign. Nor does it furnish facts from which it could be inferred that any such evidence exists. The only evidence before the Commission is that contained in the Glacken, Fabrizio and Rove Affidavits. All this contradicts any suggestion that Auto PAC's expenditures were coordinated with the Mack campaign.

Auto PAC has conducted its affairs with scrupulous regard for the Commission's rules respecting independent expenditures. The DSCC has merely suggested is that there was an opportunity for coordination between the Mack campaign and Auto PAC, "[b]ut the opportunity for coordination is a separate question from whether it was utilized." Common Cause v. FEC, 655 F. Supp. 619, 624 (D.D.C. 1986). In the face of the sworn denials of Glacken, Fabrizio and Rove, and lacking any evidence to the contrary, there is nothing from which the Commission could possibly infer that the opportunity was utilized here.^{2/} Accordingly, there is no reason to believe Auto PAC committed any election law violation, and the Commission should therefore decline to investigate Auto PAC's activities in the Florida Senate race.

2/ A mere assertion by the DSCC, without evidence, that the PAC and Mack campaigns shared common vendors in Florida does not give rise to a legal presumption of non-independence pursuant to 11 C.F.R § 109.1(b)(4)(i). Even if a legal presumption could be imposed on Auto PAC, its burden is merely to go forward -- as it has -- with contrary evidence. The burden of proof remains with the DSCC. In the Matter of Steward R. Mott, MUR 1333 (May 28, 1982), General Counsel's Report at 8, citing Leguille v. Dunn, 544 F. 2d 1 (D.C. Cir. 1976). The DSCC has failed to meet even that burden here.

V. The Fact That Auto PAC and the Hecht Campaign Addressed the Same Topics in Their Advertisements Does Not Imply Any Coordination.

In a supplemental complaint filed with the Commission on November 7, the DSCC also raises a question about Auto PAC's expenditures on behalf of the Nevada Senate Republican candidate Chic Hecht. The only "fact" the DSCC offers here is that Auto PAC's advertisements discuss the same topics as the Hecht campaign, or in the more vivid words of the DSCC, Auto PAC's ads "repeat -- point-by-point, theme-for-theme" the Hecht ads. DSCC Letter to the Commission, November 7, 1988 at 2. The DSCC contends that because Auto PAC and Hecht spots discuss the same issues, "there is every possibility that the . . . Auto PAC and Hecht advertising messages are the product of an unlawful collaboration of the PAC and the Republican candidate." Id.

The uncontested facts, however, are that Auto PAC's ads were not the product of a collaborative effort but of the independent work of Mr. Robert Ziemer, Auto PAC's Nevada researcher. And, as the sworn statement of Mr. Glacken demonstrates, not only was Auto PAC's research conducted independently of the Hecht campaign, but all other Auto PAC activities were independent as well.

The DSCC also asks the Commission to find that Auto PAC's expenditures were not made independently of the Hecht campaign because they violate the statutory proscription on the rebroadcast or republication of a candidate's campaign material by a committee making independent expenditures. Id. citing 2 U.S.C.

§ 441a(a)(7)(B)(ii) (1982). As Mr. Glacken states in his affidavit, Auto PAC never rebroadcast nor republished any Hecht campaign material, a fact corroborated by the DSCC's own "evidence". Attached to the DSCC's supplemental complaint are copies of Hecht ads and of the Auto PAC ads which the DSCC says constitute a rebroadcast or republication of the Hecht ads. But a simple comparison of the Hecht ads with the Auto PAC ads demonstrates that Auto PAC's ads are not identical to the Hecht ads.

What the DSCC appears to want is for the Commission to the stretch the law to cover what the DSCC calls "mimicry". The DSCC cites no authority in support of this novel request; and, of course, there is none. In fact, the authority that exists flatly contradicts the interpretation sought by the DSCC. In a thorough examination of the Congressional deliberations that led to the enactment of the rebroadcast statute, the Commission's Office of the General Counsel has concluded:

The only clear purpose that can be drawn from the legislative history is that Congress did not want the contribution limitations of the Act circumvented by allowing an individual or organization to distribute campaign material prepared by the candidate.

In the Matter of Fund for a Conservative Majority, MUR 1225 (July 4, 1982), General Counsel's Report at 8.

The DSCC offers no evidence to back up its suggestion that Auto PAC collaborated with the Hecht campaign when developing its advertisements. Nor does it offer any authority in support of

its request that the Commission interpret the law on the republication of a candidate's campaign literature in a manner inconsistent with the legislative history. Accordingly, the Commission should decline to find any reason to believe that Auto PAC's activities in the Nevada Senate race violated the election laws.

VII. Conclusion

It is not surprising that the DSCC's fanciful assertions reach a crescendo with the exclamation that Auto PAC's expenditures in Nevada have "assumed the dimensions of a national scandal." While it is understandable that the DSCC is concerned, or overwrought, its concern really is about the effectiveness of Auto PAC's independent expenditures rather than about their impropriety. The DSCC has proffered no evidence or legal authority to support its frivolous complaint. If there is a scandal at foot it is that the DSCC would have both Auto PAC and the Commission and its staff waste time on a complaint which is virtually barren of facts and which barely complies with the Commission's minimal technical requirements for a valid complaint.

For all the reasons stated above the Commission should find no reason to believe that any action by Auto PAC violated the campaign finance laws and should close the file on this matter summarily.

Respectfully submitted,



Katharine R. Boyce
Richard E. Messick

Counsel for Auto Dealers
and Drivers for Free Trade
Political Action Committee

Patton, Boggs & Blow
2550 M Street, N.W.
Washington, D.C. 20009
202/457-6000

December 12, 1988

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BEFORE
THE FEDERAL ELECTION COMMISSION

IN THE MATTER OF

Auto Dealers and Drivers for Free) MUR No. 2766
Trade Political Action Committee)
Friends of Connie Mack)
Representative Connie Mack)

AFFIDAVIT OF FRANCIS H. GLACKEN

Francis H. Glacken, under penalty of perjury pursuant to Section 1746 of Title 28, declares as follows:

1. I have been employed by the Auto Dealers and Drivers for Free Trade Political Action Committee ("the PAC") since February of 1982. In 1985 I was appointed Treasurer and in February of 1988 I became the Director of the PAC. The PAC was established in 1981 to support candidates who favor free trade.

I. Steps Auto PAC Takes to Ensure Its Expenditures are Independent

2. I am responsible for all the PAC's activities in connection with its independent expenditures program. This program began in 1985 and was continued in the 1987-88 election cycle. Prior to starting this program, I reviewed the statutory and regulatory provisions which apply to independent expenditures. I examined these provisions again prior to making independent expenditures in the 1987-88 election cycle.

3. My responsibilities as the PAC's Director include selecting campaign consultants and vendors to provide whatever services the PAC requires to make independent expenditures. I also ensure that any independent expenditure made by the PAC complies with the Federal Election Commission's rules. I make sure that no one at the PAC has any contact with any candidate, or the agent or representative of any candidate, on whose behalf the PAC plans to make independent expenditures. I also see to it that no expenditure is made based on any knowledge of the plans, projects or needs of the candidate.

4. To ensure that the PAC's expenditures are truly independent, I screen all vendors the PAC retains in connection with making independent expenditures. This screening includes questioning them as to which campaigns have retained their services. If the prospective vendor states that he is doing work for a candidate for whom the PAC plans to make independent expenditures, I do not hire him to work for the PAC on that campaign.

5. This screening also includes explaining to the vendors the rules they must follow in their work for the PAC to be sure that the PAC's expenditures are not deemed to be made in coordination or consultation with any candidate. As an additional precaution, before retaining a vendor to assist the PAC in making independent expenditures on behalf of a particular candidate, I ask him or her to sign a statement certifying that he or she has no involvement with that particular candidate's campaign.

II. The Florida Senate Race

Multi Media Services Corporation

6. Sometime in early October of 1988 I met with Anthony Fabrizio, President of Multi Media Services of Alexandria, Virginia, to discuss retaining him to purchase media for the PAC.

7. At the outset of our conversation, I asked Mr. Fabrizio which, if any, Senate campaigns had retained his services.

8. He replied that, among other campaigns, he was working for the Senate campaign of Representative Connie Mack.

9. At that point, I stated that he was not to say anything at all to me or anyone else associated with the PAC about the Florida Senate race. From that moment, neither I nor anyone else at the PAC discussed the Florida Senate race with Mr. Fabrizio or others at Multi Media Services, or anyone else connected in any way with the Florida Senate race about that race or media for the race.

10. I subsequently retained Mr. Fabrizio's firm, Multi Media Services Corporation, to buy television advertising for the PAC in Wyoming, Nevada, Mississippi, and California. These are the only states where Multi Media Services Corporation performed any service for the PAC.

Karl Rove and Company

11. Sometime in late September or early October, 1988, I began discussing with Karl Rove, President of Karl Rove and

Company, the possibility of his providing direct mail services for the PAC.

12. At the outset of these discussions, I asked Mr. Rove which Senate campaigns had retained his services. He answered that he was doing work for the Connie Mack Senate campaign in Florida.

13. At that point, I stated that he was not to say anything at all to me or anyone else associated with the PAC about the Florida Senate race. From that moment, neither I nor anyone else at the PAC discussed the Florida Senate race with Mr. Rove or others at Karl Rove and Company.

14. I subsequently retained Mr. Rove's firm, Karl Rove and Company, to produce direct mail letters for delivery to voters in Nevada. This is the only service Karl Rove and Company performed for the PAC.

Independent Expenditures in Florida

15. The only independent expenditures the PAC has made in the Florida Senate race were the purchase of television time to advocate the election of Representative Connie Mack to the U.S. Senate.

16. As reported to the Federal Election Commission, the PAC retained the Lambert-Dale Advertising Company of New York, New York, to purchase this time. See Exhibit I hereto. The PAC selected this media buyer on the basis that the company had never had any association whatsoever with the Mack for Senate Campaign

or any of its media consultants. At my request, Mr. James C. LaMarre, Senior Vice President of Lambert-Dale Advertising, executed a Certificate of Non-Involvement before I hired his agency. See Exhibit II hereto. This certificate states that Lambert-Dale had had no involvement with the Connie Mack for Senate Campaign.

17. At the time these independent expenditures were made, neither I nor anyone else at the PAC had any information about the plans, projects or needs of the Connie Mack Senate campaign. None of the PAC's independent expenditures in Florida were made by or through any individual with any relationship whatsoever to the Mack Senate campaign. None of the PAC's expenditures were undertaken at the request or direction of candidate Mack or anyone associated with his campaign.

III. The Nevada Senate Race

Basis of PAC's Advertisements

18. Because the PAC needed information on the issues being debated in the Nevada Senate race, I interviewed Robert L. Ziemer of Portland, Oregon, about doing research on the campaign and preparing reports and memos on the issues.

19. Before retaining Mr. Ziemer, I confirmed that he had had no involvement with the Hecht campaign. When I retained him, I asked Mr. Ziemer to execute a Certificate of Non-Involvement stating that he was not involved in any way with the Hecht campaign. See Exhibit III hereto. After hiring him, I explained

that all the PAC's efforts must be independent of the Hecht campaign. I also cautioned him that he was to have no contact with Senator Hecht or any representative or agent of the Hecht campaign and that all his research was to be done independently.

Independent Expenditures in Nevada

20. To advocate Senator Hecht's election the PAC aired television spots and sent direct mail. Both the scripts for the spots and the direct mail copy were created using the research supplied by Mr. Ziemer, supplemented by newspaper accounts of the campaign. No other source was used to prepare the television scripts or direct mail letters. These are the only public advertisements Auto PAC sponsored on behalf of Senator Hecht.

22. Prior to the November 1988 election, neither I nor anyone else at the PAC had any contact with Senator Hecht, or with any representative or agent of his campaign, about the Nevada Senate race. All the PAC's activities in Nevada were undertaken without any coordination or consultation with Senator Hecht or any representative or agent of his campaign. No one at the PAC had any knowledge of the plans, projects or needs of the Hecht campaign. No activity was undertaken at the request or direction of Senator Hecht or anyone associated with his campaign.

23. Each and every television advertisement and direct mail letter prepared by the PAC advocating Senator Hecht's election or his opponent's defeat was created independently. The

PAC did not make a copy of any Hecht television spot and rerun it; it did not make a copy of any printed material produced by the Hecht campaign and redistribute it. No television advertisement or direct mail letter was a republication, in whole or in part, of any Hecht broadcast or other advertisement or brochure, nor did the PAC finance the dissemination or distribution, in whole or in part, of any broadcast or any other materials prepared by the Hecht campaign.

I certify under penalty of perjury that the foregoing is true and correct.

Francis H. Glacken

Executed this 7th day of December, 1988.

A handwritten signature in black ink, appearing to read "Francis H. Glacken". The signature is fluid and cursive, with "Francis" on the left, "H." in a smaller circle above "Glacken", and "Glacken" to the right.

ITEMIZED INDEPENDENT EXPENDITURES

Page 1 of 1 Pages

(See Reverse Side for Instructions)

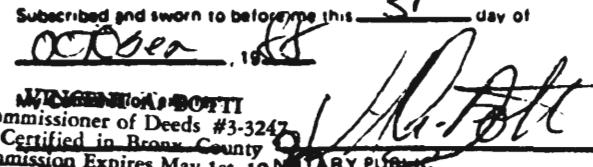
Name of Committee (In Full)			I.D. No.	
Auto Dealers & Drivers for Free Trade PAC			C00141903	
Full Name, Mailing Address & ZIP Code of Each Payee	Purpose of Expenditure	Date (month, day, year)	Amount	Name of Federal Candidate supported or opposed by the expenditure & office sought
Lambert Dale Advertising 1515 Broadway New York, NY 10036	Media- Time Buy	10/31/88	\$100,000.00	Rep. Connie Mack U.S. Senate Florida
Karl Rove + Co. P.O. Box 1902 Austin, TX 78767	Direct Mail	10/31/88	\$ 81,816.50	Sen. Chic Hecht U.S. Senate Nevada
				<input checked="" type="checkbox"/> Support <input type="checkbox"/> Oppose
				<input checked="" type="checkbox"/> Support <input type="checkbox"/> Oppose
				<input type="checkbox"/> Support <input type="checkbox"/> Oppose
				<input type="checkbox"/> Support <input type="checkbox"/> Oppose
				<input type="checkbox"/> Support <input type="checkbox"/> Oppose
				<input type="checkbox"/> Support <input type="checkbox"/> Oppose
				<input type="checkbox"/> Support <input type="checkbox"/> Oppose
(a) SUBTOTAL of Itemized Independent Expenditures			\$ 181,816.50	
(b) SUBTOTAL of Unitemized Independent Expenditures			\$ _____	
(c) TOTAL Independent Expenditures			\$ 181,816.50	

Under penalty of perjury I certify that the independent expenditures reported herein were not made in cooperation, consultation, concert with, or at the request or suggestion of any candidate or any authorized committee or agent of such candidate or authorized committee. Furthermore, these expenditures did not involve the financing of dissemination, distribution, or republication in whole or in part of any campaign materials prepared by the candidate, his campaign committee, or their agent.



10/31/88

Date

Subscribed and sworn to before me this 31st day of
October, 1988
 MARGARET FOLK
 Commissioner of Deeds #3-3247
 Certified in Bronx County
 Commission Expires May 1st, 1990 MARY PLUMMER


ITEMIZED INDEPENDENT EXPENDITURES

1 1

Page ____ of ____ Pages

(See Reverse Side for Instructions)

Name of Committee (in Full) Auto Dealers & Drivers For Free Trade PAC			I.D. No.	
Full Name, Mailing Address & ZIP Code of Each Payee	Purpose of Expenditure	Date (month, day, year)	Amount	Name of Federal Candidate supported or opposed by the expenditure & office sought
Lambert Dale Advertising 1515 Broadway New York, N.Y. 10036	Media-Time Buy	10/27/88	200,000.00	Rep. Connie Mack U.S. Senate Florida <input checked="" type="checkbox"/> Support <input type="checkbox"/> Oppose
				<input type="checkbox"/> Support <input type="checkbox"/> Oppose
				<input type="checkbox"/> Support <input type="checkbox"/> Oppose
				<input type="checkbox"/> Support <input type="checkbox"/> Oppose
				<input type="checkbox"/> Support <input type="checkbox"/> Oppose
				<input type="checkbox"/> Support <input type="checkbox"/> Oppose
				<input type="checkbox"/> Support <input type="checkbox"/> Oppose
(a) SUBTOTAL of Itemized Independent Expenditures			\$ 200,000.00	
(b) SUBTOTAL of Unitemized Independent Expenditures			\$ _____	
(c) TOTAL Independent Expenditures			\$ 200,000.00	

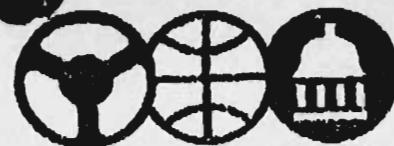
Under penalty of perjury I certify that the independent expenditures reported herein were not made in cooperation, consultation, concert with, or at the request or suggestion of any candidate or any authorized committee or agent of such candidate or authorized committee. Furthermore, these expenditures did not involve the financing of dissemination, distribution, or republication in whole or in part of any campaign materials prepared by the candidate, his campaign committee, or his agent.

Signature

Date

Subscribed and sworn to before me this 27th day of
OCTOBER, 1988

VINCENT A. BOTI
My Commission #3-3247
Commissioner of Deaths
Certified in Bronx County
Commission Expires May 1st, 1990
NOTARY PUBLIC



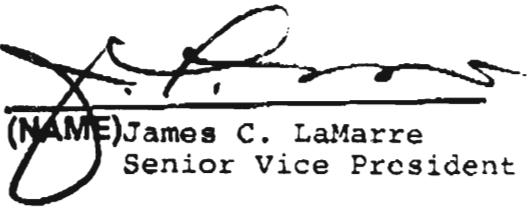
**AUTO DEALERS & DRIVERS FOR FREE TRADE
Political Action Committee**

CERTIFICATE OF NON-INVOLVEMENT

I hereby certify that Lambert/Dale Advertising; located at 1515 Broadway, New York, New York 10036, has not been employed or engaged by, or otherwise provided services for Rep. Connie Mack, or any authorized campaign committee of Rep. Mack, or agent of either, of any kind during the years 1987 and 1988, with the following exception:

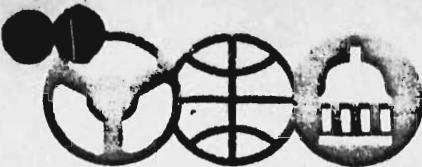
NONE

DATE: October 25, 1988


(NAME)James C. LaMarre
Senior Vice President

(TITLE)

153-12 Hillside Avenue • Jamaica, New York 11432 • (718) 291-6900



**AUTO DEALERS & DRIVERS FOR FREE TRADE
Political Action Committee**

CERTIFICATE OF NON-INVOLVEMENT

I hereby certify that Bob Zeimer 7301 S.E. Lincoln Street,
Portland OR, 97215 has not been employed or engaged by, or
otherwise provided services for Sen. Chic Hecht, or any
authorized campaign committee of Sen. Hecht, or agent of
either, of any kind during the years 1987 and 1988, with the
following exception:

DATE: Sept 22, 1988

(NAME) Robert L Zeimer

(TITLE) Consultant

2

2 0 0 4 0 7 8 4 7 3 1

BEFORE
THE FEDERAL ELECTION COMMISSION

IN THE MATTER OF)
)
Auto Dealers and Drivers for Free) MUR No. 2766
Trade Political Action Committee)
Friends of Connie Mack)
Representative Connie Mack)

AFFIDAVIT OF ANTHONY M. FABRIZIO, JR.

Anthony M. Fabrizio, Jr., under penalty of perjury pursuant to Section 1746 of Title 28, declares as follows:

1. I am President and Chairman of First Media Services Corp., a Virginia corporation doing business under the name of Multi Media Services Corporation ("Multi Media").

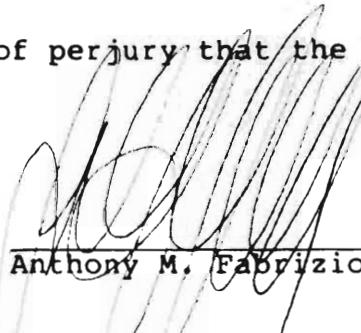
2. In October of 1988 I was approached by the Auto Dealers and Drivers for Free Trade PAC ("the PAC") to buy media in selected states. I disclosed at that time that I had been retained by the Connie Mack for Senate campaign. From that point on the PAC and I agreed not to discuss anything involving the Florida Senate race. I was subsequently hired by the PAC to buy media in other states.

3. I am the only person at Multi Media who had any contact with the employees or representatives of the PAC during the 1987-88 campaign cycle on anything but matters related to billing.

4. Neither I nor anyone else at Multi Media performed any services whatsoever for the PAC in connection with the Connie Mack for Senate campaign.

5. At no time prior to the election did I or anyone else at Multi Media ever discuss the Connie Mack for Senate campaign, time buys by the Mack campaign, commercials run by the Mack campaign or anything else associated with the Mack campaign with anyone connected with the PAC.

I certify under penalty of perjury that the foregoing is true and correct.



Anthony M. Fabrizio, Jr.

Executed this 17th day of November, 1988.

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3

BEFORE
THE FEDERAL ELECTION COMMISSION

IN THE MATTER OF)

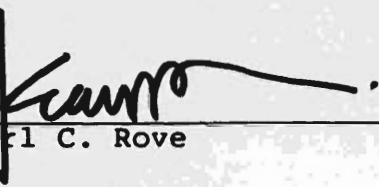
Auto Dealers and Drivers for Free) MUR No. 2766
Trade Political Action Committee)
Friends of Connie Mack)
Representative Connie Mack)

AFFIDAVIT OF KARL C. ROVE

Karl C. Rove, under penalty of perjury pursuant to Section 1746 of Title 28, declares as follows:

1. I am President and Chief Executive Officer of Karl Rove + Company, a Texas corporation ("the Rove Company").
2. During the 1987-88 campaign cycle, the Rove Company was retained by the Auto Dealers and Drivers for Free Trade PAC ("the PAC") to prepare and send direct mail.
3. I am the only person at the Rove Company authorized to discuss any matter involving a particular campaign with the employees or representatives of the PAC during the 1987-88 campaign cycle.
4. Neither I nor anyone else at the Rove Company performed any services whatsoever for the PAC in connection with the Connie Mack for Senate campaign.
5. At no time did I or anyone else at the Rove Company ever discuss the Connie Mack for Senate campaign with anyone connected with the PAC.

I certify under penalty of perjury that the foregoing is
true and correct.



Karl C. Rove

Executed this 26 day of November, 1988.

0 0 0 4 0 7 8 4 7 3 7

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BEFORE
THE FEDERAL ELECTION COMMISSION

IN THE MATTER OF)

Auto Dealers and Drivers for Free) MUR No. 2766
Trade Political Action Committee)
Friends of Connie Mack)
Representative Connie Mack)

AFFIDAVIT OF ROBERT L. ZIEMER

Robert L. Ziemer, under penalty of perjury pursuant to Section 1746 of Title 28, declares as follows:

1. I am a political consultant residing in Portland Oregon.
2. In the Fall of 1988 I was retained by Auto Dealers and Drivers for Free Trade Political Action Committee ("The PAC") to do research on the Nevada Senate race.
3. I spent almost a month researching the issues that had surfaced in the Nevada race. Among other things, I travelled to Nevada where I visited the Legislative Library at the State Capitol in Carson City and the Washoe County Library in Reno. I also visited the headquarters of the Bryan for Senate Campaign and various television stations.
4. During this visit I gathered news clips, video tapes of debates, state legislative records and other information on the stands Senator Hecht and Govenor Bryan had taken on various public issues.

5. I returned to Portland, Oregon with this material. There, I supplemented it with articles from Congressional Quarterly and other publications available from the public library.

6. Based on all the material I had gathered, I wrote a series of memos for the PAC suggesting issues that could be used to advance the candidacy of Senator Hecht. A copy of one such memo is attached hereto as Exhibit 1.

7. When I was hired by the PAC, Frank Glacken made it absolutely clear that I was to have no contact with Senator Hecht or anyone associated with his campaign.

8. All my research was done independently. I had no contact with Senator Hecht or anyone associated with his campaign. Nor did I have any knowledge of the plans, projects or needs of the Hecht Campaign.

I certify under penalty of perjury that the foregoing is true and correct.


Robert L. Ziemer

Executed this 7th day of December, 1988.

006 1441

National Republican Senatorial Committee

BENJAMIN L. GINSBERG
LEGAL COUNSEL

December 21, 1988

88 DEC 22 PM 1:12

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

Attn: Michael Marinelli, Esquire

RE: MUR 2766

Dear Mr. Noble:

This letter and the attached affidavit of Ken Reitz, campaign manager for Senator Chic Hecht, the Republican candidate in the 1988 Senate election in Nevada, are submitted on behalf of the Hecht Re-Election Committee and Glen N. Mauldin, as Treasurer, in response to a complaint filed with the Federal Election Commission ("Commission"). The complaint was filed by the Democratic Senatorial Campaign Committee ("DSCC") on behalf of Senator Hecht's opponent against the Auto Dealers and Drivers for Free Trade PAC ("Auto Dealers PAC") and the Hecht Re-Election Committee and has been denominated MUR 2766. For the reasons set forth below, the Commission should find no reason to believe that the Hecht Re-Election Committee violated the Federal Election Campaign Act ("Act") or the Commission's Regulations.

This complaint, made the day before the 1988 general election, does not even allege that the Hecht Re-Election Committee or anyone associated with it violated the Act. It offers absolutely no evidence that anyone associated with Senator Hecht's campaign violated the Act. Rather, it is a transparent

election-eve attempt to discredit politically an independent expenditure. While the complainant may not like the reality of an independent expenditure, that does not mean their unsubstantiated complaint should receive anything more than a prompt dismissal by the Commission.

The Act defines an independent expenditure as one advocating the election or defeat of a clearly identified candidate "which is not made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate of any agent or authorized committee of such candidate." 2 U.S.C. 431(17); 11 C.F.R. 109.1.

This complaint contains no facts or theories to substantiate the charge that Senator Hecht's campaign violated the Act. There is no allegation that anyone connected or involved with the Hecht campaign cooperated with or gave any consent to the independent expenditure group. There is no evidence that the Hecht campaign or any of its agents or employees consulted with the independent expenditure group or requested or suggested that it undertake any of its activities.

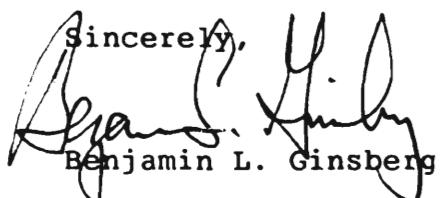
There is a simple reason for this lack of evidence or facts in the complaint. There was no cooperation or consultation with, consent given by, request or suggestion made by the Hecht campaign to the Auto Dealers PAC. Reitz Affidavit at 4.

There was no contact by the Hecht campaign with this independent expenditure group. Id. No one associated with the Hecht committee gave any of its broadcast ads or campaign materials to the independent expenditure group. Id. at 5. While

the complaint broadly states that "there is every possibility" that the independent expenditure ads are the "product of an unlawful collaboration" between the Hecht campaign and the independent expenditure group, an analysis of the "evidence" submitted with the complaint shows that the ads at issue do not even include any materials prepared by the Hecht campaign.

In conclusion, this is a meritless complaint that does not even include any facts or evidence to substantiate its charges. All the facts before the Commission show the complaint is groundless. Complaints of this nature should not be allowed to tie up the time and resources of candidates. For the reasons set forth above, the Commission should find no reason to believe that the Hecht Re-Election Committee and Glen N. Mauldin, as treasurer, violated the Federal Election Campaign Act of 1971, as amended, or the Regulations issued pursuant thereto.

Sincerely,


Benjamin L. Ginsberg

Counsel to the Hecht
Re-Election Committee

BEFORE THE FEDERAL ELECTION COMMISSION

IN THE MATTER OF:

Hecht Re-Election Committee

Auto Dealers and Drivers for
Free Trade PAC

MUR 2766

Ken Reitz, having been duly sworn, deposes and says:

1. I have personal knowledge of the facts contained herein and am competent to testify thereto.

2. I was campaign manager for Senator Chic Hecht, a candidate for the United States Senate in Nevada in the 1988 general election.

3. During the course of that campaign, a group called the Auto Dealers and Drivers for Free Trade PAC conducted an independent expenditure campaign on behalf of Senator Hecht's campaign.

4. To the best of my knowledge, information and belief, no one on Senator Hecht's campaign staff or connected to his campaign committee in any way cooperated or consulted with the independent expenditure group, gave consent to it for its activities or requested or suggested that it undertake its activities.

5. To the best of my knowledge, information and belief, there was no contact by the Hecht Re-Election Committee or anyone connected to it with this group concerning its independent expenditure campaign. No one associated with the Hecht Re-Election Committee gave any of our broadcast ads or campaign materials to this independent expenditure group.

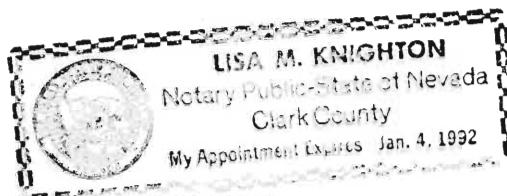
Ken Reitz

Ken Reitz

Signed to and subscribed before me this 21 day of December 1988.

Lisa M. Knighton
Notary Public

My Commission expires: _____



OGC/1531

National Republican Senatorial Committee

RECEIVED
ELECTION COMMISSION
ADMINISTRATIVE DIVISION

89 JAN -9 PM 4:43

BENJAMIN L. GINSBERG
LEGAL COUNSEL

January 6, 1989

CC JAN 10 PM 2:45

FEDERAL ELECTION COMMISSION

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

Attn: Michael Marinelli, Esquire

RE: MUR 2766

Dear Mr. Noble:

This letter and the attached affidavits are submitted on behalf of the Congressman Connie Mack for U.S. Senate Committee and Robert I. Watkins, as Treasurer, in response to a Complaint filed with the Federal Election Commission ("Commission"). The Complaint, filed by the Democratic Senatorial Campaign Committee ("DSCC") on behalf of Connie Mack's opponent, against the Auto Dealers and Drivers for Free Trade PAC ("Auto Dealers PAC") and the Congressman Connie Mack for U.S. Senate Committee, has been denominated MUR 2766. For the reasons set forth below, the Commission should find no reason to believe that the Mack Committee violated the Federal Election Campaign Act ("Act") or the Commission's Regulations.

Lacking in facts and made in the waning days of the 1988 campaign, this Complaint rests solely on the assertion that the use by an independent expenditure group of two Mack vendors for work outside of Florida automatically vitiates the independence of

the group's expenditures within Florida. This Complaint should be dismissed since this assertion is contrary to the opinions of the Commission and since the Complaint fails to present any evidence of actions by the Mack campaign that violate the Act.

Almost as an afterthought, the Complaint also alleges that the Mack campaign violated the Act by not providing enough information on its 48-hour reports of contributions over \$1,000. The Commission should take no further action on this charge since the Mack Committee did timely file its 48-hour reports and has provided all the required information to the Commission.

Independent Expenditures

3 Facts: It is true that the Auto Dealers PAC conducted a
4 series of independent expenditures in Florida during the 1988
5 general election campaign. But it is not true, and the Complaint
0 offers no facts to substantiate its allegation, that the Mack
4 campaign in any way cooperated or consulted with, consented to, or
0 requested or suggested to the Auto Dealers PAC that it undertake
0 its activities. Affidavit of Mitch Bainwol ("Bainwol Aff.") at 4,
0 5.

The person who purchased broadcast time for the Mack campaign was Anthony M. Fabrizio, president of Multi Media Services Corp. Id. at 6; Affidavit of Anthony M. Fabrizio ("Fabrizio Aff.") at 3. Karl Rove and Company produced direct mail for the Mack campaign. Bainwol Aff. at 6; Affidavit of Karl Rove ("Rove Aff.") at 3. Respondents stipulate that Fabrizio and Rove did work for the Auto Dealers PAC. However, under no

circumstances, did Fabrizio or Rove do any work for the Auto Dealers PAC in Florida. Fabrizio Aff. at 6; Rove Aff. at 6. Neither told the Auto Dealers PAC about any plans, projects or needs of the Mack campaign. Fabrizio Aff. at 7, 8; Rove Aff. at 7, 8. No one associated with the Mack campaign had any contacts with the Auto Dealers PAC concerning their independent expenditure campaign or told any agent of the Auto Dealers PAC of the campaign's plans, projects or needs. Bainwol Aff. at 8.

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Law: An independent expenditure advocates the election or defeat of a clearly identified candidate and "is not made with the cooperation or with the prior consent of, in consultation with, or at the request or suggestion of, a candidate or any agent or authorized committee of such candidate." 2 U.S.C. 431(17); 11 C.F.R. 109.1. The Complaint only "suggests", and offers no evidence, that the Mack campaign in any way violated the Act or Regulations. The only evidence before the Commission is the affidavits of Mitch Bainwol, Mack's campaign manager; Fabrizio and Rove. These sworn affidavits demonstrate that the Mack committee or its agents in no way violated the Act regarding the Auto Dealers PAC's expenditures.

Accordingly, the Complaint rests solely on its assertion that the use of two Mack vendors by the Auto Dealers PAC in states other than Florida means that the Florida expenditures cannot be independent. However, previous rulings by the FEC in identical situations dictate that this Complaint against the Mack campaign be dismissed. In Advisory Opinion 1979-80, Fed. Elec. Camp. Fin.

Guide (CCH) para. 5469 (1980), the Commission ruled that the use of a vendor by an independent expenditure group in two states did not mean that the vendor's work for a candidate in a third state ruined the independence of the group's expenditure in the third state. Id. at 10,529. The Commission did say that the vendor could not be used by the group in the third state. Id. Thus, the Commission established a distinction between the common use of a vendor in a state where an independent expenditure was being conducted and the situation at issue in this Complaint. See also AO 1982-20, Fed. Elec. Camp. Fin. Guide (CCH) para. 5665 (1982).

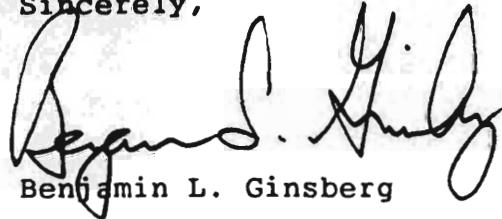
The Complaint offers no evidence that the Mack committee or any of its agents violated the Act or the Regulations. The evidence shows that both the campaign and the vendors knew the law and obeyed it. The Commission should find no reason to believe that the Mack committee or Robert I. Watkins, as treasurer, violated the Act.

48-Hour Reports

The Complaint alleges violations by the Mack committee for not providing complete donor information on its 48-hour reports of contributions of \$1,000 or above. These reports include the name of the contributor and the amount contributed. All the information required by the Act has been included on the Mack Committee's post-election report.

Accordingly, the Mack committee has made a full and complete filing. It did meet its statutory obligation to report the names of all contributors over \$1,000 within 48 hours of receipt. It has now complied fully with the Act and Regulations. The Commission should take no further action.

Sincerely,



Benjamin L. Ginsberg

000403784749
Counsel to the Congressman
Connie Mack for Senate
Committee and Robert I.
Watkins, as treasurer

BEFORE THE FEDERAL ELECTION COMMISSION
OF THE UNITED STATES

IN THE MATTER OF:

Congressman Connie Mack for U.S. Senate Committee)

Robert I. Watkins, as Treasurer)

Auto Dealers and Drivers for Free Trade PAC)

MUR 2766

AFFIDAVIT

Mitch Bainwol, having been duly sworn, deposes and says:

1. I have personal knowledge of the facts contained herein and am competent to testify thereto.
2. I was campaign manager for Congressman Connie Mack during his 1988 campaign for the United States Senate in Florida.
3. During the course of that campaign, a group called the Auto Dealers and Drivers for Free Trade PAC made independent expenditures concerning the Senate election.
4. To the best of my knowledge, information and belief, no one connected with Connie Mack's campaign staff or connected to his campaign committee in any way cooperated or consulted with the independent expenditure group, gave consent to it for its activities or requested or suggested that it undertake its activities.
5. To the best of my knowledge, information and belief, there was no contact by the Connie Mack campaign committee or anyone connected to it with this group concerning its independent expenditure campaign. No one associated with Connie Mack's campaign gave any broadcast ads or campaign materials to this independent expenditure group.
6. The complaint filed in this case alleges that two vendors to the Connie Mack campaign, Anthony M. Fabrizio, Jr. of Multi Media Services Corp. and Karl Rove of Karl Rove and Company, did work for this independent expenditure group in states other than Florida. I had no conversations with either Fabrizio or Rove concerning their work for this group.

7. To the best of my knowledge, information and belief, neither Fabrizio or Rove told the independent expenditure group anything about Connie Mack's activities, plans or needs or provided any information about our campaign to this group.

8. No one associated with the Mack campaign had any contacts with the Auto Dealers PAC concerning their independent expenditure campaign or told any agent of the Auto Dealers PAC of the campaign's plans, projects or needs.



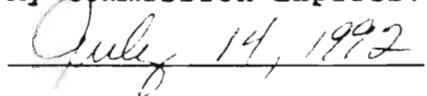
Mitch Bainwol

Signed to and subscribed before me this 6th day of January 1989.


Lora C. Teller

Notary Public

My Commission Expires:


July 14, 1992

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BEFORE THE FEDERAL ELECTION COMMISSION
OF THE UNITED STATES

IN THE MATTER OF:

Congressman Connie Mack for U.S. Senate Committee)

Robert I. Watkins, as Treasurer

Auto Dealers and Drivers for Free Trade PAC

MUR 2766

AFFIDAVIT

Anthony M. Fabrizio, Jr., having been duly sworn, deposes and says:

1. I have personal knowledge of the facts contained herein and am competent to testify thereto.

2. I am President and Chairman of First Media Services Corp., a Virginia corporation doing business under the name of Multi Media Services Corp.

3. During the 1988 campaign, I was retained to purchase time for the Congressman Connie Mack for U.S. Senate Committee in the state of Florida.

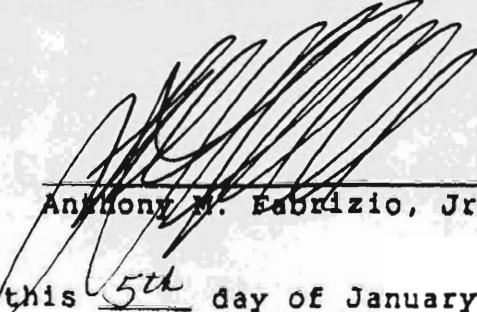
4. In October of 1988, I was approached by an independent expenditure group, the Auto Dealers and Drivers for Free Trade PAC, to buy media for them in selected states.

5. At the outset of the conversation, they asked the other campaigns in which I was involved. When I told the independent expenditure group I was working for Connie Mack, they told me not to tell anyone associated with the independent expenditure group anything about the Florida race. I did not discuss the Florida Senate race with anyone connected with the independent expenditure group after that initial inquiry in which I revealed I was working on the Florida Senate race.

6. Neither I nor anyone else employed by Multi Media assisted or performed any services whatsoever for this independent expenditure group in connection with the Florida Senate race or any other race in Florida.

7. Neither I nor anyone else in Multi Media ever discussed the Florida Senate race, any time buys for the Mack campaign, commercials run by the Mack campaign or anything associated with the Florida Senate race with the Auto Dealers PAC.

8. Neither I nor anyone else at Multi Media told the Auto Dealers PAC anything about the Mack campaign, including its activities, plans, or needs. I never provided the Auto Dealers PAC with any information about the Mack Senate race.


Anthony M. Fabrizio, Jr.

Signed to and subscribed before me this 5th day of January 1989.

Barbara C. Golding
Notary Public

My Commission Expires:

June 2, 1989

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**BEFORE THE FEDERAL ELECTION COMMISSION
OF THE UNITED STATES**

IN THE MATTER OF:

Congressman Connie Mack for U. S. Senate Committee)

Robert I. Watkins, as Treasurer) MUR 2766

Auto Dealers and Drivers for Free Trade PAC)

AFFIDAVIT

Karl C. Rove, having been duly sworn, deposes and says:

1. I have personal knowledge of the facts contained herein and am competent to testify thereto.
2. I am President and Chairman of Karl C. Rove and Company ("Rove Co.").
3. During the 1988 campaign, I was retained by the Congressman Connie Mack for U. S. Senate Committee to produce direct mail in the state of Florida.
4. During the 1988 election campaign, I was approached by an independent expenditure group, the Auto Dealers and Drivers for Free Trade PAC, to produce and send mail for them in selected states.
5. Before doing any work for the Auto Dealers PAC, they asked the other campaigns in which I was involved. When I told the independent expenditure group I was working for Connie Mack, they told me not to tell anyone associated with the independent expenditure group anything about the Florida race. Before November 8, I did not discuss the Florida Senate race with anyone involved with the AutoDealers PAC after that initial inquiry in which I revealed

I was working on the Florida Senate race.

6. Neither I nor anyone else employed by Rove Co. assisted or performed any services whatsoever for this independent expenditure group in connection with the Florida Senate race or any other race in Florida.
7. Neither I nor anyone else at Rove Co. ever discussed the Florida Senate race, any mail pieces for or plans of the Mack campaign, or anything associated with the Florida Senate race with the Auto Dealers PAC.
8. Neither I nor anyone at Rove Co. told the Auto Dealers PAC anything about the Mack campaign, including its activities, plans, or needs. I never provided the Auto Dealers PAC with any information about the Mack Senate race.


Karl C. Rove

Signed to and subscribed before me this 4th day of January, 1989, of October, 1988.

Jacqueline A. Maguire
Notary Public

My Commission Expires:

9/30/89

06c3578

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE SERVICES BRANCH

89 JUL 28 AM 11: 13

PATTON, BOGGS & BLOW
2550 M STREET, N.W.
WASHINGTON, D.C. 20037-1350
(202) 457-6000
TELECOPIER: 457-6315
TRT TELEX: 197780

250 WEST PRATT STREET
BALTIMORE, MARYLAND 21201
(301) 659-5600

700 RALEIGH FEDERAL SAVINGS
BANK BUILDING
RALEIGH, NORTH CAROLINA 27602
(919) 832-4111

104 NORTH ELM STREET
GREENSBORO, NORTH CAROLINA 27401
(919) 273-1733

101 EAST KENNEDY BOULEVARD
TAMPA, FLORIDA 33602
(813) 222-8888

July 25, 1989

WRITER IS DIRECT DIAL

(202) 457-6094

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

Re: MUR 2766

Dear Mr. Noble:

My client, Auto Dealers and Drivers for Free Trade Political Action Committee, responded on December 12, 1988 to your invitation to file comments on a complaint lodged against Auto PAC and others by the Democratic Senatorial Campaign Committee. To date, we have had no response from the Commission on this complaint.

Auto PAC is understandably anxious to resolve this matter. The DSCC's complaint offered nothing more than the suggestion that Auto PAC "might" have violated the Commission's rules. In our response, we submitted the affidavits of four individuals and other documents demonstrating that no violation occurred.

We believe that once the Commission has this material before it, it will readily decide to reject the DSCC complaint. We would appreciate your efforts to expedite this matter so that it can be resolved as soon as possible.

Thank you for your consideration of this request.

Sincerely,

Katharine R. Boyce

KRB/tsp

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

89 JUL 28 PM 3:30

09 SEP 19 PM 4:44

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Auto Dealers and Drivers for Free Trade
Political Action Committee and
Edward G. Connelly, as treasurer;

) MUR 2766

Friends of Connie Mack and Robert I. Watkins,
as treasurer;

Representative Connie Mack;

Hecht Re-Election Committee and Glen N.
Mauldin, as treasurer;

Senator Chic Hecht

SENSITIVE

GENERAL COUNSEL'S REPORT

I. BACKGROUND

A. The Complaint

On November 3, 1988, the Democratic Senatorial Campaign Committee filed a complaint against the Auto Dealers and Drivers for Free Trade PAC, Friends of Connie Mack, ("Mack Committee") and Rep. Connie Mack. The complaint alleged that the Auto Dealers and Drivers for Free Trade PAC ("Auto Dealers") was making expenditures on behalf of Rep. Mack's senatorial campaign that were not, in fact, independent, but instead constituted contributions to the Mack campaign. The complaint asserted that the Mack campaign and the Auto Dealers were using two common consultants: (1) Multi-Media Services Corporation ("Multi-Media") for time buying; and (2) Karl Rove and Company ("Karl Rove") for direct mailings. The complaint argued that this relationship caused the Auto Dealers' expenditures to fail the test for independence set for expenditures in case law and the Commission's regulations.

The complaint alleged that the Auto Dealers had exceeded the contribution limitations of 2 U.S.C. § 441a(a)(2) and had not reported the above payments properly pursuant to 2 U.S.C. § 434(b), and that the Mack campaign and Representative Connie Mack had knowingly accepted such contributions in excess of the limitations in violation of 2 U.S.C. § 441a(f). The complaint also alleged that the Mack campaign had filed 48-hour contribution reports without the identification of contributors required by 2 U.S.C. § 434(a)(6)(A).

On November 7, 1988, the Democratic Senatorial Campaign Committee filed an amendment to the complaint. The amendment alleged that Auto Dealers had made expenditures on behalf of Senator Hecht's senatorial campaign that were not, in fact, independent, but instead constituted contributions to the Hecht campaign. The amendment asserts that a similarity between the political television advertisements used by the Hecht campaign and the Auto Dealers' political advertisement supporting Senator Hecht's re-election campaign is evidence of "illegal collaboration." Attachment 1 at 44. The complaint further states that whether or not there was collaboration Auto Dealers' apparent imitation of the Hecht campaign's television advertisements amounts to the redistribution and republication of these advertisements and must be considered a contribution to the Hecht campaign under 11 C.F.R. § 109.1(d)(1).

As did the original complaint, the amendment alleged that Auto Dealers had violated Sections 434(b) and 441a(a)(2). In addition, the complaint alleged violations of 2 U.S.C. § 441a(f)

by the Hecht Re-Election Committee (the "Hecht Committee") and Senator Chic Hecht.

B. The Responses

Responses have been received from all the respondents. Auto Dealers denies that there was any coordination with the Mack Committee regarding its expenditure program. Auto Dealers argues that the common vendors, Multi-Media Services and Karl Rove provided services for Auto Dealers in states other than Florida and that Auto Dealers used a different vendor, Lambert/Dale Advertising ("Lambert/Dale"), to provide expenditures on behalf of the Mack candidacy. Auto Dealers also denies any coordination with the Hecht Committee for its expenditures on behalf of the Hecht campaign. The response includes affidavits from Francis H. Glacken, political director for Auto Dealers; Robert L. Ziemer, researcher and creator of material used in the Hecht expenditures program; Anthony M. Fabrizio Jr., the president of Multi-Media; and Karl C. Rove, the president of Karl Rove.

The response from the Hecht Committee and Senator Chic Hecht also denies any coordination between the Hecht Committee's efforts and the Auto Dealers' expenditures. This response includes an affidavit from Ken Reitz, the Hecht Committee's campaign manager.

The response of the Mack Committee joins the Auto Dealers and the Hecht Committee in denying the allegations of coordination. Finally, the Mack Committee states that complete information on the last minute contributors was included in its 1988 30-Day Post General Election Report. The response contains

affidavits from Mitch Bainwol, campaign manager for the Mack Committee, and further affidavits from the presidents of Multi-Media and Karl Rove. Multi-Media is a Virginia corporation and Karl Rove is a Texas corporation.¹

II. ANALYSIS

A. The Legal Standard

The Federal Election Campaign Act of 1971, as amended,(the "Act") requires a political committee to disclose all its receipts and disbursements, and to itemize those contributions and expenditures that aggregate in excess of \$200 per calendar year, on its reports filed with the Commission. See 2 U.S.C. § 434(b). The candidate's principal campaign committee must file special notices on contributions received after the 20th day but more than 48 hours before an election in which the candidate is running. 2 U.S.C. § 434(a)(6)(A). The notification must include the name of the candidate, the office sought by the candidate, identification of the contributor, and the date of receipt and amount of the contribution. Id. Under the Act, the identification of an individual requires the giving of the name, the mailing address, and the occupation of the individual, as well as the name of his or her employer. 2 U.S.C. § 431(13).

No multicandidate political committee may make contributions

1. According to records at Virginia's State Corporation Commission, Anton Fabrizio is the president of Multi-Media, Thomas Edward is the chairman and secretary, Ronald Frankelstein is the treasurer and J. Curtis Herge is the incorporating officer and agent. The Texas Secretary of State Office does not maintain information regarding corporate officers.

to a candidate or his authorized committee which in aggregate exceed \$5,000 with respect to any one federal election. Further, no candidate or political committee may knowingly accept contributions or make expenditures in violation of the provisions of 2 U.S.C. § 441a. 2 U.S.C. § 441a(f).

A political committee that is not an authorized committee may make independent expenditures on behalf of a candidate which, unlike contributions, will not be subject to limitations as to the amount spent. See 2 U.S.C. § 431(17) and 11 C.F.R. § 109.1(a). However, the Act defines what may be considered an independent expenditure. Under 2 U.S.C. § 431(17), "independent expenditure" means an expenditure by a person expressly advocating the election or defeat of clearly identified candidate which is made without cooperation or consultation with any candidate, and which is not made in concert with, or at the request or suggestion of, any candidate, or any authorized committee or agent of such candidate.

The regulations further explain the kinds of interaction between the candidate and the political committee which would lead to a determination that an expenditure was not independent. Under 11 C.F.R. § 109.1(b)(4)(i), evidence of prior "arrangement, coordination or direction by the candidate or his or her agent" would lead to such a result. Further, it is presumed that an expenditure has been made in cooperation with the candidate or his committee if it is:

"(A) Based on information about the candidate's plans, projects, or needs provided to the expending person by the

candidate, or by the candidate's agents, with a view toward having an expenditure made;

(B) Made by or through any person who is, or has been, authorized to raise or expend funds, who is, or has been, an officer of an authorized committee, or who is, or has been, receiving any form of compensation or reimbursement from the candidate, the candidate's committee or agent."

For purposes of Section 109.1 an agent is defined as "any person who has actual oral or written authority, either express or implied, to make or to authorize the making of expenditures on behalf of a candidate, or means any person who has been placed in a position within the campaign organization where it would reasonably appear that in the ordinary course of campaign-related activities he or she may authorize expenditures." 11 C.F.R. § 109.1(b)(5).

An expenditure that fails to qualify as an independent expenditure is an in-kind contribution to the candidate.

11 C.F.R. 109.1(c). Further, the financing of the dissemination, distribution or republication in whole or in part, of any broadcast or any written, graphic, or other form of campaign materials prepared by the candidate, his authorized committees, or their authorized agents shall be considered a contribution for the purposes of the contribution limitations and reporting responsibilities by the person making the expenditure. It is not considered an expenditure by the candidate or his authorized committee "unless made with the cooperation or with the prior consent of, or in consultation with, or at the request or

suggestion of, a candidate or any authorized agent or committee thereof." 11 C.F.R. § 109.1(d)(1).

When the Supreme Court declared the Act's original provisions limiting the amount of independent expenditures to be unconstitutional, it recognized the importance of distinguishing between expenditures which were unauthorized by a campaign and those that were authorized. Because of the "absence of prearrangement and coordination," the Court reasoned that "unlike contributions, such independent expenditures may well provide little assistance to the candidate's campaign and indeed may prove counterproductive." The independence "alleviates the danger that expenditures will be given as a quid pro quo for improper commitments from the candidate." Buckley v Valeo, 424 U.S. 1, 47 (1976). Thus, while the Court placed no limit on independent expenditures, it upheld the Act insofar as it "treats all expenditures placed in cooperation with or with the consent of the candidate as contributions subject to limitations set forth in [the Act]." Id.

A recent District Court case, Federal Election Commission v National Conservative Political Action Committee, 647 F.Supp. 987 (S.D.N.Y. 1986) ("NCPAC"), illustrates the evidence one court has found sufficient to determine that assertedly independent expenditures were actually in-kind contributions. During Senator Patrick Moynihan's 1982 primary re-election campaign, when Senator Moynihan ran unopposed , NCPAC retained the services of Finkelstein Associates, a polling and political consulting firm, to conduct an expenditure campaign urging the Senator's defeat in

the Democratic primary. At the same time, Finkelstein Associates was also retained by Congressman Bruce Caputo, who was running unopposed in the Republican Senatorial primary. In a complaint, it was alleged that the independent expenditures against Moynihan were actually in-kind contributions to the Caputo campaign. The Commission found probable cause that respondent's expenditures supporting Bruce Caputo were not independent. The Commission subsequently brought a civil action suit under 2 U.S.C. § 437g(a)(6)(A) to enforce the Act.

In the de novo review of the evidence that followed, the court concluded that the expenditures were actually in-kind contributions. The Commission's extensive investigation had produced evidence that Finkelstein Associates was the key strategist in both the Caputo campaign and NCPAC's expenditures program against Senator Moynihan. The focus of the Court's analysis was upon the role played by Finkelstein. The Court noted that since both candidates were running unopposed in their respective primaries, the two races could not be realistically viewed as "separate and distinct elections." Id. at 994.

"Finkelstein's strategy for Caputo," the court observed, "was to pre-empt the [Republican] field and make Caputo the only viable Republican candidate." Id. The court also made a comparison of campaign materials, radio spots and commercials prepared by the common vendor and used by both committees. These materials, radio spots and commercials discussed the same eight issues and used nearly identical language. For example, where the Caputo materials would say Senator Moynihan "opposed the President's

plan to reduce federal spending," the NCPAC materials stated Moynihan "opposed cutting back on government spending." NCPAC, 647 F.Supp. at 994. This created, according to the court, "an 'independent expenditure' campaign and a campaign for the Republican nomination that are mirror images of one another." NCPAC, 647 F.Supp. at 993. The similarity between the campaign materials indicated there was such a degree of coordination as to make it plain that there was in fact only one campaign, not two.

Id.²

2. A second district court case, Common Cause v. Federal Election Commission, 655 F.Supp. 619 (D.D.C. 1986), also dealt with the independent expenditure issue but in a more limited fashion. The original complaint in Common Cause alleged that five political committees had coordinated their expenditures with the 1980 Reagan Presidential campaign. These committees were Americans For an Effective Presidency, Americans for Change, North Carolina Congressional Club, Fund For A Conservative Majority, and NCPAC.

The complainant, Common Cause, presented evidence of "interlocking membership of persons at the policy making levels of the committees and prior alliances with the official committees; indirect communication of strategy by Reagan's [unauthorized] campaign committees through the media; and the uses of common vendors." Id. at 624. In particular, the reports filed by the respondents revealed numerous examples of the vendors providing services as part of an allegedly independent expenditure program on behalf of the unauthorized Reagan committees and also providing services directly to the same unauthorized Reagan committees. See General Counsel's Report signed August 15, 1980, in MUR 1252. However, the extensive investigation that followed the Commission's reason to believe findings failed to produce "evidence of any direct requests or scheming." Common Cause, 655 F.Supp. at 624. Consequently, the Commission took no further action on the coordination issue.

Common Cause brought a civil suit under 2 U.S.C. 437g(a)(8)(A) challenging the Commission's action. Common Cause argued that there was no rational basis for requiring at the probable cause stage of enforcement that there be direct evidence of coordination. Instead, Common Cause urged that a "totality of the circumstances standard" be imposed. In the limited review that followed, the district court ruled that there was a rational basis to support either standard. Although the Commission could have freely adopted the totality of circumstances standard urged by Common Cause, the court stated it was not an abuse of

In addition to NCPAC, the Commission has issued several advisory opinions that bear on the issues raised in the present matter. Of particular relevance are Advisory Opinions 1979-80, 1983-12 and 1984-30 and Advisory Opinion Request 1987-9. These are treated below in the discussion analyzing the facts and allegations in this matter.

B. Application of the Law to the Facts

1. Expenditures on behalf of Connie Mack

a. Extent of Support

In reports filed with the Commission, Auto Dealers made \$326,050 in what it reported as independent expenditures on behalf of Friends of Connie Mack for Congressman Mack's 1988 Senate bid in Florida. Auto Dealers also contributed \$5,000 to the Mack Senatorial primary campaign and \$5,000 to the general election campaign. According to reports filed with the Commission, these contributions made by Auto Dealers to the Mack campaign, as well as those made to the Hecht campaign, were direct, not in-kind contributions.

The major part of the expenditures consisted of \$300,000 in media time purchases using Lambert/Dale as vendor. The remaining expenditures were \$11,550 in polling services provided by Moore Information, \$8,500 in production work by Raiford Communications, \$3,500 in creative services by Larry McCarthy and \$2,500 in research work by Political Software Company.

(Footnote 2 continued from previous page)
discretion for the Commission to adopt the direct evidence standard instead. Id. at 623.

b. Common Vendor issue

Auto Dealers' 1988 October Quarterly, 12-Day Pre-General and 30-Day Post General Election Reports show that for independent expenditures made on behalf of certain candidates other than Mack, the Auto Dealers used the services of Multi-Media Services Corporation and Karl Rove. Multi-Media Services provided a total of \$1,262,432.70 in services purchased by Auto Dealers to assist Senators Chic Hecht in Nevada, Malcom Wallop in Wyoming, Pete Wilson in California and Representative Trent Lott in Mississippi. Karl Rove provided a total of \$245,962.50 in services purchased to assist Senator Chic Hecht. The Mack Committee's reports show that both Multi-Media Services Corporation and Karl Rove also provided services to the Mack Committee directly.³ During the period covered by the 1988 October Quarterly, 12-Day Pre-General and 30-Day Post General Election Reports, the Mack Committee paid Multi-Media \$1,221,059 for media services and paid Karl Rove \$167,809.82 for direct mail work.

Thus, the Mack Committee was using Multi-Media and Karl Rove for its Senate campaign in Florida, at the same time that Auto Dealers was using Multi-Media and Karl Rove for its assertedly independent expenditures in Nevada and other states, but another vendor, Lambert/Dale, for its expenditures in Florida. The

3. Reports filed by the Mack Committee indicate that First Media Services Corp. provided the campaign's media work. However, an affidavit from the president of Multi-Media states that First Media Services and Multi-Media are the same corporation. See Attachment 2 at 8.

complaint alleges that Auto Dealers' and the Mack campaign's uses of Multi-Media and Karl Rove raise questions as to whether the expenditures Auto Dealers made on behalf of the Mack campaign can be considered independent expenditures.

Analysis of the independence of Auto Dealers' expenditures first requires consideration of Advisory Opinion 1979-80. In that opinion the Commission considered the application of the presumption of affiliation set forth in 11 C.F.R.

§ 109.1(b)(4)(i) to nine fact specific situations presented in a request by NCPAC.

Situation 3, which Auto Dealers relies on in its response to the portion of the complaint involving Committee activities in Florida, presented a situation in which NCPAC wished to make expenditures in both the Republican and Democratic primaries for Senate in the same state:

Another polling firm which NCPAC proposes to engage has been previously employed by the authorized campaign committee of a candidate for the Republican nomination for election to the Senate in State A. NCPAC is making independent expenditures advocating the defeat of the candidates for the Democratic nomination for election to the Senate in States A, B, C. May NCPAC engage that firm to conduct polls in connection with its independent expenditures program in all three states? May it engage that firm to conduct polls in States B and C, but not in State A?

The Commission came to this conclusion:

Even if the poll does contain an express advocacy communication, thereby causing the cost of the poll itself to be an independent expenditure, NCPAC's ability to use the polling firm in all three states during the Senate primary campaign would not be affected. If, however, the Republican Senate candidate who used the firm becomes the nominee in State A, NCPAC would presumptively be precluded from using the polling firm in its independent expenditure program for the general election in State A. NCPAC could use that firm

in States B and C. (Emphases added).⁴

Respondents assert that there is a similarity between situation 3 in Advisory Opinion 1979-80 and the facts in the current matter, that is, that in both instances a political committee, which is conducting independent expenditures on behalf of a candidate in one state, uses in other states the services of a firm that is providing services directly to the candidate in the first state. They argue, therefore, that the Commission's Opinion in 1979-80 precludes the raising of the presumption in the present matter. This argument fails for two reasons.

First, contrary to Respondents' assertion, the facts of Advisory Opinion 1979-80 are distinguishable from the present matter. The expenditures discussed in that advisory opinion, concerned expenditures made against a candidate in one primary and expenditures made for a different candidate in a separate primary in the same state, and the possible ramifications for the general election in the same state. The present circumstances involve exclusively expenditures in support of a single candidate; a situation where the opportunity for coordination is greater under these circumstances than those set forth in the advisory opinion request.

Second, even if a presumption of coordination does not arise

4. By stating that NCPAC would be presumptively precluded from using the polling firm if the Senate candidate became the nominee in state A, the Commission was indicating that in the simplest circumstance if a committee, intent on making expenditures on behalf of a candidate, were to use the same advertising firm or media time buyer as did that candidate, the expenditures would be presumed not to be independent.

from the facts in the present situation, evidence of opportunities for coordination and unanswered questions as to whether those opportunities were exploited provide a separate basis for pursuing an investigation. As the NCPAC case illustrates, the issuance of Advisory Opinion 1979-80 did not preclude either the Commission or a court from examining the actual facts of the case to determine whether there was, in fact, coordination despite reliance on the advisory opinion.

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c. Affidavits

In the present matter, the affidavits of Francis H. Glacken, political director for Auto Dealers; M. Fabrizio Jr., president of Multi-Media; Karl Rove, president of Karl Rove; and Mitch Bainwol, campaign manager for the Mack Committee, deny the existence of coordination between Auto Dealers and the Mack campaign.

Mr. Rove admits working for Auto Dealers during the 1987-1988 campaign cycle, but asserts, "Neither I nor anyone else at the Rove Company performed any services whatsoever for the [Auto Dealers] PAC in connection with the Connie Mack for Senate campaign." Attachment 2 at 82. He also states, "At no time did I or anyone else at the Rove Company ever discuss the Connie Mack for Senate campaign with anyone connected with the PAC." Id. In a similar vein, Mr. Fabrizio disavows any involvement with the Mack campaign. He states, "Neither I nor anyone else at Multi-Media performed any services whatsoever for the [Auto Dealers] PAC in connection with the Connie Mack for Senate campaign." Mr. Fabrizio affirms that "at no time prior to the

election did I or anyone else at Multi-Media ever discuss the Connie Mack for Senate campaign, time buys by the Mack campaign, commercials run by the Mack campaign or anything else associated with the Mack campaign with anyone connected with the PAC." Id.

Mr. Glacken states that both Multi-Media and Karl Rove were asked by Auto Dealers to state the candidates for whom they were doing work, which according to Mr. Glacken is Auto Dealers' standard procedure. When it was learned through these inquiries that these vendors were working for the Mack campaign, Mr. Glacken states that both vendors were told by Auto Dealers not to provide any information regarding the Florida race to Auto Dealers. Mr. Glacken declares that "from that moment, neither I or anyone else at the PAC discussed the Senate race with either vendor." Id.

As an added precaution Mr. Glacken asserts that "before retaining a vendor to assist the PAC in making independent expenditures on behalf of a particular candidate, I ask him or her to sign a statement certifying that he or she has no involvement with that particular candidate's campaign." Id. at 70. A statement of this nature was obtained from Lambert/Dale, the vendor used by Auto Dealers to make its media expenditures assisting the Mack campaign. A copy was provided with the response.

The affidavit of Mitch Bainwol, campaign manager for the Mack Committee, admits that the Mack campaign retained Karl Rove and Multi-Media, but asserts, "No one associated with the Mack campaign had any contacts with the Auto Dealers PAC concerning

their independent expenditures campaign or told any agent of the Auto Dealers PAC of the campaign's plans, projects or needs." Attachment 4 at 122.

d. Conclusions on Coordination.

Despite the above submissions made by respondents, unanswered questions remain regarding possible connections between the Mack Committee and Auto Dealers and the use of common vendors.

Pursuant to 11 C.F.R. § 109.1 and Advisory Opinion 1979-80, the existence of any connection between vendors in Auto Dealers' expenditure program on behalf of Connie Mack and vendors hired by the Connie Mack campaign would destroy the independence of the Auto Dealers' expenditures. Although the respondents have provided information regarding the roles of the vendors used by Auto Dealers and the Mack campaign that were named in the complaint, this Office has not been able to identify Lambert/Dale, cited as a vendor in the Auto Dealer's response, by more than name or to determine whether or not there is a connection between Lambert/Dale and Multi-Media or Karl Rove. Reports filed by Auto Dealers do provide a New York address for Lambert/Dale. Inquiries with the Office of the New York Secretary of State indicate it is not a New York corporation. Unlike Karl Rove and Multi-Media, Lambert/Dale is not listed in the Political Resources Directory, the major listing of campaign related businesses.

Records filed at the New York Office of the Secretary of State indicate that there is a New York domestic corporation registered as Multi-Media Ltd. However, since New York does not

provide information on corporate officers, it has been impossible to determine what relationship there is, if any, between this corporation and Lambert/Dale or Multi-Media of Virginia. There is insufficient information in hand to determine with certainty that the Mack campaign and Auto Dealers did not use common vendors to benefit the Mack campaign. Besides the difficulty in identifying Lambert/Dale, the affidavits provided by respondents are themselves ambiguous. The Multi-Media and Karl Rove affidavits deny that they did any work for Auto Dealers on behalf of the Mack campaign and that the Mack campaign was discussed with Auto Dealers; however, the affidavits are silent as to whether the inverse occurred. Neither Mr. Fabrizio nor Karl Rove state whether there was any discussion of Auto Dealers' plans with the Mack campaign. If the Mack campaign was informed by Multi-Media or Karl Rove of Auto Dealers' prospective actions in the expenditure program, the Mack Committee could have reallocated its own resources accordingly. This type of indirect communication between Auto Dealers and the Mack Committee would have constituted coordination between Auto Dealers' expenditures and Mack campaign efforts.

Mr. Glacken denies that the Florida Senate race was discussed with the common vendors. However, even if there was no overt discussion of plans of Auto Dealers, Multi-Media and Karl Rove would have acquired a familiarity with Auto Dealer's expenditure planning and type of programs from the extensive expenditure work they were doing for Auto Dealers in other campaigns. This information itself could have provided the Mack Committee with

helpful assistance on anticipating the independent expenditures program planned by Auto Dealers.

Finally, this Office does not have in hand examples of the campaign materials produced by Lambert/Dale for Auto Dealers and of the work prepared by Multi-Media or Karl Rove for the Mack Committee. Both the Commission and court in NCPAC found an examination of such material helpful in determining whether there was any coordination between committees. In this matter, the examination of the materials could help to establish any ties between the vendors and links between Auto Dealers and the Mack Committee.

Therefore, the Office of the General Counsel recommends that the Commission find reason to believe that Auto Dealers violated 2 U.S.C. §§ 441a(a)(2) and 434(b) by making contributions and expenditures on behalf of the Mack campaign in excess of its \$5,000 limitation per election and by not reporting the expenditures as contributions. Further, this Office recommends that the Commission find reason to believe that the Mack Committee violated 2 U.S.C. §§ 441a(f) and 434(b) by accepting such contributions and by not reporting them.

This Office also recommends that questions be directed not only to Auto Dealers and the Mack Committee but also to Lambert/Dale, Multi-Media and Karl Rove as non-respondent witnesses, asking the latter to provide correspondence and information regarding the contacts they had with each other and the Mack campaign in 1988 and to provide examples of work prepared for the Mack Committee and Auto Dealers.

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2. Expenditures on behalf of Senator Hecht

a. Extent of Support

Auto Dealers' independent expenditure program supporting Senator Hecht was even more extensive than that supporting the Mack campaign. From September 15, 1988, to November 11, 1988 Auto Dealers made \$521,539 in expenditures on behalf of the Senator Chic Hecht.⁵ The bulk of the expenditures consisted of media time bought through Multi-Media (\$227,154.66) and direct mail services provided by Karl Rove (\$122,981.25). The remaining expenditures were print advertisements purchased by WJK Marketing (\$58,944), phone bank work by TeleMark (\$39,313.22), production work by Raiford Communications (\$25,000), polling by Moore Information (\$20,300), creative work by Larry McCarthy (\$11,000), research work conducted by Political Software Co. (\$10,000) and list rentals from Praxis List Co. (\$6,850.73). According to reports filed by the Hecht Committee, none of these vendors were employed by the Hecht Committee. Auto Dealers also paid Raiford Communication \$19,950 and Larry McCarthy an additional \$3,500 as part of expenditures against Chic Hecht's opponent in the Senate race, Governor Richard Bryan, and made a \$4,000 contribution directly to the Hecht campaign.

b. Comparison of Hecht and Auto Dealers Advertisements

The exact dates on which the Auto Dealers' and the Hecht

5. The amended complaint does not identify the vendors providing media services directly for the Hecht Committee. However, the Hecht Committee's 1988 Pre-General and October Quarterly Reports indicate that the Hecht Committee utilized the services of two companies for its television and radio advertising. These companies were Minor Advertising Co. and CAMRAC.

advertisements aired cannot be determined from the information made available in the complaint and in the response to the complaint. The complaint states that the advertisements aired from a week to 10 days before the date of the amendment to the complaint, November 7, 1988.

Transcripts of the television advertisements used by both committees were provided with the complaint. Included were the scripts of Auto Dealers' TV advertisement attacking Senator Hecht's opponent, Governor Bryan. This TV advertisement, entitled Exhibit A, criticizes Governor Bryan by stating that he: "Enacted the biggest tax increase in Nevada's history, Broke his repeated pledge to cut the sales tax, Spent three million tax dollars to buy an luxury plane, Wants to walk off the job in the middle of his term as governor," and "Supports Michael Dukakis though Dukakis abruptly changed his position and pledges to stick Nevada with the nuclear dump." Attachment 1 at 46.

The complaint compares this Auto Dealers advertisement with the transcripts of four Hecht Committee television spots and one Hecht Committee radio spot. These are entitled B-1 to B-6. The first television spot, Exhibit B-1, details various tax increases under Governor Bryan's administration and includes an observation from a Nevada newspaper, the Nevada Appeal, that "Bryan pushed through the largest tax increase in the state's history." Attachment 1 at 47.

Exhibit B-2 is a Hecht television advertisement attacking Governor Bryan for supporting the construction of a nuclear dump. After describing Governor Bryan's administrative actions on the

issue, the advertisement states, "Now he supports Dukakis for president and Dukakis supports the dump." Id. at 48.

Exhibit B-3 is a television advertisement attacking the purchase of a private jet for the state. It concludes, "And while Governor Bryan was buying a \$3 million private jet with your taxes, Chic Hecht was returning to the federal treasury over \$400,000 in staff salaries and expenses he saved." Id. at 49.

A radio advertisement, Exhibit B-4, also deals with the private jet issue. In a series of 'fact' statements, it details the role of the Governor in the plane purchase and Nevada's decaying road network. The advertisement declares "the State Department of Transportation, with the Governor's approval, bought a three million dollar private jet with your taxes." Id. at 50.

Exhibit B-5 is a television advertisement criticizing Governor Bryan for running for higher office while not completing his term. The advertisement concludes, "Shouldn't Bryan finish his job as governor first." Id. at 51.

The last television advertisement, Exhibit B-6, compares Governor Dukakis and Governor Bryan, stating that each raised his state's spending to record levels. The advertisement observes, "Governor Bryan paid for the increase by raising taxes more than any governor in Nevada History." It continues by stating that Governor Bryan tried to use public employee retirement funds to meet the budget and concludes by stressing Senator Hecht's no new tax position. Id. at 52.

The complainant also provided copies of portions of printed

campaign materials, Exhibits C and D, prepared for Auto Dealers and the Hecht Committee. Exhibit C is a portion of a Hecht Committee direct mailing. The complaint marks off two sentences among the six statements on Senator Hecht which read, "Chic Hecht served behind the Iron Curtain as an Army Intelligence officer. Chic Hecht is the only member of the Select Committee on Intelligence with actual military intelligence experience."

Id. at 53. Exhibit D, the portion of the newspaper advertisement prepared by Auto Dealers, contains a sentence that reads, "American Hero: Chic Hecht served as an American Intelligence Agent behind the Iron Curtain at the height of the Cold War. Today, Chic is the only member of the Senate Intelligence Committee who served as an Intelligence Agent." Id. at 54.

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c. Affidavits and Evidence of Coordination

The Commission has concluded that, if a political committee consults with the candidate or his staff when preparing or researching material to be used on the candidate's behalf, the resulting product is not an independent expenditure. See Advisory Opinion 1983-12. In Advisory Opinion 1983-12, the Commission examined NCPAC's 1984 plan to produce television spots honoring selected current Senators. The Commission examined the issue of whether such spots would be considered contributions or independent expenditures and concluded:

... to the extent film footage for the program does not consist of "campaign materials" and is obtained from, "archives" or "television stations" without any cooperation, consultation, or contact with the subject Senator or any of his or her agents, and to the further extent the program is otherwise implemented without such involvement by the subject Senator or any of his or her agents, then payments for the subject program would not come within 2 U.S.C.

§ 441a(a)(7)(B) and thus would not be contributions in kind. Contact with the candidate would make the expenditure an in-kind contribution. This would be the case regardless of whether the finished product resembled any campaign material produced by the candidate's own committee.

Mr. Glacken's affidavit denies that there was contact with the Hecht Committee in preparing the Auto Dealers' advertisements cited in the complaint. In his affidavit he asserts, "Prior to the November 1988 election, neither I nor anyone else at the PAC had any contact with Senator Hecht, or with any representative or agent of his campaign." As to the allegation of republication, Mr. Glacken states, "No television advertisement or direct mail letter was a republication, in whole or in part, of any Hecht broadcast or other advertisement or brochure, nor did the PAC finance the dissemination or distribution, in whole or in part, of any broadcast or any materials prepared by the Hecht campaign." Attachment 2 at 74.

According to the Mr. Glacken's affidavit, Mr. Robert Ziemer, a Portland consultant, conducted the research and prepared the memos and reports used in the Hecht expenditure program. Mr. Glacken states, "No other source was used to prepare the television scripts or direct mail letters. These are the only public advertisements Auto Pac sponsored on behalf of Senator Hecht." Id. As part of Mr. Ziemer's instructions, Mr. Glacken states, "I cautioned him that he was to have no contact with Senator Hecht or any representative or agent of the Hecht campaign and that all his research was to be done independently."

Id.

Mr. Ziemer's own affidavit describes sources of his research as "news clips, video tapes of debates, state legislative records and other information on the stands Senator Hecht and Governor Bryan had taken on various public issues." Id. at 84. These were gathered from, according to Mr. Ziemer, "the Legislative Library at the State Capitol in Carson City and the Washoe County Library in Reno" and "the headquarters of the Bryan for Senate campaign and various television stations." Id. Mr. Ziemer asserts that his research was done independently, that he "had no contact with Senator Hecht or anyone associated with his campaign" and that he did not have any knowledge of "the plans, projects or needs of the Hecht campaign." Id. at 85. As part of its submission, Auto Dealers includes a statement by Mr. Ziemer, similar to that signed by Lambert/Dale at the time of employment, certifying a lack of involvement with the candidate's campaign.

Ken Reitz, the campaign manager of the Hecht Committee, in his own affidavit claims there was no contact between the Hecht Committee and Auto Dealers. Attachment 3 at 116. He further states, "No one associated with the Hecht Re-Election Committee gave any of our broadcast ads or campaign materials to this independent expenditure group." Id. at 115.

d. Conclusion on Coordination and Republication

The degree of similarity between campaign materials produced by the committees can be important evidence when examining the independence of expenditures. The campaign materials produced by Auto Dealers and discussed in the complaint are not exact

duplications of those produced by the Hecht Committee, and the affidavits deny any coordination. Therefore, the issue becomes that of the degree of similarity between the two sets of campaign materials.

As discussed above, 11 C.F.R. § 109.1(d) treats the republication of a candidate's campaign material as a contribution to that candidate and counts it toward the contribution limits of the committee making the expenditure whether or not there is coordination. If there is in fact cooperation between the committee originally producing the campaign materials and the committee reproducing the materials, then the republication counts toward the former's contribution receipt limits. Without cooperation, only the contribution limit of the committee making the republication is affected. Thus, the actual republication of such materials, even if done independently, will cause that expenditure to be treated, for certain reporting purposes, as a contribution by the committee doing the republication.

Therefore, a great similarity between materials would suggest not only possible cooperation, but also the possibility of republication of Hecht Committee materials by Auto Dealers. Even though only a few sentences of the Hecht campaign materials could arguably have been involved in any republication, this Office notes that 11 C.F.R. § 109.1(d)(1) applies if republication is

"in whole" or "in part".⁶ However, this Office concludes that any resemblance between these few sentences does not rise to a level sufficient to indicate republication or redistribution of campaign material because of differences in wording and phrasing.

On the issue of coordination, it is the view of this Office that the similarities between the two campaign materials can be explained by the fact they both discuss similar campaign issues. Even the closest case, Auto Dealers' print advertisement describing Senator Hecht's military background in terms not unlike the Hecht Committee's direct mail piece is not of a likeness which would indicate cooperation or coordination between the respondents.

6. This Office notes that there have been only three previous matters that have dealt with this provision. None of these resulted in a reason to believe finding.

In two of the matters, the Commission has stressed the importance of the purpose of the republication. In MUR 1283, the Commission determined that Reader's Digest did not make a contribution when, in a Washington Post advertisement, it republished portions of Republican and Democratic campaign materials. The rational was that the purpose of the republication was to advertise an upcoming Reader's Digest issue devoted to the 1980 elections and not to support any one candidate. See MUR 1283. In MUR 1980, the Commission found that the republication of a candidate committee's advertisements by the opponent's political committee did not constitute a contribution by the latter to the rival candidate. Again, this was because the purpose of the advertisement was not to give support but to criticize. See MUR 1980.

The third matter dealing with Section 109.1(d)(1) was MUR 2272. In that matter, this Office recommended finding reason to believe that the respondent committee, AMPAC, violated 2 U.S.C. § 441a(a)(2)(A). This was based in part on the possibility that AMPAC had republished campaign materials produced by the Williams for Congress Committee. The reply by Williams, also a respondent, to the complaint indicated that republication could have occurred. The Commission was equally divided on the Section 441a(a)(2)(A) recommendation and the file was closed.

Therefore, the Office of the General Counsel recommends that the Commission find no reason to believe that Auto Dealers violated 2 U.S.C. §§ 434(b) and 441a(a)(2) in this instance. Further, this Office recommends that the Commission find no reason to believe that the Hecht Committee violated 2 U.S.C. §§ 441a(f) and 434(b).

3. The 48-hour Notices filed by the Mack Committee

The complaint also states that the Mack campaign filed 48-hour notices disclosing the receipt of \$377,550 from 280 contributors without listing any address, occupation or employer. It alleges, therefore, a violation of the reporting provisions of the Act which require the "identification" of such contributors. The complaint asserts that the 48-hour notices indicate no effort by the Mack campaign to obtain such information.

The Commission has required that the 48-hour notices provide information regarding the occupation of the contributor. See MUR 2200. The 48-hour notices provided by the Mack Committee provide only the name of the contributor and the amount given. See Attachment 1 at 32 to 42. Thus, the notices are incomplete and the Mack Committee is in violation of 2 U.S.C. § 434(a)(6)(A).⁷

7. This Office notes that in the past the Commission has taken no further action when finding violations of 2 U.S.C. § 434(a)(6)(A). See MURs 2200 and 2299. However, in MUR 2676 the Commission determined to proceed against a violation of this section involving the late filing of the 48 hour reports. Further, regarding the filing of reports generally, the Commission has enforced the obligation to provide full identification. For example, in MUR 2674 the Commission found that the Hecht Committee violated 2 U.S.C. § 434(b)(3) when it failed to amend its reports to include information it had

Since there is apparently no evidence that the candidates were personally involved in any violation of the Act, this Office further recommends that the Commission find no reason to believe that Representative Connie Mack violated 2 U.S.C. §§ 441a(f) and 434(a)(6)(A) and no reason to believe that Senator Chic Hecht violated 2 U.S.C. § 441a(f).

III. RECOMMENDATIONS

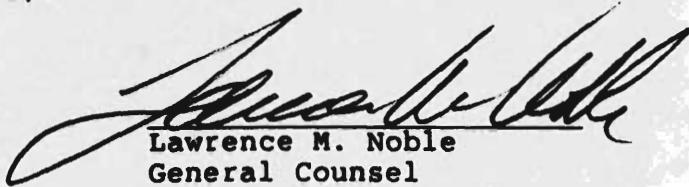
1. Find reason to believe that the Auto Dealers & Drivers for Free Trade PAC and Edward G. Connelly, as treasurer, violated 2 U.S.C. §§ 434(b) and 441a(a)(2)
2. Find reason to believe that the Friends of Connie Mack and Robert I. Watkins, as treasurer, violated 2 U.S.C. §§ 434(a)(6)(A), 434(b), and 441a(f).
3. Find no reason to believe that the Hecht Re-Election Committee and Glen N. Mauldin, as treasurer, violated 2 U.S.C. §§ 434(b) and 441a(f) and close the file as it pertains to them.
4. Find no reason to believe that Representative Connie Mack violated 2 U.S.C. §§ 434(a)(6)(A), 434(b) and 441a(f) and close the file as it pertains to him.
5. Find no reason to believe that Senator Chic Hecht violated 2 U.S.C. §§ 434(b) and 441a(f) and 441a(f) and close the file as it pertains to him.

(Footnote 7 continued from previous page)
obtained regarding the occupations of 136 contributors.

6. Approve the attached Letters (6), Questions (5), and Factual and Legal Analysis (2).

Date

9/14/87



Lawrence M. Noble
General Counsel

Attachments

1. Complaint
2. Auto Dealers response
3. Hecht Committee response
4. Mack Committee response
5. Factual Legal Analysis(2)
6. Letters (6)
7. Questions (5)



FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

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

DATE: SEPTEMBER 25, 1989

SUBJECT: MUR 2766 - GENERAL COUNSEL'S REPORT
DATED SEPTEMBER 14, 1989

The above-captioned document was circulated to the
Commission on Wednesday, September 20, 1989 at 4:00 p.m.

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

Commissioner Aikens	XXXX
Commissioner Elliott	XXXX
Commissioner Josefiak	XXXX
Commissioner McDonald	
Commissioner McGarry	XXXX
Commissioner Thomas	XXXX

This matter will be placed on the meeting agenda
for Tuesday, October 3, 1989 at 10:00 a.m.

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

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)

Auto Dealers and Drivers for Free Trade)
Political Action Committee and)
Edward G. Connelly, as treasurer;)
Friends of Connie Mack and Robert I.)
Watkins, as treasurer;)
Representative Connie Mack)
Hecht Re-Election Committee and Glen)
N. Mauldin, as treasurer;)
Senator Chic Hecht)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of October 3, 1989, do hereby certify that the Commission decided by a vote of 5-0 to postpone action on the above-captioned matter until the next executive session and refer the September 19, 1989 report back to the General Counsel to research for certain additional information.

Commissioners Aikens, Elliott, Josefiak, McDonald, and Thomas voted affirmatively for the decision; Commissioner McGarry was not present at the time of the vote.

Attest:

Oct. 4, 1989

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Auto Dealers and Drivers for Free Trade) MUR 2766
Political Action Committee and)
Edward G. Connelly, as treasurer;)
Friends of Connie Mack and Robert I.)
Watkins, as treasurer;)
Representative Connie Mack;)
Hecht Re-Election Committee and Glen N.)
Mauldin, as treasurer;)
Senator Chic Hecht)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of October 24, 1989, do hereby certify that the Commission took the following actions in MUR 2766:

1. Failed in a vote of 2-3 to pass a motion to find reason to believe that the Auto Dealers & Drivers for Free Trade PAC and Edward G. Connelly, as treasurer, violated 2 U.S.C. §§ 434(b) and 441a(a)(2).

Commissioners McGarry, and Thomas voted affirmatively for the motion; Commissioners Aikens, Elliott, and Josefak dissented; Commissioner McDonald was not present.

(continued)

2. Failed in a vote of 2-3 to pass a motion to find reason to believe that the Friends of Connie Mack and Robert I. Watkins, as treasurer, violated 2 U.S.C. §§ 434(a)(6)(A), 434(b) and 441a(f).

Commissioners McGarry and Thomas voted affirmatively for the motion; Commissioners Aikens, Elliott, and Josefiak dissented; Commissioner McDonald was not present.

3. Decided by a vote of 5-0 to -

- a) Find no reason to believe that the Hecht Re-Election Committee and Glen N. Mauldin, as treasurer, violated 2 U.S.C. §§ 434(b) and 441a(f) and close the file as it pertains to them.
- b) Find no reason to believe that Representative Connie Mack violated 2 U.S.C. §§ 434(a)(6)(A), 434(b) and 441a(f) and close the file as it pertains to him.

(continued)

Federal Election Commission
Certification for MUR 2766
October 24, 1989

Page 3

- c) Find no reason to believe that Senator Chic Hecht violated 2 U.S.C. §§ 434(b) and 441a(f) and close the file as it pertains to him.

Commissioners Aikens, Elliott, Josefiak, McGarry, and Thomas voted affirmatively for the decision; Commissioner McDonald was not present.

4. Decided by a vote of 5-0 to find reason to believe that the Friends of Connie Mack and Robert I. Watkins, as treasurer, violated 2 U.S.C. § 434(a)(6)(A).

Commissioners Aikens, Elliott, Josefiak, McGarry, and Thomas voted affirmatively for the decision; Commissioner McDonald was not present.

(continued)

Federal Election Commission
Certification for MUR 2766
October 24, 1989

Page 4

5. Decided by a vote of 5-0 to direct the Office of General Counsel to send an appropriate Factual and Legal Analysis to the Friends of Connie Mack and Robert I. Watkins, as treasurer, and to send appropriate letters pursuant to the actions noted above.

Commissioners Aikens, Elliott, Josefiak, McGarry, and Thomas voted affirmatively for the decision; Commissioner McDonald was not present.

Attest:

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

October 27, 1989



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 6, 1989

Richard E. Messick, Esquire
Patton, Boggs & Blow
2550 M Street, N.W.
Washington, D.C. 20037

RE: MUR 2766
Auto Dealers and Drivers
for Free Trade PAC and
Edward G. Connelly, as
treasurer

Dear Mr. Messick:

On November 4, 1988, the Federal Election Commission notified your clients, Auto Dealers and Drivers for Free Trade PAC (the "Committee") and Edward G. Connelly, as treasurer, of a complaint alleging that your clients had violated certain sections of the Federal Election Campaign Act of 1971, as amended.

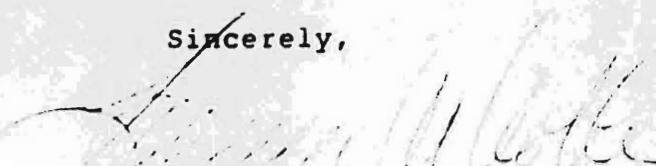
On October 24, 1989, the Commission considered the complaint but there was an insufficient number of votes to find reason to believe your clients violated 2 U.S.C. §§ 434(b) and 441a(a)(2), provisions of the Act. Accordingly, the Commission closed its file in this matter as it pertains to the Committee and Edward G. Connelly, as treasurer. A Statement of Reasons will be forwarded to you at a later date. This matter will become part of the public record within 30 days after the file has been closed with respect to all other respondents involved. Should you wish to submit any materials to appear on the public record, please do so within ten days of your receipt of this letter. Please send such materials to the General Counsel's Office.

Richard E Messick, Esquire
page 2

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

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

Sincerely,


Lawrence M. Noble
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 6, 1989

Benjamin L. Ginsberg, Esquire
National Republican Committee
301 First Street, S.E.
Washington, D.C. 20003

RE: MUR 2766
Hecht Re-Election
Committee and Glen N.
Mauldin, as treasurer

Senator Chic Hecht

Dear Mr. Ginsberg:

On November 10, 1988, the Federal Election Commission notified your clients, Hecht Re-Election Committee (the "Committee") and Glen N. Mauldin, as treasurer, and Senator Chic Hecht of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

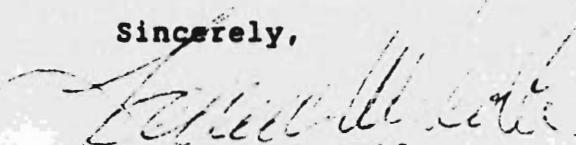
On October 24 1989, the Commission found, on the basis of the information in the complaint, and information provided by your clients, that there is no reason to believe the Committee and Glen N. Mauldin, as treasurer, and Senator Chic Hecht violated 2 U.S.C. §§ 434(b) and 441a(f). Accordingly, the Commission closed its file in this matter as it pertains to the Committee and Glen N. Mauldin, as treasurer, and Senator Chic Hecht.

This matter will become a part of the public record within 30 days after the file has been closed with respect to all respondents. If you wish to submit any materials to appear on the public record, please do so within ten days. Please send such materials to the Office of the General Counsel.

Benjamin L. Ginsberg, Esquire
page 2

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

Sincerely,


Lawrence M. Noble
General Counsel

Enclosure
General Counsel's Report

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 6, 1989

Benjamin L. Ginsberg, Esquire
National Republican Committee
310 First Street, S.E.
Washington, D.C. 20003

RE: MUR 2766
Friends of Connie Mack
and Robert I. Watkins, as
treasurer

Senator Connie Mack

Dear Mr. Ginsberg:

On November 4, 1988, the Federal Election Commission notified your clients, Friends of Connie Mack (the "Committee") and Robert I. Watkins, as treasurer, and Senator Connie Mack of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to your clients at that time.

Upon further review of the allegations contained in the complaint, and information supplied by your clients, on October 24, 1989, the Commission found that there is reason to believe your clients, the Committee and Robert I. Watkins, as treasurer, violated 2 U.S.C. § 434(a)(6)(A), provisions of the Act. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information. On the same day the Commission found that there was no reason to believe that your client Senator Connie Mack violated 2 U.S.C. §§ 434(a)(6)(A), 434(b) and 441a(f).

There was an insufficient number of votes to find reason to believe your clients, the Committee and Robert I. Watkins, as treasurer, violated 2 U.S.C. §§ 434(b) and 441a(f). A Statement of Reasons in this regard will be forwarded to you at a later date.

Under the Act, you have an opportunity to demonstrate that no action should be taken against your clients, the Committee and

Benjamin L. Ginsberg, Esquire
Page 2

Robert I. Watkins, as treasurer. You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office 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 your clients, the Committee and Robert I. Watkins, as treasurer, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be 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 matter to be made public.

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

Sincerely,

Danny L. McDonald
Chairman

Enclosure
Factual & Legal Analysis



Republican
National
Committee

Benjamin L. Ginsberg
Chief Counsel

Michael A. Hess
J. Courtney Cunningham
Deputy Chief Counsel

RECEIVED
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FEDERAL ELECTION COMMISSION

December 1, 1989

Danny L. McDonald, Chairman
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

RE: MUR 2766, Friends of Connie Mack and Robert I. Watkins,
as Treasurer Senator Connie Mack

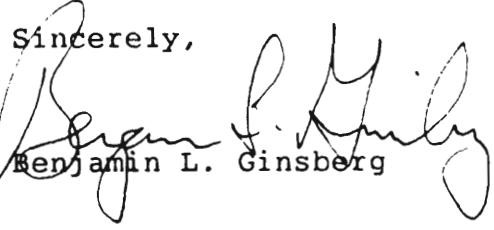
Dear Chairman McDonald:

Pursuant to your letter of November 6, 1989, Respondents in the above-captioned matter wish to pursue pre-probable cause conciliation under 11 C.F.R. 111.18(d). Since the alleged violations remaining in this MUR were inadvertent and since the information at issue was fully provided by Respondents in their post-election report, the Respondents believe conciliation is appropriate.

Accordingly, Friends of Connie Mack and Robert I. Watkins as Treasurer and Senator Connie Mack respectfully request that the Commission agree to enter into conciliation prior to any finding of probable cause.

Thank you for your consideration.

Sincerely,


Benjamin L. Ginsberg

BLG:jd

cc: Michael Marinelli

90 JUN -3 AM 9:16

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

)
) MUR 2766

Friends of Connie Mack and Robert I. Watkins,
as treasurer)

SENSITIVE

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On October 24, 1989, the Commission found reason to believe that Friends of Connie Mack (the "Committee") and Robert I. Watkins, as treasurer, violated 2 U.S.C. § 434(a)(6)(A) by failing to provide adequate identification of contributors. A letter informing the Committee of the Commission's finding was mailed to the respondents on November 6, 1989. On December 4, 1989, this Office received a reply from the Committee which requested pre-probable cause conciliation.

In its response the Committee does not dispute the facts contained in the factual and legal analysis mailed to the respondents. The Committee states, however, that the violation was due to inadvertence. Since there is no dispute regarding the facts of the violation, this Office recommends that the Commission enter into preprobable cause conciliation with Friends of Connie Mack and Robert I. Watkins, as treasurer.

II. DISCUSSION OF CONCILIATION PROVISIONS AND CIVIL PENALTY

III. RECOMMENDATIONS

1. Enter into conciliation with the Friends of Connie Mack and Robert I. Watkins, as treasurer, prior to a finding of probable cause to believe.
2. Approve the attached proposed conciliation agreement and letter.

Lawrence M. Noble
General Counsel

Date

1/5/90

BY:


Lois G. Lerner
Associate General Counsel

Attachments

1. December 4, 1989 Committee response and request for conciliation
2. Proposed conciliation agreement and letter.

Staff Assigned: Michael Marinelli

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Friends of Connie Mack and) MUR 2766
Robert I. Watkins, as)
treasurer)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on January 10, 1990, the Commission decided by a vote of 5-0 to take the following actions in MUR 2766:

1. Enter into conciliation with the Friends of Connie Mack and Robert I. Watkins, as treasurer, prior to a finding of probable cause to believe.
2. Approve the proposed conciliation agreement and letter as recommended in the General Counsel's Report dated January 5, 1990.

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

Attest:

1-11-90

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

Received in the Secretariat: Mon., Jan. 8, 1990 9:16 a.m.
Circulated to the Commission: Mon., Jan. 8, 1990 4:00 p.m.
Deadline for vote: Wed., Jan. 10, 1990 4:00 p.m.



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 16, 1990

2

Benjamin L. Ginsberg, Esquire
Republican National Committee
310 First Street, S.E.
Washington, D.C. 20003

RE: MUR 2766
Friends of Connie Mack
and Robert I. Watkins, as
treasurer

Dear Mr. Ginsberg:

On October 24, 1989, the Federal Election Commission found reason to believe that your clients, Friends of Connie Mack and Robert I. Watkins, as treasurer, have violated 2 U.S.C. § 434(a)(6)(A). At your request, on January 10, 1990, the Commission determined to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe.

Enclosed is a conciliation agreement that the Commission has approved in settlement of this matter. If you agree with the provisions of the enclosed agreement, please sign and return it, along with the civil penalty, to the Commission. In light of the fact that conciliation negotiations, prior to a finding of probable cause to believe, are limited to a maximum of 30 days, you should respond to this notification as soon as possible.

Benjamin L. Ginsberg, Esquire
Page 2

If you have any questions or suggestions for changes in the agreement, or if you wish to arrange a meeting in connection with a mutually satisfactory conciliation agreement, please contact Michael Marinelli, the attorney assigned to this matter, at (202) 376-8200.

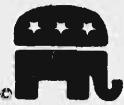
Sincerely,

Lawrence M. Noble
General Counsel



BY: Lois G. Lerner
Associate General Counsel

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Enclosure
Conciliation Agreement



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RECEIVED
FEDERAL ELECTION COMMISSION
ADMINISTRATIVE DIVISION

90 APR -5 PM 3:49

Republican
National
Committee

Benjamin L. Ginsberg
Chief Counsel

Michael A. Hess
J. Courtney Cunningham
Deputy Chief Counsel

April 5, 1990

Michael G. Marinelli, Esq.
Office of General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

RE: MUR 2766

Dear Mr. Marinelli:

Attached please find a Conciliation Agreement in the above captioned matter signed by Robert Watkins, Treasurer of the Friends of Connie Mack Committee.

We understand that you will submit this agreement with a favorable recommendation to the Commission. We will await that result before taking any further action.

Sincerely yours,

Benjamin L. Ginsberg

BLG:jd
Enclosure

cc: Robert I. Watkins

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ADMINISTRATIVE DIVISION

90 APR -6 AM 9:34

90 APR 19 AM 11:17

BEFORE THE FEDERAL ELECTION COMMISSION

SENSITIVE

In the Matter of)
Friends of Connie Mack and) MUR 2766
Robert I. Watkins, as treasurer)

GENERAL COUNSEL'S REPORT

I. BACKGROUND

Attached is a conciliation agreement which has been signed by Robert Watkins, the treasurer of Friends of Connie Mack (the "Committee").

On October 24, 1989, the Commission found reason to believe that the Committee and Robert Watkins, as treasurer, violated 2 U.S.C. § 434(a)(6)(A). On January 10, 1990, the Commission approved respondents' request to enter into pre-probable cause conciliation.

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II. RECOMMENDATIONS

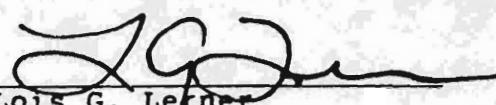
1. Accept the conciliation agreement with Friends of Connie Mack and Robert I. Watkins, as treasurer, at Attachment 2.
2. Close the file.
3. Approve the attached letters (4).

Lawrence M. Noble
General Counsel

Date

4/18/90

BY:


Lois G. Lerner
Associate General Counsel

Attachments

1. Committee's March 13, 1990 response and check
2. Committee's April 5, 1990 proposed agreement
3. Letters to complainant and respondents

Staff Assigned: Michael Marinelli

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Friends of Connie Mack and) MUR 2766
Robert I. Watkins, as treasurer)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on April 23, 1990, the Commission decided by a vote of 5-0 to take the following actions in MUR 2766:

1. Accept the conciliation agreement with Friends of Connie Mack and Robert I. Watkins, as treasurer, at Attachment 2, as recommended in the General Counsel's Report dated April 18, 1990.
2. Close the file.
3. Approve the letters (4), as recommended in the General Counsel's Report dated April 18, 1990.

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

Attest:

4-23-90

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

Received in the Secretariat: Thurs., April 19, 1990 11:17 a.m.
Circulated to the Commission: Thurs., April 19, 1990 4:00 p.m.
Deadline for vote: Mon., April 23, 1990 4:00 p.m.



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

April 27, 1990

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Robert F. Bauer, General Counsel
B. Holly Schadler, Counsel
Democratic Senatorial Campaign
Committee
430 South Capitol Street, S.E.
Washington, D.C. 20003

RE: MUR 2766

Dear Mr. Bauer and Ms. Schadler:

This is in reference to the complaint you filed with the Federal Election Commission on November 3, 1988 and amended on November 7, 1988, concerning expenditures made on behalf of Senator Chic Hecht and Senator Connie Mack by Auto Dealers and Drivers for Free Trade Political Action Committee ("Auto Dealers"). Your complaint also concerned 48 hour notices filed by Friends of Connie Mack.

On October 24, 1989, the Commission considered the complaint but there was an insufficient number of votes to find reason to believe Auto Dealers violated 2 U.S.C. §§ 434(b) and 441a(a)(2), provisions of the Federal Election Campaign Act of 1971, as amended. There was also an insufficient number of votes to find reason to believe that Friends of Connie Mack had violated 2 U.S.C. §§ 434(b) and 441a(f). A Statement of Reasons concerning the Commission's actions in this regard will be forwarded to you at a later date.

Mr. Bauer, Esquire and Ms. Schadler, Esquire
Page 2

On that same day the Commission found there was no reason to believe that Senator Connie Mack violated 2 U.S.C. §§ 434(a)(6)(A), 434(b) and 441a(f) and no reason to believe Senator Chic Hecht, the Hecht Re-Election Committee and Glen N. Mauldin, as treasurer, violated 2 U.S.C. §§ 434(b) and 441a(f). However, the Commission found that there was reason to believe that Friends of Connie Mack and Robert I. Watkins, as treasurer violated 2 U.S.C. § 434(a)(6)(A) and conducted an investigation in this matter. On April 23, 1990, a conciliation agreement signed by the respondents was accepted by the Commission. Accordingly, the Commission closed the file in this matter on April , 1990. A copy of the conciliation agreement is enclosed for your information.

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

Sincerely,

Lawrence M. Noble
General Counsel



BY: Lois G. Lerner
Associate General Counsel

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Enclosure
Conciliation Agreement



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20461

April 27, 1990

Richard E. Messick, Esquire
Patton, Boggs & Blow
2550 M Street, N.W.
Washington, D.C. 20037

RE: MUR 2766
Auto Dealers and Drivers
for Free Trade PAC and
Edward G. Connelly, as
treasurer

Dear Mr. Messick:

This is to advise you that the entire file in this matter has now been closed and will become part of the public record within 30 days. Should you wish to submit any legal or factual materials to be placed on the public record in connection with this matter, please do so within ten days. Such materials should be sent to the Office of the General Counsel.

Should you have any questions, contact Michael Marinelli, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel



BY: Lois G. Lerner
Associate General Counsel



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 27, 1990

Benjamin L. Ginsberg, Esquire
National Republican Committee
301 First Street, S.E.
Washington, D.C. 20003

RE: MUR 2766
Hecht Re-Election
Committee and Glen N.
Mauldin, as treasurer

Senator Chic Hecht

Dear Mr. Ginsberg:

This is to advise you that the entire file in this matter has now been closed and will become part of the public record within 30 days. Should you wish to submit any legal or factual materials to be placed on the public record in connection with this matter, please do so within ten days. Such materials should be sent to the Office of the General Counsel.

Should you have any questions, contact Michael Marinelli, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 27, 1990

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Dear Benjamin L. Ginsberg:

Benjamin L. Ginsberg, Esquire
National Republican Committee
310 First Street, S.E.
Washington, D.C. 20003

RE: MUR 2766
Friends of Connie Mack
and Robert I. Watkins, as
treasurer

On April 23, 1990, the Federal Election Commission accepted the signed conciliation agreement submitted on behalf of your clients in settlement of a violation of 2 U.S.C. § 434(a)(6), a provision of the Federal Election Campaign Act of 1971, as amended. Accordingly, the file has been closed in this matter. This matter will become a part of the public record within 30 days. If you wish to submit any factual or legal materials to appear on the public record, please do so within ten days. Such materials should be sent to the Office of the General Counsel.

Please be advised that information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. See 2 U.S.C. § 437g(a)(4)(B). The enclosed conciliation agreement, however, will become a part of the public record.

Benjamin L. Ginsberg, Esquire
Page 2

Enclosed you will find a copy of the fully executed conciliation agreement for your files. If you have any questions, please contact Michael Marinelli, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel



BY: Lois G. Lerner
Associate General Counsel

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Enclosure
Conciliation Agreement

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Friends of Connie Mack and) MUR 2766
Robert I. Watkins, as treasurer)

CONCILIATION AGREEMENT

This matter was initiated by a signed, sworn, and notarized complaint by the Democratic Senatorial Campaign Committee. The Federal Election Commission ("Commission") found reason to believe that Friends of Connie Mack and Robert I. Watkins, as treasurer ("Respondents"), violated 2 U.S.C. § 434(a)(6)(A).

NOW, THEREFORE, the Commission and the Respondents, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. Friends of Connie Mack is the principal campaign committee of United States Senator Connie Mack and is a political committee within the meaning of 2 U.S.C. § 431(4).

2. Robert I. Watkins is the treasurer of Friends of Connie Mack.

3. Pursuant to 2 U.S.C. § 434(a)(1), each treasurer of a political committee shall file reports of receipts and disbursements in accordance with the provisions of 2 U.S.C. § 434. Pursuant to 2 U.S.C. § 434(a)(6)(A), a candidate's principal campaign committee must file special notices on contributions received after the 20th day, but more than 48 hours before, an election in which such candidate is running. The notification must be made within 48 hours of the time these contributions are received and the contributions must also be itemized on the committee's next scheduled report.

4. Pursuant to 2 U.S.C. § 434(a)(6)(A), the notification must include the name of the candidate, the office sought by the candidate, identification of the contributor, and the date of receipt and amount of the contribution. Pursuant to 2 U.S.C. § 431(13), the identification of an individual requires the giving of the name, the mailing address, and the occupation of the individual, as well as the name of his or her employer, while identification of any other person would include the name and address of such person.

5. From October 21, 1988 to November 11, 1988, Respondents filed six 48 hour notices which disclosed the receipt of \$381,050 in contributions made by 170 individuals and 97 committees. The 48 hour notices filed by Respondents provide the name of the candidate, the office sought by the candidate, the date of receipt, the names of the contributors and the amounts given.

V. 1. Since the 48 hour notices filed by Respondents did

not list addresses, occupations or employers as required for the contributors reported, Respondents therefore failed to provide complete contributor identification in violation of 2 U.S.C. § 434(a)(6)(A).

VI. Respondents contend at the time they filed the notices they believed the information they provided was sufficient to comply with 2 U.S.C. § 434(a)(6)(A).

VII. Respondent's will pay a civil penalty to the Federal Election Commission in the amount of Three Thousand Five Hundred Dollars (\$3,500), pursuant to 2 U.S.C. § 437(a)(5)(A).

VIII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

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

X. Respondents shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirement contained in this agreement and to so notify the Commission.

XI. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or

oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

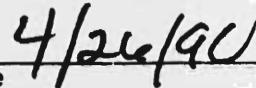
FOR THE COMMISSION:

Lawrence M. Noble
General Counsel

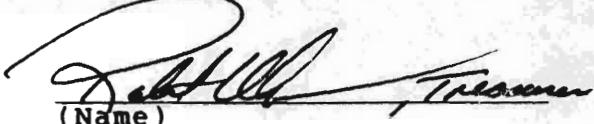
BY:


Lois G. Lerner
Associate General Counsel

Date


4/26/90

FOR THE RESPONDENTS:


(Name)
(Position)

Date


4/4/90

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 2766

DATE FILMED 5/15/90 CAMERA NO. 1

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THE FOLLOWING DOCUMENTATION IS ADDED TO
THE PUBLIC RECORD IN CLOSED MUR 2766

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

**Auto Dealers and Drivers for Free Trade
Political Action Committee and
Edward G. Connelly, as treasurer**

MUR 2766

**Friends of Connie Mack and
Robert I. Watkins, as treasurer**

STATEMENT OF REASONS

Chairman Lee Ann Elliott

Commissioner Joan D. Aikens

Commissioner Thomas J. Josefiak

On October 24, 1989, by a two-to-three vote, the Federal Election Commission declined to adopt the recommendation of the Office of the General Counsel to find reason to believe the Auto Dealers and Drivers for Free Trade PAC and Edward G. Connelly, as treasurer, violated 2 U.S.C. §§434(b) and 441a(a)(2) by the making of expenditures in support of Rep. Connie Mack's campaign for U.S. Senate in 1988. By the same vote, the Commission also declined to adopt the recommendation to find reason to believe Friends of Connie Mack and Robert I. Watkins, as treasurer, violated 2 U.S.C. §§434(a)(6)(A), 434(b) and 441a(f).¹

-
1. The Commission also voted 5-0 to take the following actions in MUR 2766 (Commissioner McDonald absent): find reason to believe that the Friends of Connie Mack and Robert I. Watkins, as treasurer, violated 2 U.S.C. § 434(a)(6)(A) ['48 hour' reporting]; find no reason to believe that Rep. Connie Mack violated 2 U.S.C. §§ 434(a)(6)(A), 434(b) and 441a(f) and close the file as it pertains to him; find no reason to believe that the Hecht Re-Election Committee and Glen N. Mauldin, as treasurer, violated 2 U.S.C. §§ 434(b) and 441a(f) and close the file as it pertains to them; find no reason to believe that Senator Chic Hecht violated 2 U.S.C. §§ 434(b) and 441a(f) and close the file as it pertains to him.

We voted against these recommendations. In our opinion, the respondents' answers to the complaint adequately refuted the complainant's allegations as to any presumed coordination between the Mack campaign and Auto Dealers in the making of the "independent expenditures."² The evidence before the Commission, or any reasonable inferences drawn from the evidence, did not support even a preliminary finding of 'reason to believe' the respondents had violated the Federal Election Campaign Act under these circumstances.

Contrary to some reports, this case does not represent an example of the Commission failing to investigate a matter in which impermissible coordination had apparently compromised the independence of expenditures made on behalf of a candidate for Federal office. No evidence of any act or consequence of coordination between the expenditure maker and the beneficiary campaign was ever offered or fairly imputed. The sole argument for any inference of coordination jeopardizing the independence of these expenditures was the point raised as the basis for the complaint in this matter: that a special opportunity for coordination was presented in these circumstances because two advertising consultants who provided services to the Connie Mack

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2. Under 2 U.S.C. §431(17), the term "independent expenditure" means an expenditure expressly advocating the election or defeat of a clearly identified candidate which is made without cooperation or consultation with any candidate, and which is not made in concert with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate. An expenditure failing to qualify as an independent expenditure is an in-kind contribution to the candidate and subject to the Act's contribution limits. 11 CFR 109.1(c). See 2 U.S.C. §431.

for Senate campaign in Florida also provided services in states other than Florida to Auto Dealers PAC (who made expenditures on behalf of Mack's candidacy in Florida using other consultants).

Auto Dealers, the Mack campaign and their 'common vendors' absolutely and adamantly denied any type of contact, consent, cooperation or consultation that would have risked destroying the independence of the expenditures made on behalf of candidate Mack by the Auto Dealers. In fact, Auto Dealers described how they anticipated the 'common vendor' problem and took specific steps to avoid the possibility of coordination that might arise under these circumstances, pursuant to the Commission's direction in Advisory Opinion 1979-80. Not one shred of evidence or circumstantial clue contradicted their denials of coordination or otherwise indicated that any impermissible coordination occurred.

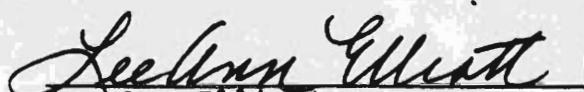
This case illustrates how the FEC's General Counsel and the Democrats on the Commission have tilted way too far in the direction of treating this form of political expression as inherently suspect, presumptively illegal and automatically subject to wide-ranging investigation. No matter how broad and emphatic the denials or extensive the explanation of conduct, they endlessly pick apart the responses to allegations of coordination to contrive nagging doubts and niggling questions.

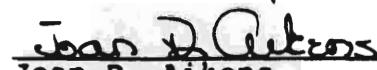
The Commission cannot turn independent expenditures into presumptively illegal activity, however. The U.S. Supreme Court has consistently viewed independent expenditures as representing political expression "'at the core of our electoral process and

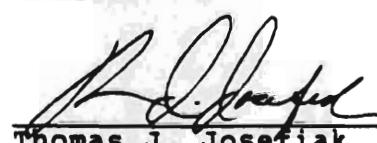
of the First Amendment freedoms.'" Buckley v. Valeo, 424 U.S. 1, 39 (1976) (quoting Williams v. Rhodes, 393 U.S. 23, 32 (1968)). See also FEC v. Massachusetts Citizens for Life, Inc., 479 U.S. 238 (1986). It would be completely inconsistent with the broad Constitutional protection repeatedly afforded such speech by the judiciary, and contrary to the Commission's normal way of doing business in other cases, to subject the makers of these expenditures to a 'guilty until proven innocent' burden of disproving speculative and constantly shifting charges.

The Commission must not make the law so hard to follow or the rules for permissible political speech so impossible to abide by that we chill such independent expenditure activity. Those exercising their free speech rights should not be challenged by the Commission unless we have genuine reason to believe a violation of the Act occurred. Here, we had reason to believe a violation of the Act was consciously avoided.³

June 13, 1990


Lee Ann Elliott
Chairman


Joan D. Aikens
Commissioner


Thomas J. Josefiak
Commissioner

3. Commissioners Aikens and Elliott concur with the review of the evidence and the analysis of the General Counsel's arguments provided in Commissioner Josefiak's Memorandum in support of this Statement of Reasons.



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20461

In the Matter of)

Auto Dealers and Drivers for Free)
Trade Political Action Committee and)
Edward G. Connelly, as treasurer;)

Friends of Connie Mack and)
Robert I. Watkins, as treasurer;)

MUR 2766

Representative Connie Mack;)

Hecht Re-Election Committee and)
Glen N. Mauldin, as treasurer;)

Senator Chic Hecht)

STATEMENT OF REASONS
VICE CHAIRMAN JOHN WARREN MCGARRY
COMMISSIONER SCOTT E. THOMAS

In MUR 2766, the Federal Election Commission considered allegations that approximately \$300,000 in purportedly independent expenditures made by the Auto Dealers and Drivers for Free Trade Political Action Committee (hereinafter "Auto Dealers PAC") in support of the Senate candidacy of Connie Mack actually were coordinated with the candidate's campaign. As such, the Auto Dealers PAC would have made, and the candidate would have received, contributions well in excess of the statute's limitations.

The complaint brought out the fact that two of the media firms used by the Mack campaign also were being used simultaneously on a large-scale basis by the Auto Dealers PAC, though ostensibly in connection with campaigns in other states. Thus, there was evidence that the Auto Dealers PAC had significant and ongoing contact with the very media firms that were helping the Mack campaign. The response of the Auto Dealers PAC provided affidavits admitting meetings with the head of each of the media firms helping the Mack campaign in which the fact that such help was being provided was discussed.

After reviewing these serious allegations and the responses made to the allegations, we concluded that an investigation of the matter was warranted. Accordingly, we supported the recommendations of the Commission's General Counsel to make the preliminary finding of reason to believe against the PAC and the candidate committee and to issue questions and request documents in order to investigate the matter.

I.

In Buckley v. Valeo, 424 U.S. 1 (1976), the Supreme Court upheld the congressionally set limit on "contributions" to federal candidates but ruled that a similar ceiling on "independent expenditures" was unconstitutional. In so ruling, the Court recognized the many opportunities for evasion of the contribution limits created by its holding. Thus, the Court drew a specific distinction between expenditures made "totally

independently of the candidate and his campaign" and "prearranged or coordinated expenditures amounting to disguised contributions" which could be constitutionally regulated. Buckley, 424 U.S. at 47 (emphasis added).

In response to the Supreme Court decision in Buckley, the Congress enacted as part of the Federal Election Campaign Act Amendments of 1976 a definition of "independent expenditure" now codified at 2 U.S.C. § 431(17). The legislative history indicates that the purpose of § 431(17) was to preserve the distinction drawn by the Supreme Court between those expenditures which were "totally independent" of the candidate's campaign and those which were not. H.R. Conf. Rep. No. 94-1057, 94th Cong., 2d Sess. 38 (1976). Section 431(17) reflects specific Congressional concern over the possibility that independent expenditures could be used to circumvent the contribution limitations. See Federal Election Campaign Act Amendments, 1976: Hearings on S.2911, et al., Subcommittee on Privileges and Elections of the Senate Committee on Rules and Administration, 94th Cong., 2d Sess. 74 (Remarks of Sen. Kennedy); 77 (Remarks of Sen. Cannon); 77 (Remarks of Sen. Scott); 85 (Statement of Sen. Mondale); 89 (remarks of Sen. Griffin); 98 (Remarks of Sen. Buckley); 107-08, 130 (Remarks of Assistant Attorney General Scalia).

Section 431(17) of the FECA defines "independent expenditure" as:

[A]n expenditure by a person expressly advocating the election or defeat of a clearly identified candidate which is made without cooperation or consultation with any candidate, or any authorized committee or agent of such candidate, and which is not made in concert with, or at the request or suggestion of, any candidate, or any authorized committee or agent of such candidate.

2 U.S.C. § 431(17). Expenditures made "in cooperation, consultation, or concert, with . . . a candidate, his authorized political committees, or their agents, shall be considered to be a contribution to such candidate." 2 U.S.C. § 441a(a)(7)(B)(i); see also 11 C.F.R. § 109.1(c). Section 109.1(b)(4)(i) of the Commission's regulations "clarif[ies] this language," FEC v. NCPAC, 647 F. Supp. 987, 990 (S.D.N.Y. 1986), and explains that an expenditure by a person will not be deemed independent if there is "[a]ny arrangement, coordination or direction by the candidate or his . . . agent prior to the publication, distribution, display or broadcast of the communication." 11 C.F.R. 109.1(b)(4)(i) (emphasis added). Expenditures found to have been coordinated with a candidate are subject to the statute's contribution limitations. In particular, section 441a(a)(2)(A) forbids a multicandidate committee from making a contribution "to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceeds \$5,000." 2 U.S.C. § 441a(a)(2)(A).

II.

In 1988, Auto Dealers PAC spent \$326,050 in support of Connie Mack, the Republican candidate for the United States Senate in Florida. According to reports filed with the Commission, Auto Dealers PAC spent nearly \$300,000 in media time purchases using the media firm of Lambert/Dale as vendor. Auto Dealers PAC also spent \$11,550 for polling services provided by Moore Information, \$8,500 for production work by Raiford Communications, \$3,500 for creative services by Larry McCarthy and \$2,500 for research work by Political Software Company.

The Mack campaign was the only one of a number of Senate campaigns in which Auto Dealers PAC did not report making expenditures through the media firm of Multi-Media Services. In 1988, Auto Dealers PAC also made expenditures in support of Republican Senate candidates in Nevada, Wyoming, California and Mississippi. These expenditures were made primarily through Multi-Media Services as well as through another vendor, Karl Rove and Company ("Karl Rove"). According to its 1988 October Quarterly, 12 Day Pre-General and 30-Day Post-General Reports, Auto Dealers PAC paid a total of \$1,262,432.70 to Multi-Media Services for activity in Nevada, Wyoming, California and Mississippi and \$245,962.50 to Karl Rove for activity in Nevada.

During the same time that Auto Dealers PAC was using Multi-Media Services for making election-related expenditures in Nevada, Wyoming, California and Mississippi, the Friends of Connie Mack Committee ("Mack Committee") was using Multi-Media

Services and Karl Rove for its campaign in Florida. According to the 1988 October Quarterly, 12 Day Pre-General and 30 Day Post-General Election Reports, the Mack Committee paid Multi-Media Services \$1,221,059 for its media work and paid Karl Rove \$167,809.82 for direct mail work.

On November 3, 1988, the Democratic Senatorial Campaign Committee filed a complaint with the Federal Election Commission alleging that certain independent expenditures reported by Auto Dealers PAC were actually in-kind contributions to the Mack Committee. Stating that Auto Dealers PAC had "retained two key consultants, who are also employed by, and acting as legal agents of, the Mack campaign," the complaint contended that the expenditures made by Auto Dealers PAC in Florida were not made "independent" of the Mack Committee or Connie Mack. Complaint at 3-4. The complaint further alleged that Auto Dealers PAC had violated 2 U.S.C. § 434(b) by failing to report the contributions. The complaint also alleged that the Mack Committee had failed to adequately identify contributors listed in 48-hour contribution reports as required by 2 U.S.C. § 434(a)(6). ^{1/}

^{1/} On November 7, 1988, the Democratic Senatorial Campaign Committee filed an amendment to their complaint alleging that expenditures made by Auto Dealers PAC in support of Senator Hecht's campaign were actually coordinated with the candidate's campaign.

After a comprehensive review of the responses and materials submitted by Auto Dealers PAC and the Mack Committee, the Office of General Counsel prepared a report for Commission consideration that contained a factual and legal analysis of the allegations presented in the complaint. Among its findings, the General Counsel's Report recommended that the Commission find reason to believe that Auto Dealers PAC violated 2 U.S.C. §§441a(a)(2) by making contributions and expenditures on behalf of the Mack campaign in excess of the contribution limitations and 2 U.S.C. §434 by not reporting these expenditures as contributions. The General Counsel further recommended that the Commission find reason to believe that the Mack Committee violated 2 U.S.C. §441a(f) for accepting these excessive contributions and §434(b) for not reporting the contributions. The General Counsel's Report also recommended that an investigation of the matter be conducted through interrogatories and requests for production of documents to be sent to the respondents and certain third-party witnesses.

A motion to adopt the General Counsel's recommendations regarding the independent expenditure issue failed to secure the four affirmative votes needed to proceed with an investigation into the matter. 2 U.S.C. §437g(a)(2). Two Commissioners

supported the General Counsel's recommendations and three Commissioners opposed the recommendations. ^{2/}

III.

Commission regulations presume that an expenditure has been coordinated with a candidate when the expenditure is:

- (A) Based on information about the candidate's plans, projects, or needs provided to the expending person by the candidate, or by the candidate's agents, with a view toward having an expenditure made;
- (B) Made by or through any person who is, or has been, authorized to raise or expend funds, who is, or has been, an officer of an authorized committee, or who is, or has been, receiving any form of compensation or reimbursement from the candidate, the candidate's committee or agent. . . .

11 C.F.R. § 109.1(b)(4)(i).

2/ By a vote of 5-0, the Commission agreed with the General Counsel's recommendations to (1) find no reason to believe that Connie Mack personally violated §§434(a)(6)(A), 434(b) and 441a(f); (2) find no reason to believe that the Hecht Re-Election Committee violated §§ 434(b) and 441a(f); and (3) find no reason to believe that Senator Chic Hecht personally violated §§ 434(b) and 441a(f).

By a vote of 5-0, the Commission also agreed with the General Counsel's recommendation to find reason to believe that the Mack Committee failed to provide complete contributor information in violation of §434(a)(6)(A).

On April 23, 1990, the Commission accepted a conciliation agreement signed by the Mack Committee in settlement of the §434(a)(6)(A) violation. In the conciliation agreement, the Mack Committee admitted that they had violated that provision of the statute and agreed to pay a civil penalty of \$3,500.

The extent of Auto Dealers PAC's simultaneous involvement with two vendors used heavily by the Mack campaign (\$1,262,432.70 in business with Multi-Media Services and \$245,962.50 with Karl Rove) certainly suggests on its face the possibility of some flow of information about the plans, projects, or needs of the Mack campaign.^{3/} Such large-scale political efforts require the use of many people and extensive communication. The admission by Auto Dealers PAC that a meeting took place with the head of each of these vendors in which the subject of working for the Mack campaign arose virtually compels a preliminary finding of reason to believe a coordinated expenditure occurred.

The responses to the complaint did not adequately address and thus, left unanswered many factual questions fundamental to the resolution of this matter. For example, were the campaign plans of the Mack committee communicated to Auto Dealers PAC through Lambert-Dale, the media firm reportedly used in Florida

3/ Respondent Auto Dealers PAC attempted to rely on Advisory Opinion 1979-80, 1 Fed. Elec. Camp. Fin. Guide (CCH) ¶5469, as a legal shield for their actions. That opinion presented facts clearly distinguishable from the case at hand. There the committee wishing to make independent expenditures in States A, B, and C proposed to use a polling firm that "has been previously employed by the authorized campaign committee of a candidate for the Republican nomination for the Senate in State A." The Commission said the committee could use the firm for the general election in States B and C. Here, by contrast, Auto Dealers PAC was using two vendors of the Mack campaign during the general election period, hence at the same time it was making its independent expenditures. The advisory opinion is plainly inapposite, and it may not be "relied upon" by Auto Dealers PAC. See 2 U.S.C. §437f(c)(1)(B). (An advisory opinion can only be relied on by another person if the "specific transaction or activity [is] indistinguishable in all its aspects...")

by Auto Dealers PAC instead of its usual vendor, Multi-Media Services? In particular, did Lambert-Dale or anyone else involved with Auto Dealers PAC obtain knowledge of Mack campaign plans through Multi-Media Services? Did Lambert-Dale or anyone involved with Auto Dealers PAC obtain knowledge of Mack campaign plans through Karl Rove? Finally, in meetings which respondents concede were held between Auto Dealers PAC and Multi-Media Services and between Auto Dealers PAC and Karl Rove, was the Florida Senate campaign of Connie Mack discussed in a way that would indicate that one or more of these candidate agents was consulted or acted in concert, or requested or suggested these disbursements, or provided information with a view toward having the expenditures made?

If the answer to any of these questions is yes, the expenditures made by Auto Dealers PAC in support of Connie Mack cannot be characterized as independent. Yet, apparently satisfied by affidavits submitted by the respondents, three of our colleagues voted against the General Counsel's recommendation to conduct the investigation necessary to answer these questions. We do not share our colleagues' eagerness in making exculpatory assumptions from the narrowly-worded responses before us. Careful review of the respondents' materials and affidavits convinces us that crucial facts in this case remain unknown and thus, the allegations contained in the complaint remain unrefuted. Accordingly, an investigation of this significant matter was warranted.

A.

Respondents produced affidavits from Francis H. Glacken, political director of Auto Dealers PAC; Anthony M. Fabrizio, President and Chairman of Multi-Media Services; Karl Rove, president of Karl Rove; and Mitch Bainwol, campaign manager for the Mack campaign. All four affidavits leave unanswered the question of whether Auto Dealers PAC and its agents and the Mack Committee and its agents in fact coordinated with each other in the Florida Senate race.

In pertinent part, the Glacken affidavit discusses the expenditures made by Auto Dealers PAC in Florida:

At the time these independent expenditures were made, neither I nor anyone else at the PAC had any information about the plans, projects or needs of the Connie Mack Senate campaign. None of the PAC's independent expenditures in Florida were made by or through any individual with any relationship whatsoever to the Mack Senate campaign. None of the PAC's expenditures were undertaken at the request or direction of candidate Mack or anyone associated with his campaign.

MUR 2766, Auto Dealer PAC December 12, 1988 Response, Glacken Affidavit, ¶17 (emphasis added). Unfortunately, Mr. Glacken's affidavit narrowly limits this disclaimer regarding knowledge of the Mack campaign plans to himself and "anyone else at the PAC." No mention is made here of Auto Dealers PAC's reported agents in Florida, e.g., Lambert-Dale. Did Lambert-Dale obtain from any agent of the Mack campaign any knowledge of the plans or needs of such campaign? If Auto Dealers PAC obtained this knowledge through its agent, Lambert-Dale, or through any of its other

agents, the Auto Dealer PAC expenditures would be presumed to be not independent. See 11 C.F.R. §109.1(b)(4)(i).

Elsewhere, the Glacken affidavit does provide an unsworn statement signed by Lambert-Dale which states:

I hereby certify that Lambert/Dale Advertising; located at 1515 Broadway, New York, New York 10036, has not been employed or engaged by, or otherwise provided service for Rep. Connie Mack, or any authorized campaign committee of Rep. Mack or agent of either, of any kind during the years 1987 and 1988.

MUR 2766, Auto Dealers PAC December 12, 1988 Response. Exhibit II to Glacken Affidavit. Yet, this "certificate" provided by Lambert-Dale to its employer misses the mark. The document leaves unanswered the question of whether Lambert-Dale, as the agent of Auto Dealers PAC, received any request or suggestion or obtained knowledge of the plans or needs of the Mack campaign from any of the campaign's agents.

Did Lambert-Dale or anyone else involved with Auto Dealers PAC obtain knowledge or plans of the Mack campaign through Multi-Media Services? We don't know. In his affidavit, Anthony Fabrizio, Jr. discusses an October 1988 meeting with Auto Dealers PAC at which Auto Dealers PAC asked Multi-Media Services to buy media for them in selected states. Mr. Fabrizio recalls:

I did not discuss the Florida Senate race with anyone connected with the independent expenditure group [Auto Dealers PAC] after that initial inquiry in which I revealed I was working on the Florida Senate race.

MUR 2766, Mack Committee January 6, 1989 Response, Fabrizio

Affidavit ¶5 (emphasis added). What else was said during this "initial inquiry?" Were discussions of the Florida Senate race held with anyone connected with Auto Dealers PAC, e.g., Lambert-Dale, before the inquiry from Auto Dealers PAC? We don't know.

The Fabrizio affidavit further states:

7. Neither I nor anyone else in Multi-Media ever discussed the Florida Senate race, any time buys for the Mack campaign, commercials run by the Mack campaign or anything associated with the Florida Senate race with the Auto Dealers PAC.
8. Neither I nor anyone else at Multi-Media told the Auto Dealers PAC anything about the Mack campaign, including its activities, plans, or needs. I never provided the Auto Dealers PAC with any information about the Mack Senate race.

Id. ¶¶7 & 8. Perhaps significantly, the broad disclaimer language of paragraph 5 ("I did not discuss the Florida Senate race with anyone connected with the independent expenditure group after that initial inquiry...") is missing here. Rather, the denials contained in paragraphs 7 and 8 are carefully limited to Auto Dealers PAC. No mention is made of Auto Dealers PAC's agent, e.g., Lambert-Dale. Did Multi-Media Services discuss the Florida Senate race, time buys for the Mack campaign, or anything else about the plans or needs of the Mack campaign with Lambert-Dale? Did Multi-Media Services discuss the Florida Senate race, time buys for the Mack campaign, or anything else about the plans or needs of the Mack campaign with the other vendors (Moore Information, Raiford Communications,

Larry McCarthy, Political Software Company) used by Auto Dealers PAC. Once again, we don't know.

Nor does the affidavit of Karl Rove shed any light on the role of Lambert-Dale or other agents used by Auto Dealers PAC. In language similar to that of the Fabrizio affidavit, Mr. Rove tells of a meeting which he had with Auto Dealers PAC "during the 1988 election campaign" (Mr. Rove provides no date):

When I told the independent expenditure group I was working for Connie Mack they told me not to tell anyone associated with the independent expenditure group [Auto Dealers PAC] anything about the Florida race. Before November 8, I did not discuss the Florida Senate race [sic] with anyone involved with the Auto Dealers PAC after that initial inquiry in which I revealed I was working on the Florida Senate race.

MUR 2766, Mack Committee January 6, 1989 Response, Rove Affidavit ¶5 (emphasis added).

The Rove affidavit is significant for what it doesn't say rather than for what it says. The affidavit carefully states that Karl Rove did not discuss the Florida Senate race "with anyone involved with the Auto Dealers PAC after a meeting which he had with Auto Dealers PAC" at some unknown date in 1988. The affidavit leaves unanswered the question of whether he discussed the Florida Senate race with anyone involved with Auto Dealers PAC during or before the 1988 meeting with Auto Dealers PAC. As an agent of the Mack campaign, the disclosure of such information by Karl Rove to "anyone involved with Auto Dealers PAC" would plainly jeopardize the independence of the Auto Dealers PAC's expenditures in support of Connie Mack.

Like the Fabrizio affidavit, the Rove affidavit goes on to state:

7. Neither I nor anyone else at Rove Co. ever discussed the Florida Senate race, any mail pieces for or plans of the Mack campaign, or anything associated with the Florida Senate race with the Auto Dealers PAC.
8. Neither I nor anyone at Rove Co. told the Auto Dealers PAC anything about the Mack campaign, including its activities, plans, or needs. I never provided the Auto Dealers PAC with any information about the Mack campaign.

Id. ¶¶7 & 8 (emphasis added). The Rove affidavit carefully states that no plans were discussed or information provided to Auto Dealers PAC only. No mention is made of whether plans or information were provided to "anyone involved with Auto Dealers PAC." Did Karl Rove provide information or plans of the Mack campaign to "anyone involved with Auto Dealers PAC"? Again, we don't know.

The fourth affidavit is that of Mitch Bainwol, campaign manager for the Mack campaign. Mr. Bainwol asserts:

No one associated with the Mack campaign had any contacts with the Auto Dealers PAC concerning their independent expenditure campaign or told any agent of the Auto Dealers PAC of the campaign's plans, projects or needs.

MUR 2766, Mack Committee January 6, 1989 Response, Bainwol Affidavit, ¶8 (emphasis added). Of critical importance to this seemingly blanket denial of any coordination is an understanding of the term "associated." Is this term meant to include just

the formal Mack campaign organization or is it meant to include also the campaign's agents, e.g., Multi-Media Services and Karl Rove?

Earlier, Mr. Bainwol's affidavit specifically mentions Multi-Media and Karl Rove, but in terms far less sweeping than the flat assertion found in paragraph 8:

To the best of my knowledge, information and belief, neither Fabrizio or Rove told the independent expenditure group [Auto Dealers PAC] anything about Connie Mack's activities, plans or needs or provided any information about our campaign to this group.

Id. ¶7. Here, as with the other affidavits, the Bainwol affidavit states only that Fabrizio and Rove (no mention is made of others at Multi-Media Services or Karl Rove) did not provide information regarding plans or needs to the Auto Dealers PAC directly. The statement does not state whether Fabrizio or Rove provided information to any agent of Auto Dealers PAC such as Lambert-Dale.

Even if paragraph 8 is meant to be read so broadly as to render irrelevant the specific discussion of Fabrizio and Rove contained in paragraph 7, follow-up questions need to be asked. Upon what basis did Mr. Bainwol make this representation? Did he discuss the matter with Mr. Rove and Mr. Fabrizio? What exactly does Mr. Bainwol recall Mr. Rove and Mr. Fabrizio saying to him about their activities? From this affidavit, we do not know the answers to these questions.

The factual record in this matter leaves other unanswered questions. For example, the record does not provide a full description of what was discussed at meetings which Auto Dealers PAC held with Multi-Media Services and Karl Rove. Certainly, meetings held between an independent expenditure group which plans to support a particular candidate and the media consultants of that particular candidate should be of interest to the agency responsible for determining whether there was coordination between the two groups.

Even if Mr. Fabrizio and Mr. Rove did not disclose the plans and needs of the Mack campaign to Auto Dealers PAC at those meetings, it is possible that Auto Dealers PAC provided valuable information to Mr. Fabrizio and Mr. Rove. As the General Counsel indicated:

Neither Mr. Fabrizio nor Karl Rove state whether there was any discussion of Auto Dealers' plans with the Mack campaign. If the Mack campaign was informed by Multi-Media or Karl Rove of Auto Dealers' prospective actions in the expenditure program, the Mack Committee could have reallocated its own resources accordingly. This type of indirect communication between Auto Dealers and the Mack Committee would have constituted coordination between Auto Dealers' expenditures and Mack campaign efforts.

MUR 2766, General Counsel's Report at 17. Conscious parallelism does not necessarily amount to "cooperation, consultation, or concert" within the meaning of the statute. 2 U.S.C. §441a(a)(7)(B)(i). At a minimum, though, we need more information about the meetings held between Auto Dealers PAC and

representatives of the Mack campaign than the brief summaries provided in the record. See Glacken Affidavit ¶¶6-14; Fabrizio Affidavit ¶¶4-5; and Rove Affidavit ¶¶4-5.

Nor does the factual record provide needed information regarding Lambert-Dale. Aside from the unanswered questions regarding Lambert-Dale's connection with Multi-Media Services and Karl Rove discussed above, there remains the unanswered question about Lambert-Dale itself. Little is known about Lambert-Dale other than an oral representation made by the General Counsel's Office that Lambert-Dale handled the advertising work for a foreign car manufacturer.

Although this information dispels the unlikely possibility that Lambert-Dale was a creation or spin-off of the Mack campaign, this information does not mean that Lambert-Dale could not have received information regarding the plans or needs of the Mack campaign. Nor does this information explain how Lambert-Dale was selected by Auto Dealers PAC as its media vendor. Was Lambert-Dale recommended to Auto Dealers PAC? Did the officers or directors of Lambert-Dale know Mr. Fabrizio or Mr. Rove? Was there a business relationship between Multi-Media Services and Lambert-Dale such that they could be viewed as affiliated organizations? From the limited factual record before us, we don't know.

B.

This is a significant matter. The Commission has received a sworn complaint which alleges that over \$300,000 in

independent expenditures were, in actuality, coordinated in-kind contributions made in excess of the contribution limitations. In support of its serious allegations, the complaint points to a highly unusual triangle of activity between the Auto Dealers PAC, the Mack Committee and certain vendors that did media work for both during the 1988 elections (Multi-Media Services and Karl Rove). The complaint further points to the fact that "[t]heir contact with each is not occasional but frequent." November 3, 1988 Complaint at 4. Indeed, from the responses, we know that specific meetings were held between the independent expenditure group (Auto Dealers PAC) and representatives of the Mack Committee (Multi-Media Services and Karl Rove) just one month before the general election in which involvement in the Florida Senate race was discussed.

Considering the unusual network of intertwined relationships which exists between Auto Dealers PAC, Multi-Media Services and Karl Rove, and the Mack Committee, along with the fact that meetings involving these participants in which the Mack campaign was discussed did take place, we believe that the complaint adequately lays out the basis for a preliminary finding of reason to believe there was a violation of the Act.^{4/}

4/ The threshold finding of "reason to believe" is obviously distinguishable from "reasonable cause to believe" (see Sec. 109, Federal Election Campaign Act Amendments of 1976, Pub. Law 94-283, 90 Stat. 483 (1976), amending former Sec. 313 of the Act) and "probable cause to believe" (see 2 U.S.C. §437g(a)(4)(A)). The presence of a "reason" to infer that coordination took place will suffice. Unless a response answers every material factual issue that is raised and the reason for making an inference is totally extinguished, the Commission should take the preliminary step of finding "reason to believe."

In Advisory Opinion 1979-80, supra, the Commission concluded that a political committee could be making a coordinated expenditure where the committee had communications with a party committee in a given state, which in turn, had communications with a candidate's committee. Similarly, if vendors of the Mack Committee used a relationship with Auto Dealers PAC to pass information to Auto Dealers indirectly through Auto Dealers' media vendor or some other agent, coordination within the meaning of the law would exist.

Whether that is in fact what happened, is impossible to tell from the factual record before us. In our opinion, the record is both incomplete and unclear. We have responses and affidavits which convey, in a general sense, a denial of the complaint's allegation. Yet, beneath the surface of these

(Footnote 4 continued from previous page)

The Commission has unanimously acknowledged that a "reason to believe" finding is a very low threshold.

Under the present statute, the Commission is required to make a finding that there is "reason to believe a violation has occurred" before it may investigate. Only then may the Commission request specific information from a respondent to determine whether, in fact, a violation has occurred. The statutory phrase "reason to believe" is misleading and does a disservice to both the Commission and the respondent. It implies that the Commission has evaluated the evidence and concluded that the respondent has violated the Act. In fact, however, a "reason to believe" finding simply means that the Commission believes a violation may have occurred if the facts as described in the complaint are true. An investigation permits the Commission to evaluate the validity of the facts as alleged.

responses there are basic and fundamental areas of uncertainty. For example, the use of Lambert-Dale by Auto Dealers PAC is held up as a shield to charges of coordination, but the responses tell us very little about Lambert-Dale itself or its involvement in this matter. Indeed, we can find no representation anywhere in the record which unambiguously states that no information was passed from the Mack Committee's vendors to Auto Dealers PAC through Lambert-Dale.

We do not mean to imply that these and other omissions are intentional. It sometimes can be difficult for a respondent to anticipate fully all the crucial factual questions arising from a particular set of circumstances. That, however, does not excuse the Commission from responsibly resolving those factual issues when they do arise.

IV.

We believe that Congress intended the Federal Election Commission to act as an enforcement-minded agency, ready to investigate serious allegations of statutory violations. In its final report, the Senate Watergate Committee recommended that "the Congress enact legislation to establish an independent, nonpartisan Federal Election Commission." S. Rep. No. 981, 93d Cong., 2d Sess. 564 (1974). As the Committee explained:

Probably the most significant reform that could emerge from the Watergate scandal is the creation of an independent nonpartisan agency to supervise the enforcement of the laws relating to the conduct of elections. Such a body--given substantial investigatory and

enforcement powers--could not only help insure that misconduct would be prevented in the future, but the investigations of alleged wrongdoing would be vigorous and conducted with the confidence of the public.

Id. (**emphasis added**). In response, Congress in 1974 amended the Federal Election Campaign Act and created the Federal Election Commission.

House comments on the conference bill creating the Commission revealed a consensus that the legislation provided for a "strong independent commission to enforce provisions of this act." 120 Cong. Rec. 35, 135 (1974) (remarks of Rep. Armstrong). As summarized by Representative Frenzel, "(t)he establishment of an independent Commission is the key provision in the bill. It will assure judicious, expeditious enforcement of the law, while reversing the long history of nonenforcement." **Id.** (remarks of Rep. Frenzel). Similarly, the Senate sought to create a Commission which would vigorously enforce federal election laws. In the words of Senate Minority Leader Hugh Scott, "we urge the committee to resist efforts that would reconstitute the Commission but would strip it of some or all of its investigative and enforcement powers. The restoration of public confidence in the election process requires an active watchdog in this area, not a toothless lapdog." Federal Election Campaign Act Amendments, 1976: Hearings on S. 2911, et al., supra, at 69 (Statement of Sen. Scott) (**emphasis added**).

The Commission ignores its congressional mandate when it neglects to investigate serious allegations such as those presented in MUR 2766. Because there were not four votes to proceed with an investigation, there remain a number of important unanswered questions and unrefuted allegations regarding the expenditures made by Auto Dealers PAC in support of Connie Mack. The cloud of uncertainty which will survive this matter is unfortunate not only for the complainant and respondents, but also the general public with whose confidence the Commission was specifically entrusted.

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June 15, 1990
Date

John Warren McGarry
John Warren McGarry
Vice Chairman

June 15, 1990
Date

Scott E. Thomas
Scott E. Thomas
Commissioner

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Auto Dealers and Drivers for Free Trade)
Political Action Committee and) NUR 2766
Edward G. Connelly, as treasurer)
Friends of Connie Mack and)
Robert I. Watkins, as treasurer)

SUPPORTING MEMORANDUM FOR THE STATEMENT OF REASONS

Commissioner Thomas J. Josefiak

1. Overview

Critics of the Federal Election Commission will probably cite this case as another example of partisan protectiveness, rigidity and deadlock that has, in their view, undermined the Commission's capacity to function as a campaign finance 'watchdog.' They will start from the widely held and seemingly unassailable assumption that the activity at issue in this matter -- large-scale independent expenditures in support of a candidate for U.S. Senate -- is inherently suspicious and necessarily deserving of a full inquiry by the Commission. They will likely blame the Commission's Republican members for obstructing an investigation of this supposedly questionable activity.

That view is flatly wrong, however, as are the assumptions upon which it is based. Contrary to popular belief, the job of the Commission is not to 'ferret out' violations wherever we remotely suspect they might lurk, or to act as investigative reporters following a hunch. The Commission is not intended to be a roving 'watchdog' -- nor should anyone want it to be.

Those who promote a cynical and misinformed interpretation of the Commission's disposition of this type of complaint do a great disservice to furthering fair and reasonable enforcement of the Federal Election Campaign Act. Unfortunately, until our actions are reviewed by observers with some appreciation of the limits to the Commission's legitimate prosecutorial authority and the Constitutional sensitivity surrounding the political activity being regulated, it is inevitable that such characterizations of this agency will prevail.

2. Constitutional Protection Afforded Independent Expenditures

The U.S. Supreme Court has consistently viewed independent expenditures as representing political expression "'at the core of our electoral process and of the First Amendment freedoms.'" Buckley v. Valeo, 424 U.S. 1, 39 (1976) (quoting Williams v. Rhodes, 393 U.S. 23, 32 (1968)). See also FEC v. Massachusetts Citizens for Life, Inc., 479 U.S. 238 (1986). In considering matters involving independent expenditures, the Commission is obligated to give full respect to the strong Constitutional protection afforded this type of free speech, even as we seek to enforce the Federal Election Campaign Act's limitations upon contributions to candidates (including expenditures on behalf of candidates that are undertaken with the consent or cooperation of such candidates). See 2 U.S.C. §§431(17) & 441a(a) and 11 CFR 109. Not surprisingly, cases involving independent expenditures have been a frequent source of contention and controversy for the Commission.

As a beginning point, it is clear that the Commission is

not entitled to view the Constitutional constraints upon prohibiting or limiting genuinely independent expenditures as some 'loophole' in the regulation of campaign finance activity or as a threat to proper enforcement of the Federal Election Campaign Act. The First Amendment's permitting of unlimited independent expenditures is not a dangerous result for which the Commission must compensate. The Commission should be vigilant and thorough in scrutinizing evidence presented in complaints concerning this activity, but we should not make it impossible for those engaging in independent expenditures to avoid an 'RTB' finding and a lengthy and full-blown inquiry.

In this and other independent expenditure cases, however, the General Counsel and the Democrats on the Commission seem to consider this free speech activity so full of opportunities for circumventing the Act as to be pernicious. Ironically, they turn this Constitutionally protected activity into inherently suspect activity. Contrary to the Supreme Court's repeated emphasis that this form of political expression is entitled to the highest level of First Amendment guarantees, they seem eager to discourage the activity by subjecting it to an initial presumption of illegality and continually rising hurdles of unfounded speculation. That approach, although apparently favored by some members of Congress, is a classic example of casting a chill upon the exercise of First Amendment rights.

3. 'Reason to Believe' Finding Under the FECA

The Commission functions as a quasi-judicial administrative body in seeking to resolve the enforcement cases brought under

the Federal Election Campaign Act. The Commission enforces the law under procedures defined by the statute. Those procedures are intended to afford a genuine measure of 'due process' fairness to those accused of violations, including a 'reason to believe' finding by the Commission that is necessary to begin the prosecution, and investigation, of a case.

Section 437g(a)(1) of the Federal Election Campaign Act requires that the Commission afford those accused of a violation to answer the charges and "demonstrate... that no action should be taken against such person on the basis of the complaint" before the Commission decides whether there is sufficient reason to believe a violation occurred. Responses to a complaint are supposed to mean something. A complaint, adequately answered, and absent new or conflicting information, does not serve to provide the Commission an opening or excuse for freewheeling inquiry into circumstances the Commission would never otherwise question and would have no particular basis for so doing. Complaints do not give the Commission a fishing license.

The evidentiary threshold for finding 'reason to believe' that a violation of the Act has occurred may not demand a lot, but it would here require some legally significant facts that distinguish these circumstances from every other independent expenditure situation. The trigger for a 'reason to believe' finding must be something more than a well-meaning desire to insure no violation occurred. At the 'RTB' stage, complaints certainly do not have to prove violations occurred, rendering investigation unnecessary, but the alleged facts must present

something that is, in the broad sense, 'incriminating' and not satisfactorily answered by the respondents. The Commission is not confined to the specific allegations and assertions within a complaint if the responses or other evidence indicates another basis for finding a violation, but some recognizable set of facts must be present that indicates a possible violation.

In this case, three Commissioners believed the complaint's allegations regarding 'common vendors' had been satisfactorily answered. The charges of coordination were emphatically denied. No basis existed to contradict or rebut those denials, nor did any evidence appear to otherwise indicate coordination took place in this matter. Essentially, this case then stood on the same ground as any other independent expenditure case. Contrary to the efforts by the General Counsel and the Democrats to leverage and bootstrap the complaint into a real case, there was no legitimate 'cause of action' on which to proceed other than the same speculative inquiry one could always manufacture in any independent expenditure case.

The Commission did not have reason to believe Auto Dealers or the Connie Mack campaign violated the Act under these facts. The Commission only had reason to believe Auto Dealers made extensive independent expenditures on behalf of candidate Mack. The making of such expenditures always carries the opportunity for coordination between the maker of the expenditures and the candidate benefitted by them. Indeed, all political activity on behalf of Federal candidates carries the potential for violations of the FECA which the Commission would not know

about without an investigation.

It is not the Commission's responsibility, nor within its legitimate authority, to absolutely rule out the possibility of coordination in every independent expenditure case, even where a complaint has generally alleged it. The Commission must recognize the need to require some evidentiary threshold for making an inference of coordination and upon which to base a 'reason to believe' finding of a violation -- and recognize some limit to official curiosity.

Clearly, the Commission should find 'reason to believe' a violation has occurred and investigate the facts whenever any evidence or unrefuted allegations indicate some basis for inferring coordination that would jeopardize the independence of such expenditures. Absent some legitimate basis for challenge, however, the making of independent expenditures should not bring an automatic penalty from the FEC in the form of a finding of a violation and a full-scale inquiry. It would be completely inconsistent with the broad Constitutional protection repeatedly afforded this type of speech by federal courts, and contrary to our normal way of doing business in other cases, to demand that the makers of such expenditures always prove their innocence of speculative and constantly shifting charges.

4. DSCC Complaint

This matter was initiated by a complaint filed by the Democratic Senatorial Campaign Committee and announced to the news media on November 3, 1988, five days before the general election. The complaint alleged that Auto Dealers had made

expenditures in Florida on behalf of Rep. Connie Mack's campaign for U.S. Senate that were not made independently of the campaign and, therefore, constituted excessive in-kind contributions. The allegations were based on the assertion that Auto Dealers and the Mack campaign were using two consultants in common: Multi-Media Services Corporation for television time buying and Karl Rove and Company for direct mailings. The complaint acknowledged that the two consultants working for the Mack campaign were working for Auto Dealers in states other than Florida, but contended the relationship would still permit the exchange of information about the advertising activity of the campaign and the PAC and, therefore, raised the question of coordination.¹

2. Responses to the Complaint

The Auto Dealers and Drivers for Free Trade PAC responded to the complaint in MUR 2766 by denying any coordination with the Mack campaign in the making of its independent expenditures:

[T]he two vendors named in the complaint never worked for Auto PAC in Florida nor did they ever communicate any information to Auto PAC about the Mack campaign.

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1. The DSCC filed an amendment to the complaint on November 7, 1988, alleging that Auto Dealers had made expenditures on behalf of Senator Chic Hecht's re-election campaign that were not made independently of the campaign and, therefore, constituted excessive in-kind contributions. The basis for this allegation was the assertion that a similarity between the Hecht campaign's television advertisements and ads run by Auto Dealers in support of Hecht suggested "illegal collaboration" or represented "republication" so as to constitute in-kind contributions under 11 CFR 109.1(d)(1). See discussion of the 'similarity' issue below. As noted in Footnote 1, the Commission unanimously approved the General Counsel's recommendations to find no reason to believe violations of the Act resulted from the Auto Dealers' expenditures on behalf of Hecht's candidacy.

...[B]oth vendors were under strict instructions not to discuss or otherwise communicate any aspect of the Florida Senate campaign with any representatives of Auto PAC... Auto PAC's expenditures on behalf of Mack were made without any information about the plans, projects, or needs of the Mack campaign. None of these expenditures were made by or through any individual with any relationship with the Mack campaign.

See Attachment 1 (Excerpts from the Response of Auto Dealers).

The response of Auto Dealers described precautionary steps they undertook to deliberately avoid a 'common vendor' problem, pursuant to the direction given by the Commission in Advisory Opinion 1979-80 (see Attachment 1 and discussion of the opinion below). The record demonstrates Auto Dealers were fully aware of the requirements of the FECA that such expenditures be made totally independently of the beneficiary campaigns.

The National Republican Senatorial Committee responded to the complaint in this matter on behalf of the Mack campaign, and denied that the two consultants who worked for the Mack campaign in Florida and for Auto PAC in other states communicated with the Auto Dealers about the Mack campaign, or that anyone else associated with the campaign coordinated with the Auto Dealers:

...[U]nder no circumstances did Fabrizio [Multi-Media] or Rove do any work for the Auto Dealers PAC in Florida... Neither told the Auto Dealers PAC about any plans, projects or needs of the Mack campaign... No one associated with the Mack campaign had any contacts with the Auto Dealers PAC concerning their independent expenditure campaign or told any agent of the Auto Dealers PAC of the campaign's plans, projects or needs.

Also, the response of the Mack campaign included an affidavit sworn to by its campaign manager denying in both general and specific terms any type of coordination between the candidate's campaign and the PAC. See Attachment 2 (Excerpts from the

Affidavit of Mitch Bainwol).

The singular basis for the complaint was the allegation that the use by the Mack campaign of two consultants who were also used by Auto Dealers in states other than Florida raised the question of 'coordination' between them in the making of the independent expenditures on behalf of Mack by Auto Dealers. No identifiable act, indication or consequence of coordination was alleged; no evidence gave rise to an inference of coordination other than the 'common vendor' circumstance. The responses directly addressed the issue and denied any such coordination. They also indicated that the potential for such coordination was specifically anticipated by the Auto Dealers in advance of making the expenditures and deliberately prevented.

4. General Counsel's Analysis and Recommendations

The General Counsel's dissatisfaction with the responses to the complaint in this matter involved five main arguments:

- a) Auto Dealers was not entitled to rely upon Advisory Opinion 1979-80 to avoid a presumption of coordination among 'common vendors' in this situation;
- b) Information was lacking about the media time buying firm employed by Auto Dealers to place television advertisements in Florida;
- c) Ambiguities remained in the respondents' answers and affidavits regarding possible communication between the campaign and Auto Dealers;
- d) Familiarity of the Mack campaign's consultants with Auto Dealers' expenditures in other states constituted

coordination, even without affirmative acts of coordination; and

e) Examples of campaign advertisements produced by the respondents needed to be obtained and reviewed by the Commission in order to compare for 'similarity.'

Based upon my view of the evidence before the Commission in this case and my reading of the correct application of the law, I considered each of these arguments to be fundamentally wrong and collectively unpersuasive as justification for finding any violation of the Act arising from these circumstances.

a. Advisory Opinion 1979-80

In Advisory Opinion 1979-80, the Commission was presented a series of questions regarding proposed independent expenditure activity, including the following hypothetical 'situation':

... Another polling firm which NCPAC proposes to engage has been previously employed by the authorized campaign committee of a candidate for the Republican nomination for election to the Senate in State A. NCPAC is making independent expenditures advocating the defeat of candidates for the Democratic nomination for election to the Senate in States A, B and C. May NCPAC engage that firm to conduct polls in connection with its independent expenditure program in all three states? May it engage that firm to conduct polls in States B and C, but not in State A? Would the response to those questions be different for the general election?

The Commission responded, in relevant part:

... Even if the poll does contain an express advocacy communication, thereby causing the cost of the poll itself to be an independent expenditure, NCPAC's ability to use the polling firm in all three states during the Senate primary campaign would not be affected. If, however, the Republican Senate candidate who used the firm becomes the nominee in State A, NCPAC would presumptively be precluded from using the polling firm in its independent expenditure program for the general election in State A. NCPAC could use that firm in States B and C. (emphasis added)

Auto Dealers' response to the complaint noted the group's

familiarity with the Commission's decision in Advisory Opinion 1979-80 and their reliance upon it, and observed:

... The Commission said that NCPAC's concurrent use, in states B and C, of the same polling firm being used by the candidate in state A did not destroy the independence of its efforts on behalf of the state A candidate.

The Commission went on to rule that NCPAC could not use this polling firm in state A. The Commission thus distinguished between the concurrent use of the same vendor in different states and the sharply different situation where a committee and a candidate share the same vendor. Concurrent use of the same vendor raises no special concern about coordination, whereas in the latter circumstance, where vendors are shared, the opportunity for coordination is great...

The facts in the Florida Senate campaign are indistinguishable in all material aspects from those set out in A.O. 1979-80. Auto PAC hired Multi Media and Rove to work for it in other states while the Mack campaign made use of Multi Media and Rove's services in Florida. This is the same as NCPAC using a polling firm in states B and C that was being concurrently utilized by the Republican candidate NCPAC was supporting in state A. Accordingly, under the Federal Election Campaign Act Auto PAC is entitled to rely upon the Commission's ruling in A.O. 1979-80 here. 2 U.S.C. §437(c) (1982). Indeed, ...
Auto PAC has instituted procedures for screening its vendors that reflect the advice the Commission proffered in A.O. 1979-80. (emphasis added)

The conclusion reached in Advisory Opinion 1979-80 may or may not be good law. The Commission could have decided that the 'concurrent' use of vendors in different states creates too great an opportunity or likelihood of coordination, and any overlap of consultant services between an organization and a candidate's campaign 'presumptively precludes' the organization from making independent expenditures on behalf of the candidate. The Commission clearly did not reach that conclusion in Advisory Opinion 1979-80, however. Considering the relatively small and specialized world of political vendors and consultants, the line drawn in that opinion as to when a presumption of

coordination can be fairly imposed is certainly defensible from a legal and practical standpoint.

Typically, the Counsel's office attempted to distinguish this Commission decision with which it probably no longer agreed and whose application in this situation it found troublesome.² But I can find no meaningful or legally significant distinction that differentiates the 'common vendor' circumstances of MUR 2766 from those facts presented in Advisory Opinion 1979-80. I see no legitimate basis for denying Auto Dealers the right to rely upon that opinion to the extent they argue 'concurrent' use of common vendors in different states is not presumptively coordination compromising the independence of expenditures.

The General Counsel was correct in arguing that the absence of a legal presumption does not preclude a complainant from alleging coordination in a specific expenditure situation or prevent the Commission from determining activity constituting coordination occurred. Advisory Opinion 1979-80 does not

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2. Oddly, the General Counsel seemed to suggest in its report that the 'common vendor' circumstances of MUR 2766 would be less capable of avoiding a presumption of coordination than those of the advisory opinion, by virtue of having occurred in a general election rather than a primary period. The opinion, however, speaks directly to both election phases. And, while recognizably granting even more latitude in a primary situation (permitting use of the same vendors by a candidate for a party's nomination and an expenditure maker advocating the defeat of a candidate for the nomination of the other party for the same office in the same state), the Commission clearly drew the line in the general election period only to preclude an expenditure maker's use of a candidate's vendor in expenditures on behalf of that candidate, and not to preclude use of that vendor in other states. The Counsel's strained interpretation would effectively renege on the Commission's advice in Advisory Opinion 1979-80.

insulate Auto Dealers from all allegations of coordination or from any inquiry whatsoever under these facts. Here, the complaint asserted that the issue of coordination was raised by inference from these facts, the responses answered that charge and the Commission considered the allegations and evidence.

But it is fair to say the Commission's opinion does not support the view that these 'concurrent' vendor circumstances put Auto Dealers in such an untenable situation so to require treating their answer with special skepticism or subjecting their activity to extraordinary and protracted scrutiny. The Commission's precedent fully supports the conclusion reached by Commissioners Aikens and Elliott and myself that Auto Dealers met their burden of proof in explaining and defending their arrangement with these vendors. These facts did not demand that the Commission abruptly shift to new presumptions, lower the threshold for finding 'reason to believe' a violation occurred and suspend any sense of fairness in pursuing an enforcement case. Arguments for further investigation went beyond the complaint and evidence to ask questions not legitimately raised by these facts and to probe circumstances which the Commission would never otherwise have reason to suspect or challenge.

b. Lambert/Dale

The strangest aspect of the Commission's consideration of this case was the degree to which the Lambert/Dale media buying company became such a focus of attention and controversy. Lack of information about this firm was the central evidentiary 'gap' cited by the report of the General Counsel accompanying its

recommendations to find reason to believe violations had occurred in this matter.³ The General Counsel asserted that Auto Dealers' use of Lambert/Dale for buying television time for its Florida expenditures (rather than Multi-Media) constituted its 'whole defense' to the allegations of the complaint, and that failure of Auto Dealers to submit sworn affidavits from representatives of Lambert/Dale denying any coordination with the Mack campaign or its agents, in the same manner as the affidavits from the 'common vendors' that denied coordination, was a conspicuous void. Underlying this argument was the unmistakable suggestion that Lambert/Dale could have been a sham or ruse by which the PAC and the campaign still shared vendors and effectively coordinated their expenditures.

First, it should be noted that Auto Dealers' 'defense' was not based upon Lambert/Dale not having coordinated with the Mack campaign, nor need it have been, since no such coordination had been alleged in the complaint nor remotely inferred from the circumstances. Auto Dealers' 'defense' was based upon refuting the inference that 'common vendors' had communicated information about its expenditures and those of the Mack campaign.

Lambert/Dale was not a 'common vendor' in any sense. The

3. The report of the General Counsel's office observed:

"Although the respondents have provided information regarding the roles of the vendors used by Auto Dealers and the Mack campaign that were named in the complaint, this Office has not been able to identify Lambert/Dale, cited as a vendor in the Auto Dealers' response, by more than name or to determine whether or not there is a connection between Lambert/Dale and Multi-Media or Karl Rove."

company did not work for or have any association with the Mack campaign (and was hired by Auto Dealers for that reason [see below]). Auto Dealers' employment of Lambert/Dale was no more suspicious than any independent expenditure maker's employment of any other vendor. No fair inference of coordination or fatal evidentiary gap should be imputed from the absence of affidavits in Auto Dealers' response from each not-in-common vendor denying communication or coordination -- even if such a vendor was hired as a substitute to prevent a 'common vendor' problem. Absent fairly specific allegations or evidence of coordination, the Commission does not routinely require (nor do our regulations demand) affidavits from every vendor who provides goods or services to a maker of independent expenditures to insure that they did not communicate with the campaign benefitted by the expenditures or with the campaign's vendors. There was no reason to do so here, except to satisfy raw speculation.

Second, evidence before the Commission included a statement which Auto Dealers had required as part of its screening process before hiring vendors for independent expenditure activity. That "Certificate of Non-Involvement," signed on October 25, 1988, by an officer of Lambert/Dale, stated that the company had not "been employed or engaged by, or otherwise provided services for Rep. Connie Mack, or any authorized campaign committee of Rep. Mack, or agent of either, of any kind during the years 1987 and 1988..." The response of Auto Dealers to the complaint also noted that "[Lambert/Dale] was retained, in part, because it had never had any association with the Mack campaign or any of the

campaign's media consultants." (emphasis added) See Attachment

1. That response also described how the two 'common vendors' (Multi-Media and Karl Rove) "were under strict instructions not to discuss or otherwise communicate any aspect of the Florida Senate campaign with any representative of Auto PAC." Id.

It is conceivable that Auto Dealers deviously pretended to recognize the potential 'common vendor' problem, to set up a screening process to avoid that problem and to hire a firm other than the same media time buying firm as the Mack campaign, but then contrived Lambert/Dale as a clandestine spin-off of Multi-Media. That possibility must surely be seen as highly unlikely and bizarre, however, and totally without support from evidence or common sense. Yet it was the initial conjecture of the General Counsel and the Democrats to justify an investigation, discarded after information was made available to the Commission indicating that Lambert/Dale was a genuine media buying concern whose existence long preceded the 1988 campaign.⁴

It is also conceivable that Lambert/Dale, a legitimate and separate business operation, could have so misunderstood the significance and purpose of the statement they were required to sign in order to get the PAC's business that they would have

4. After lengthy deliberation at the first meeting at which this case was discussed, I moved to have the matter put over to the next Commission meeting to permit the General Counsel to seek further information about Lambert/Dale from publicly available sources. Their research determined that the New York firm was founded in 1982. The company initially prospered from its work on behalf of Yugo automobiles, but experienced financial difficulty in late 1987 when the auto importer faltered and stopped paying its bills. Lambert/Dale appears to have 'folded' in 1989.

communicated with Multi-Media or the Mack campaign about their role in or knowledge of these expenditures, and that Multi-Media ignored the obvious import of Auto Dealers' instructions (and the whole point of not being permitted to work for Auto Dealers in the Florida expenditures), lied in their affidavit about the absence of any coordination and communicated with Lambert/Dale. It is possible these vendors would foolishly or nefariously compromise their client's interests in order to exchange information (available publicly) about television time buys. But that is also not likely, nor in any way suggested by any evidence before the Commission. Without some bit of indication or shred of evidence to contradict their denials of coordination and to justify speculation that such collective stupidity was involved in these circumstances, I could not support finding reason to believe a violation took place under these facts just to resolve lingering, but groundless, doubts that the Commission had not fully examined all possible avenues of coordination.

It would have been helpful if Auto Dealers had anticipated the Commission's particular interest in Lambert/Dale and had included a description of the firm's operation and an affidavit from a principal of that firm denying any kind of coordination with Multi-Media or any agent of the Mack campaign. As a legal conclusion, however, it is fundamentally misguided to suggest the absence of that information raised sufficient questions upon which to base a 'reason to believe' finding. And, within the approach taken by the General Counsel and the Democrats in this and all independent expenditure cases, the providing of such

evidence would have inevitably provoked questions as to why the respondents chose to offer that particular assurance but did not address all sorts of other possible opportunities for coordination. Unfounded speculation has to stop somewhere, and three Commissioners drew the line at this particular conspiracy theory.

c. 'Ambiguities' in Affidavits

The General Counsel's report stated:

... [T]he affidavits provided by respondents are themselves ambiguous. The Multi-Media and Karl Rove affidavits deny that they did any work for Auto Dealers on behalf of the Mack campaign and that the Mack campaign was discussed with Auto Dealers; however, the affidavits are silent as to whether the inverse occurred. Neither Mr. Fabrizio nor Karl Rove state whether there was any discussion of Auto Dealers' plans with the Mack campaign. If the Mack campaign was informed by Multi-Media or Karl Rove of Auto Dealers' prospective actions in the expenditure program, the Mack Committee could have reallocated its own resources accordingly. This type of indirect communication between Auto Dealers and the Mack Committee would have constituted coordination between Auto Dealers' expenditures and Mack campaign efforts.

That argument presents an exceedingly pinched and quite misleading characterization of the evidence to yield a wildly speculative result. The Mack campaign's manager denied anyone associated with the campaign had any contact whatsoever with Auto Dealers regarding their independent expenditure campaign. See Attachment 2. Auto Dealers denied having any contact before the election with "anyone associated in any way with the Mack campaign," including any discussing of the Florida Senate race with Multi-Media or Karl Rove. See Attachment 1.

Multi-Media and Karl Rove were not involved with or privy to information about Auto Dealers' expenditures on behalf of

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Mack in Florida. What 'inverse' flow of information did the General Counsel suspect those two vendors had to offer the Mack campaign? (See 'familiarity' argument below.) Since Auto Dealers engaged in no direct mail activity on behalf of Mack (Rove's specialty) and since television time buys are generally available to any time buyer (Multi-Media's function), what inside information could those vendors have forwarded to Mack about Auto Dealers' activity? Lack of value for the information would not, of course, be a defense if coordination could be demonstrated. But what possible reason did the Commission have to think these vendors forwarded any information about Auto Dealers' expenditures to the Mack campaign -- other than that the vendors did not think it remotely necessary to specifically deny 'giving' information they were not themselves provided?

While responses to complaints may presumably be 'carefully crafted,' there is nothing about these responses, including the numerous affidavits and descriptive narratives, that appears to be strained, evasive or facially incomplete. 'Coordination' between the Mack campaign and Auto Dealers is denied broadly and with particularity as to the 'common vendor' scenario posed by the complaint. To search for gaps and inconsistencies here, as the General Counsel and the Democrats attempted without success to do, is to engage in nit-picking and semantical manipulation. Smart, lawyerly scrutiny of these responses did not demand hypothesizing every means by which coordination could have taken place and citing a lack of specific denial of the new, unanticipated allegations.

In reviewing the affidavits and information provided in the responses to the complaint in this matter, one could fairly ask: How many ways did they have to say it? What reason did we have to doubt them? How far did the obligation of respondents extend to absolutely prove coordination did not take place, where no evidence suggested otherwise?

d. 'Familiarity'

The General Counsel's report stated:

[Auto Dealers] denies that the Florida Senate race was discussed with the common vendors. However, even if there was no overt discussion of plans of Auto Dealers, Multi-Media and Karl Rove would have acquired a familiarity with Auto Dealers' expenditure planning and type of programs from the extensive expenditure work they were doing for Auto Dealers in other campaigns. This information itself could have provided the Mack Committee with helpful assistance on anticipating the independent expenditures program planned by Auto Dealers.

That argument does not conclude with an explicit legal result, but it is evident that the General Counsel was creating a new, virtually irrebuttable presumption, or a view of 'constructive' coordination, on the basis of a campaign vendor's general familiarity with the plans and activities of an expenditure maker in other localities.⁵ Any vendor used 'concurrently' by the expenditure maker and a beneficiary campaign in the election cycle, even though not 'shared' in the same particular campaign, would presumably jeopardize independence of expenditures.

The approach suggested by the General Counsel might have some intuitive appeal if the Commission were starting over in

5. It is difficult to imagine an answer sufficient to rebut such a presumption once applied: "No, I was not familiar with the work I was doing for my client elsewhere" (?!).

this field of regulation and setting out prospective rules. As presented, however, that view is a direct repudiation of the conclusion reached by the Commission in Advisory Opinion 1979-80 as to the permissibility of using 'common vendors' not shared in the particular campaign in which the expenditures are made. Commissioners Aikens, Elliott and myself could not support finding Auto Dealers in violation of the Act, subject to significant penalties, for its general use of vendors within the direction of the Commission's prior opinion.

e. 'Similarity'

Finally, the General Counsel argued that the Commission needed to obtain "examples of the campaign materials produced by Lambert/Dale for Auto Dealers and of the work prepared by Multi-Media or Karl Rove for the Mack Committee." The Counsel said an examination of such material would be "helpful in determining whether there was any coordination between the committees" and "could help to establish any ties between the vendors and links between Auto Dealers and the Mack Committee."

No argument of the General Counsel better illustrates how uninformed and speculative, and inherently unanswerable, the case against the respondents in this matter had developed. First, of course, neither Lambert/Dale nor Multi-Media produced or prepared any campaign materials or advertisements to compare. Both were media time buyers. Creative work and production for both the campaign and the PAC's expenditures was provided by other, non-common vendors (of whom we have no particular reason to suspect coordination). And, since Auto Dealers engaged in

no direct mail expenditures on behalf of Rep. Mack, there would be nothing with which to compare Rove's direct mail work for the Mack campaign.

Second, the General Counsel broadly interpreted part of a federal district court's decision to support its assertion that the issue of 'similarity' needed to be explored in this case.

In FEC v. National Conservative Political Action Committee, 647 F.Supp. 987 (S.D.N.Y. 1986) ("NCPAC"), the court agreed with the Commission's conclusion that coordination between a candidate's campaign and a PAC making expenditures benefitting the candidate had effectively occurred by their use of the same political strategist. In that matter, the 1982 U.S. Senate campaign of Bruce Caputo in New York and an independent expenditure effort by NCPAC to defeat Caputo's presumed general election opponent, Senator Daniel Moynihan, had both hired Finkelstein and Associates, a polling and political consulting firm.

The Counsel's report overstated the Court's decision as having found evidence of similarity to be "sufficient to determine that assertedly independent expenditures were actually in-kind contributions." The report also recognized, however, that "Finkelstein Associates was the key strategist in both the Caputo campaign and NCPAC's expenditure program against Senator Moynihan" and "[t]he focus of the Court's analysis was upon the role played by Finkelstein."

The NCPAC decision should not be viewed as deciding that similarity of political issues or themes, alone, presents a prima facie case for finding coordination that would jeopardize

the independence of expenditures, or as requiring a comparison of advertising for the 'degree of similarity' every time that coordination in the making of independent expenditures is generally alleged. Rather, the court's application of the 'similarity' analysis is better viewed, in its factual context, as recognizing that the similarity between Caputo's and NCPAC's advertising supported the conclusion of coordination that had been reached on the basis of Finkelstein's integral involvement in the development of both advertising campaigns, and that the presumption of coordination fairly drawn from those factual circumstances was not overcome, but in fact confirmed, by a review of the advertising itself.

A generalized observance of 'similarity' in advertising by a candidate's campaign and an independent expenditure effort should not be the starting point for analysis or the primary basis for finding a violation, nor should it solely create an inference of coordination. The practical reality is that an intelligently planned independent expenditure effort will always employ similar themes and issues, or attack the same weaknesses of the opponent, as the campaign of the beneficiary candidate. Separately conducted survey research will probably insure the use of very similar thematic strategies. It is only in the extreme case, when advertising is so nearly identical that, as in NCPAC, the two efforts are virtually 'mirror images of one another,' that the comparison for similarity may be useful to support an already viable and legitimate conclusion of coordination.

Moreover, the General Counsel's argument would, of course, demand a finding of a violation and an investigation in every independent expenditure case, in order to provide for obtaining and comparing all relevant advertising and materials of the candidate's campaign and the expenditure effort. Finding 'RTB' and collecting and reviewing the information would become an automatic process in all major independent expenditure cases, even where, as here, no evidence or circumstances independently justified an inference or conclusion of coordination.

And, even if respondents were to volunteer such materials in answer to a complaint, the General Counsel and the Democrats would undoubtedly find sufficient similarity in most cases to warrant an 'RTB' finding and further investigation.⁶ The 'similarity' argument is an open invitation to wide-ranging inquiry, highly subjective comparisons and rampant speculation.

5. Conclusion

The direction that the General Counsel and the Democrats were heading in their proposed investigation had no foundation in the facts and was simply far too speculative. They engaged in a constantly escalating, upping-of-the-ante as to how there remained "unanswered questions" and why they were not yet satisfied with the responses. By the end of the Commission's

6. The General Counsel's report in this matter did conclude, however, that a review of materials produced by Senator Hecht's campaign and by Auto Dealers in support of Senator Hecht did not indicate coordination based upon 'similarity' and recommended the Commission find no reason to believe violations occurred in those circumstances. Nevertheless, I cannot agree to the premise of that analysis or the vague, subjective analysis utilized by it.

deliberation, the central focus of the Democrats' inquiry was to ask questions of virtually all of Auto Dealers' consultants associated with their expenditures in Florida (the 'non-common' vendors) and of unidentified "underlings" of the affiants who had already denied coordination. One would have thought we had already established coordination between the campaign and the expenditure maker and were just trying to figure out how it happened.

Any "unanswered questions" that remained in this case had simply been unasked of and unanticipated by these respondents, since such questions were not genuinely raised by the complaint or by any innately suspicious circumstances of this case. Once the complainant's 'common vendor' inference had been directly addressed and refuted, what in these circumstances distinguished or differentiated these facts from every independent expenditure case? Why would the Commission not have grounds in every such case to ask them -- in fact, why would the Commission not now have to find 'RTB' and ask those questions in all other cases?

The Commission has to draw the line for official curiosity and general suspicion somewhere, however. The legal standard by which to judge the sufficiency of an answer to a complaint about independent expenditures cannot be: Has the evidence before the Commission ruled out every conceivable opportunity or means by which coordination could have taken place?

The Commission's threshold for initiating an investigation into Constitutionally protected speech must be higher than 'always,' or virtually always. The threshold for finding a

violation must demand at least some particular evidentiary or circumstantial trigger -- some identifiable reason to believe a violation occurred -- or it is not a threshold at all.

No particular fact, line or limit emerged from the Democrats' assertions of the need to investigate this case beyond that a complaint had been filed in the first place and that not all the details of the implementation of the expenditure program, including all opportunities for coordination, had been explored.⁷

The General Counsel's recommendations that were rejected in this case were not, therefore, about engaging in just a little more inquiry. Adoption of those recommendations would have involved the Commission concluding, based upon the evidence before it, that the Auto Dealers had violated the Act by making massively excessive in-kind contributions. It would have launched an investigation into every nook and cranny of this independent expenditure effort. Adoption of the recommendations would have set a precedent of virtually automatic preliminary findings of illegality in all large-scale expenditure efforts.

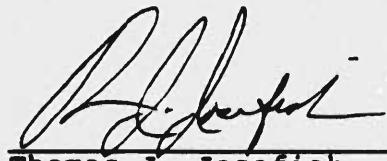
Scores of cases come before the Commission where evidence,

7. The Commission does not and cannot routinely 'check out' the identity of all vendors appearing on FEC disclosure forms of such expenditures to rule out the possibility of some link or common thread, to inquire about the potential of communications or to demand denials of coordination from everyone even remotely involved in the making of the expenditure, and should not attempt to do so even where 'coordination' has been generally alleged in a complaint. Otherwise, all independent expenditure circumstances would be susceptible to unending questions regarding various opportunities for coordination.

or fair inferences based upon the evidence, actually points to a violation of the law or raises real questions deserving inquiry. Based upon the evidence presented in this matter, however, there was no reason to believe the Auto Dealers violated the Act in the making of these independent expenditures and no legitimate justification for voting to investigate them. Here, in fact, we had reason to believe violations of the Act were consciously and carefully avoided.

At some point, the Commission has to acknowledge that the players in the political process may know how to operate within the law. More importantly, the Commission must recognize that the law, and the Constitution, protects their right to do so.

June 13, 1990



Thomas J. Josefiak
Commissioner

ATTACHMENT 1

**Excerpts from the Response of the
Auto Dealers and Drivers For Free Trade PAC
to the Complaint in MUR 2766**

Before filing its complaint DSCC officials contacted Auto PAC to express concern that Auto PAC's expenditures might lead to the defeat of the Democratic Senate candidate in Florida. During these conversations DSCC officials mentioned that it appeared that Auto PAC and the Mack campaign might be sharing two vendors in Florida. Auto PAC replied that neither vendor worked for it in the Florida Senate race. Moreover, it stressed that both vendors were under strict instructions not to discuss or otherwise communicate any aspect of the Florida Senate campaign with any representatives of Auto PAC. Although it appeared that this explanation had ended the matter, the DSCC later called to say that because of "political pressures" it was filing a complaint anyway. [pp. 1-2]

... Auto PAC submits this response along with the sworn statements of its Director and three of its vendors. These statements demonstrate that the two vendors named in the complaint never worked for Auto PAC in Florida nor did they ever communicate any information to Auto PAC about the Mack campaign. [p. 2]

... Before initiating [Auto PAC's independent expenditure program] Mr. Glacken [then Treasurer, later PAC Director] reviewed the statutory and regulatory requirements governing independent expenditures [Glacken affidavit] ... As a result of this review, Mr. Glacken screens all media buyers, direct mail firms and consultants before retaining them... Mr. Glacken specifically inquires as to what campaigns, if any, a potential Auto PAC vendor is assisting; this ensures that Auto PAC hires no person or firm help it make independent expenditures in a race where that individual or entity has already been retained to do work... As an additional precaution, before hiring any vendor to assist with Auto PAC's independent expenditures program, Mr. Glacken requires the would-be vendor to sign a statement certifying that the vendor is not employed or engaged by, or has otherwise provided services for, the candidate on whose behalf Auto PAC's independent expenditures are to be made... [pp. 3-4]

When Mr. Fabrizio [President of Multi Media] indicated he was working for candidate Mack in Florida, Mr. Glacken directed Mr. Fabrizio to say nothing at all to Mr. Glacken, or to anyone else associated with Auto PAC, about the Florida Senate race... Mr. Fabrizio agreed to this, and at all times honored this commitment discussed the Florida race with Mr. Fabrizio or others at Multi Media Services... [p. 4]

ATTACHMENT 1 (continued)

The only independent expenditures Auto PAC made in the Florida Senate race were the purchase of television time to advocate the election of candidate Mack... This time was bought by the Lambert-Dale Advertising Company of New York, New York... This media buyer was retained, in part, because it never had any association with the Mack campaign or any of the campaign's media consultants... To confirm that this was the case, Mr. Glacken secured from this vendor a signed statement that it had no involvement with the Mack campaign...

Auto PAC's expenditures on behalf of Mack were made without any information about the plans, projects, or needs of the Mack campaign with any relationship with the Mack campaign... Nor was any expenditure made at the suggestion or request of anyone connected with the Mack campaign... Indeed, prior to the election no one at Auto PAC ever had any contact with anyone associated in any way with the Mack campaign... [p. 5]

The facts in the Florida Senate campaign are indistinguishable in all material aspects from those set out [in] AO 1979-80... Auto PAC has instituted procedures for screening its vendors that reflect the advice the Commission proffered in AO 1979-80. [p. 9]

The DSCC offers no evidence to suggest Auto PAC's expenditures were not made independently of the Mack campaign. Nor does it furnish facts from which it could be inferred that any such evidence exists. The only evidence before the Commission is that contained in the Glacken, Fabrizio and Rove affidavits. All this contradicts any suggestion that Auto PAC's expenditures were coordinated with the Mack campaign.

Auto PAC has conducted its affairs with scrupulous regard for the Commission's rules respecting independent expenditures. The DSCC has merely suggested... that there was an opportunity for coordination between the Mack campaign and Auto PAC, "[b]ut the opportunity for coordination is a separate question from whether it was utilized." Common Cause v. FEC, 655 F. Supp. 619, 624 (1986). In the face of the sworn denials of Glacken, Fabrizio and Rove, and lacking any evidence to the contrary, there is nothing from which the Commission could possibly infer that the opportunity was utilized here. [p. 10]

ATTACHMENT 2

**Excerpts from the Affidavit of
Mitch Bainwol (manager for Mack Senate campaign)**

... 4. To the best of my knowledge, information and belief, no one connected with Connie Mack's campaign staff or connected to his campaign committee in any way cooperated or consulted with the independent expenditure group, gave consent to it for its activities or requested or suggested that it undertake its activities.

5. To the best of my knowledge, information and belief, there was no contact by the Connie Mack campaign committee or anyone connected to it with this group concerning its independent expenditure campaign. No one associated with Connie Mack's campaign gave any broadcast ads or campaign materials to this independent expenditure group.

6. The complaint filed in this case alleges that two vendors to the Connie Mack campaign... did work for this independent expenditure group in states other than Florida. I had no conversations with either Fabrizio or Rove concerning their work for this group.

7. To the best of my knowledge, information and belief, neither Fabrizio or Rove told the independent expenditure group anything about Connie Mack's activities, plans or needs or provided any information about our campaign to this group.

8. No one associated with the Mack campaign had any contacts with the Auto Dealers PAC concerning their independent expenditures campaign or told any agent of the Auto Dealers PAC of the campaign's plans, projects or needs.



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THE FOLLOWING DOCUMENTATION IS ADDED TO
THE PUBLIC RECORD IN CLOSED MUR 2766.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 25, 1990

DEPOSED

2 1 0 4 0 3 0 0 4 5
Benjamin L. Ginsberg, Esquire
National Republican Committee
310 First Street, S.E.
Washington, D.C. 20003

RE: MUR 2766
Friends of Connie Mack
and Robert I. Watkins, as
treasurer

Dear Mr. Ginsberg:

By letter dated November 6, 1989, the Office of the General Counsel informed you of determinations made with respect to the complaint filed against you in MUR 2766.

Enclosed please find two Statement of Reasons and a supporting memo from Chairman Elliott and Commissioners Aikens, Josefiak, McGarry and Thomas explaining their vote. The first Statement of Reasons is signed by Chairman Elliott and Commissioners Aikens and Josefiak. The supporting memorandum is signed by Commissioner Josefiak. The second Statement of Reasons is signed by Commissioners Thomas and McGarry. These documents will be placed on the public record as part of the file of MUR 2766.

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

Sincerely,

2 1 0 4 0 3 0 0 4 5
Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosure
Statement of Reasons



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 25, 1990

Richard E. Messick, Esquire
Patton, Boggs & Blow
2550 M Street, N.W.
Washington, D.C. 20037

RE: MUR 2766
Auto Dealers and Drivers
for Free Trade PAC and
Edward G. Connelly, as
treasurer

Dear Mr. Messick:

By letter dated November 6, 1989, the Office of the General Counsel informed you of determinations made with respect to the complaint filed against you in MUR 2766.

Enclosed please find two Statement of Reasons and a supporting memorandum from Chairman Elliott and Commissioners Aikens, Josefiak, McGarry and Thomas explaining their vote. The first Statement of Reasons is signed by Chairman Elliott and Commissioners Aikens and Josefiak. The supporting memorandum is signed by Commissioner Josefiak. The Second Statement of Reasons is signed by Commissioners Thomas and McGarry. These documents will be placed on the public record as part of the file of MUR 2766.

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

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosure
Statement of Reasons



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

June 25, 1990

Robert F. Bauer, General Counsel
B. Holly Schadler, Counsel
Democratic Senatorial Campaign
Committee
430 South Capitol Street, S.E.
Washington, D.C. 20003

RE: MUR 2766

Dear Mr. Bauer and Ms. Schadler:

By letter dated April 27, 1990, the Office of the General Counsel informed you of determinations made with respect to the complaint filed by you against Auto Dealers and Drivers for Free Trade Political Action Committee, Senator Connie Mack, Friends of Connie Mack and Robert I. Watkins, as treasurer, Senator Chic Hecht and the Hecht Re-Election Committee and Glen N. Mauldin, as treasurer.

Enclosed please find two Statement of Reasons and a supporting memorandum from Chairman Elliott and Commissioners Aikens, Josefiak, McGarry and Thomas explaining their vote. The first Statement of Reasons is signed by Chairman Elliott and Commissioners Aikens and Josefiak. The supporting memorandum is signed by Commissioner Josefiak. The Second Statement of Reasons is signed by Commissioners Thomas and McGarry. These documents will be placed on the public record as part of the file of MUR 2766.

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

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

**Enclosure
Statement of Reasons**