FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 3069

DATE FILMED 4/6/92 CAMERA NO. 4

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Ohio Democratic Party

JAMES M. RUVOLO
Chairman

Phone (614) 221-6563, Suite 1920, 88 East Broad Street, Columbus, Ohio 43215

MUR 3069

May 25, 1990

HAND DELIVERED

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM
90 MAY 30 AM 10:06

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 MAY 30 AM 11:39

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

Dear Mr. Noble:

Pursuant to 11 C.F.R. Section 111.4, I write to bring to your attention, and complain of, possible violations of the Federal Election Campaign Act of 1971, as amended (the "Act"). My complaint concerns the activities of Bush-Quayle '88 and its media adviser Roger Ailes, on the one hand, and Americans for Bush (a program of the National Security Political Action Committee), on the other hand, with regard to the notorious "Willie Horton" advertisements that were such a prominent part of the Bush-Quayle campaign in 1988.

Upon information and belief, I believe that there is reason to believe that Bush-Quayle '88 and Americans for Bush coordinated, consulted or otherwise cooperated in their activities regarding the Willie Horton advertising and its role in the Bush-Quayle campaign strategy, in violation of the limitations of the Act in that the activities of Americans for Bush with regard to these ads were not independent, as defined in 11 C.F.R. Sections 109.1(a), 109.1(b) (4), of Bush-Quayle '88.

As a basis for my complaint, I enclose copies of articles from the November 3, 1988 edition of The Plain Dealer, a daily newspaper of general circulation published in Cleveland, Ohio, and from the May 28, 1990 issue of The New Republic, a weekly journal of commentary and reporting on politics, world events and the arts.

During the 1988 campaign, I and many others did not believe that the activities of Americans for Bush regarding the Willie Horton ads were independent of Bush-Quayle '88, as required by the Act. As the article in The Plain Dealer, and from the issue of The New Republic show, the "Willie Horton" theme was a widely-announced, integral, and approved part of Bush-Quayle '88's campaign program. I believe that that fact alone is enough for an initial concern that the activities of Americans for Bush were not independent.

The more recent articles in The New Republic, published last week in its May 28, 1990 issue, support this conclusion. As those articles reveal, the two people responsible for preparing the ads for Americans for Bush — the person who made them, Larry McCarthy, and the person who filmed them, Jesse T. Raiford — either worked for Roger Ailes, the chief media adviser for Bush-Quayle '88, at the time they made the ads or had quit only shortly before. The juxtaposition of the

similarity of themes adopted by both Bush-Quayle '88 and Americans for Bush and the fact that those preparing the ads for Americans for Bush knew of their campaign plans, I believe gives rise to a presumption under 11 C.F.R. Section 109.1 (b) (4) (i) (A) that such ads were prepared and aired by arrangement, coordination, or direction of Roger Ailes and/or other agents of Bush-Quayle '88.

Accordingly, I request that the Federal Election Commission investigate the relationship between Bush-Quayle '88 and its agent Roger Ailes, on the one hand, and Americans for Bush, the National Security PAC, Larry McCarthy, Jesse T. Raiford and Raiford Communications, Inc., on the other, with respect to the Willie Horton ads. As the article in The New Republic notes, the circumstantial evidence connecting Mr. Ailes to the ads is considerable, and it supports our concern that the ads run by Americans for Bush were not prepared independently of Bush-Quayle '88, contrary to the Act.

Repectfully submitted,

James M. Ruvolo, Chairman
Ohio Democratic Party

Subscribed and sworn to before me,
this 16 day of May, 1990

Notary Public
City of Columbus, State of Ohio

DAVID L. DUFFEY
Notary Public, State of Ohio
My Commission has no Expiration Date

James M. Ruvolo, Chairman
Ohio Democratic Party
88 E. Broad Street, Suite 1920
Columbus, Ohio 43215

and

Ray Miller, President
Black Elected Democrats of Ohio

Subscribed and sworn to before me,
this 25 day of May, 1990

Notary Public
City of Columbus, State of Ohio

DAVID L. DUFFEY
Notary Public, State of Ohio
My Commission has no Expiration Date

State Representative Ray Miller
3040 Elborn Avenue
Columbus, Ohio 43209

The abovesigned swear that the facts set forth in this Complaint are true to the best of their knowledge, information and belief.

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THE PLAIN DEALER, THURSDAY, NOVEMBER 3, 1988

Ohio GOP chief rejects racism charges over literature

By STEVE LUTTNER
POLITICS WRITER

The chairman of the Ohio Republican Party yesterday defended campaign literature that another GOP leader in Ohio has denounced as possibly racist.

The literature under scrutiny is anchored by a photo of Willie Horton, a black man serving a life term for murder. Horton was released from a Massachusetts jail on furlough and beat a couple in Maryland, raping the woman.

Robert E. Hughes, chairman of the Cuyahoga County Republican Party, said the literature went beyond being insensitive to blacks and could be "interpreted as racist" because it so prominently features Horton's photo.

Hughes — who seems to be widening his already significant rift with state chairman Robert Bennett — publicly apologized for the Republican Party. But Bennett said yesterday that there was nothing wrong with the literature.

"Color has nothing to do with it," Bennett said, explaining that using Horton's photo helps to explain the problems that occurred in the prison furlough program under Gov. Michael S. Dukakis. The program has since been discontinued. Bennett also said the national Bush-Quayle campaign approved of the literature before it was mailed by the Ohio Republican Party.

"We don't mail out stuff without them knowing about it," Bennett said. A spokesman for the Bush campaign in Washington, D.C., could not be reached for comment yesterday.

James Baker III, chairman of the Bush campaign, last weekend denounced campaign literature sent out by the Maryland Republican Party that featured a photo of Horton next to a photo of Dukakis. That piece of literature was entitled "Is this your pro-family team for 1988?"

The Ohio GOP literature says "Michael Dukakis has said he will do for America what he has done for Massachusetts. Meet Willie Horton."

The photo of Horton is located under those words.

Bennett said the Ohio GOP literature was different because it contained only Horton's photo.

"It was entirely different," Bennett said.

The mug shot Roger Ailes couldn't touch.

THE MAKING OF WILLIE HORTON

By Martin Schram

Larry McCarthy, a maker of TV ads and political images, sat in his editing room, staring at three mug shots that had just come in the overnight mail. God, this guy's ugly, he thought. Mean-looking, downright menacing. "This is every suburban mother's greatest fear," McCarthy says now, recalling his thoughts of that day late in the summer of 1988 as he wondered whether he dared use in his new campaign ad that photo of—you guessed it—Willie Horton.

That decision by [illegible] relatively unknown McCarthy set off repercussions [illegible] Republicans have been trying to explain away ever since. Yes, it helped make George Bush what he is today. But it also fueled the now widespread public perception that Bush, Lee Atwater, and their Republican media-meister Roger Ailes used Horton's photo to exploit racism during the 1988 campaign.

The making of Willie Horton as a symbol that outlived the campaign and its promises is one of the more telling tales about the way our presidential politics really works. It was a visual symbol designed by McCarthy, who actually is a moderate and most unprejudiced Republican. And it was disseminated nationally mainly because McCarthy managed to con the television networks—not once, but twice.

Follow along: Larry McCarthy did not work for the Bush campaign. He worked for something called Americans for Bush, an independent group that was part of the hawkish National Security Political Action Committee, headed by retired Admiral Thomas Moorer, a former chairman of the Joint Chiefs of Staff. The Bush campaign, where Atwater was campaign manager and Ailes was the message strategist, had no official connection with—and publicly disavowed—Americans for Bush, which was raising its own money and running its own ads. In fact, the Bush campaign was barred by law from contact or coordination with this group.

But there were past ties. McCarthy used to be senior vice president of Ailes Communications. So he figured he could design a media ad campaign that would dovetail nicely with the one Ailes was planning for Bush—without consulting with his old boss. "I know Roger very well," said McCarthy. "I just tried to run it as if I were Roger. I tried to spare him from doing some of these things. I figured they'll go negative [and begin attacking Michael Dukakis in their ads] by mid-September. So I said, I'm going to lead them by about a week or two."

The Bush team had already used the Horton case in its campaign to illustrate how Dukakis was soft on crime—but McCarthy knew the Bush advisers had never used Horton's photo in making their case. Focusing on the Horton case was, surely, fair game. The case was so outrageous that it remains a mystery why any politician could fail to understand that Americans of all races would find it abhorrent. (Horton stabbed a teenage boy to death, dismembered the body, and stuck the penis in the cadaver's mouth. Horton was released on furlough ten times; on the eleventh, he fled, kidnapped a couple, raped the woman, and beat up the man.)

Now, about that photo: late in the summer of '88, as McCarthy looked at the close-up mug shots of Horton, he says he debated with himself. "I debated whether I could get this by the cable television network officials and on the air," McCarthy recalls. "This guy looked like an animal. . . . And frankly, because he was black, I

continued on page 19

thought longer and harder about putting him in there." McCarthy says he considered whether network officials would view the use of that photo as a racial appeal.

Then, he says, he began to think of reasons for using or not using a murderer's photo in an ad, reasons that he said had nothing to do with race but everything to do with whether the murderer looked menacing or mild-mannered. "If he looked like Ted Bundy [the serial murderer executed in Florida], I probably wouldn't have used his picture, because he looks perfectly normal—like a YR [Young Republican]," McCarthy explains. "But then I said, as an advertising guy, I should have been shot if I didn't use Horton's picture, because the picture says it all. It says this is a bad guy and Dukakis let him out. If it was a picture of a guy who looked like a crazy—an animal—but was white or Hispanic or Oriental, you'd use it. So I decided to put a criminal's picture on the screen."



WILLIE HORTON
AP/WIDE WORLD PHOTOS

Con Number One: Actually, McCarthy decided to make two ads. One omitted Horton's photo—that's the one he first sent to the cable networks: Cable News Network, Christian Broadcasting Network, Lifeline, and Arts & Entertainment. "I know they always look at the first spot hard," he says. A few days later he sent the second ad—the one with Horton's mug shot—as a replacement, figuring it would get less intense scrutiny. Each network routinely made the substitution as requested.

Con Number Two: McCarthy didn't have enough money to buy time for the Horton ad on the major broadcast networks. But he found a way to get more free airtime on commercial TV than he could ever buy. He slipped a videotape of his ad featuring the Horton mug shot to the producers of "The McLaughlin Group." They aired the ad on the next show, and the panelists discussed it. So now it was "news." Then the major network news shows aired it too—again, for free—by using it in stories about the ad.

The message was out. The commercial TV news and talk shows did McCarthy's work for him, for free. They carried the pictures that were his message. McCarthy knew that the TV news producers are always ripe for exploitation because they can't resist using any new videotape to wallpaper their news stories. Too many TV producers simply lack the discipline or the guts to just say no.

McCarthy believes it was smart to take his ads to cable networks first because they were less likely to balk at airing that photo of Horton. "The funny thing is, I don't think we could have cleared that spot with the commercial networks if we'd had the money to buy ad time with them," he says, contending the commercial network screening process is tougher. (A Turner Broadcasting System spokesperson says that's not the case with CNN, adding that Turner's vice president for sales, who screens all political and advocacy ads for CNN, has rejected ads that have appeared on the broadcast networks.)

A couple of weeks later Ailes aired his own Bush campaign classic: the revolving jailhouse door. Not only did the Bush campaign's ad not show Horton's photo, it never even mentioned his name. "We very carefully elected not to show him or mention him because we knew we'd be hit with racism," says Ailes. "Well, we still get hit with it. And the press still says I put Willie Horton's picture all over TV. They can't get it right."

Back when McCarthy's TV ad was spreading Horton's mug shot coast to coast, the Bush campaign protested loudly and publicly—with all the anguish of a pro wrestler pounding the mat in feigned pain. The independent Americans for Bush quickly announced it would be happy to yank its ad off the air if Bush campaign chairman James A. Baker III formally requested it.

And lo, Baker did just that—after the Willie Horton mug-shot commercial had run for twenty-five days and had just three days to go before its scheduled expiration.

Epilogue: In politics, as in basketball, some refs permit incidental contact, and others don't. McCarthy says he heard from his former boss once during the campaign. This incidental contact occurred just after McCarthy had begun working for Americans for Bush. "He called me up and he said—too bad, he wanted to hire me [for the Bush campaign] to do negative spots," says McCarthy, "but he couldn't now." Today Ailes says he doesn't remember making the call but doesn't dispute McCarthy's recollection.

Sticklers could argue that Ailes's comment was just the hint McCarthy needed to get the notion that he could help Ailes and Bush by making his own negative ads. Indeed, someone could have asked the Federal Election Commission sharpshooters to make a federal case out of that one phone call. But no one did.

MARTIN SCHRAM, author of *The Great American Video Game: Presidential Politics in the Television Age* (Morrow), writes a nationally syndicated column.

Roger & He

In the making of the notorious Willie Horton commercial, Larry McCarthy was not the only one with close ties to Roger Ailes. FEC records show that the ad was actually filmed by Raiford Communications, Inc., a one-man production company with an office in New York City. The proprietor is Jesse T. Raiford, thirty-two, a TV producer and director who, before he went solo sometime in 1988, spent six years making commercials (including dozens of political announcements) at Ailes Communications. The question is whether Raiford actually stopped working for Ailes before the hurried shooting of the Horton commercial for the National Security Political Action Committee during the last few days of August 1988. Ailes and Kathleen Ardleigh, his company's vice president for politics and public affairs, say that Raiford left their employ no later than January of that year.

A copy of Raiford's résumé says the same thing. But it also boasts that he worked on the 1988 Senate races of Republicans John Danforth and Pete Dawkins—both campaigns run by media consultant Ailes. Ardleigh says that Raiford did no work on either the Danforth or Dawkins races but did assist her with a commercial for Rhode Island Governor Edward DiPrete's re-election campaign.

It's also unclear exactly when Raiford left his job with Ailes. Thomas Kalamar, who subleases office space to Raiford Communications and who, according to NSPAC's FEC filing, also provided production services for the Horton ad, says that Raiford set up shop in August 1988—nine months after Raiford says he left Ailes. State filings show that Raiford didn't incorporate his firm until September 2, 1988—two days after the shooting of the Horton commercial. Curiously, the incorporation of this extremely small business was handled by Nixon, Hargrave, Devans & Doyle, one of the largest, most politically influential law firms in New York state.

Only a few months ago the political trade journal *Campaigns & Elections*—in its February 1990 "guide to political products and services"—listed Raiford as the contact for Ailes Communications. E. Clifton Smith, the magazine's director of advertising, said that the research for these listings was compiled between June 1989 and January 1990. "Each company was called individually," Smith said. "We went to great lengths to ensure that every listing was accurate."

Why does any of this matter? Shadowy election-year organs such as NSPAC owe their existence to an enormous constitutional loophole in the laws that limit campaign contributions and expenditures. The hole was created when the Supreme Court decided in 1976 that any laws prohibiting political expenditures by groups or individuals violated the First Amendment. So instead of regulating campaign speech, the FEC sought merely to restrict collaboration between official campaign organizations that accept federal campaign funding, such as Bush-Quayle '88, and so-called independent groups such as NSPAC. If Raiford was working for both Ailes and NSPAC in 1988, then he and/or Ailes may have transgressed the law—specifically the FEC regulation that forbids any form of compensation from the "candidate's committee or agent" to independent expenditure consultants.

Raiford isn't talking about the Horton commercial or his continuing relationship with Ailes Communications. When questioned about whether he worked simultaneously for Ailes and NSPAC, Raiford would only say, "I cannot answer any questions that have to do with my work." Only a few days after it was suggested to Ailes that Raiford's silence seemed suspicious did Raiford issue the following statement: "I emphatically deny that I ever communicated with Roger Ailes, his staff or clients, directly or indirectly, in any way, by any means, at any time, regarding any of my work with the National Security Political Action Committee. To my knowledge, there was absolutely no communication or coordination between anyone associated with the National Security Political Action Committee and Roger Ailes, his staff, or clients, regarding the NSPAC commercials."

Ailes too denies any connection between himself or the Bush campaign and the people responsible for the Horton ad. In April 1989 he issued a press release stating: "TO IMPLY COLLUSION BETWEEN ROGER AILES OR THE BUSH ADVERTISING CAMPAIGN AND THE POLITICAL ACTION COMMITTEE INVOLVED IN THIS AD IS TO ACCUSE US OF A FELONY." Ailes even says he didn't know that his ex-employees had produced it. "I heard much later that Larry McCarthy had something to do with it, and it surprised me. I didn't even know Jesse was involved." And regarding his own role: "I'm smart enough to know that there's a federal law involved."

The original aim of that federal law was to prevent the kind of underhanded financing that made Nixon's CREEP notorious. In those days secret cash corrupted national politics, and so did dirty tricks; now it is "soft" or "independent" money and dirty media. What makes an independent committee like NSPAC so destructive is its license to pursue gutter politics, often of a racist nature, while allowing the official campaign to maintain a smirking innocence. Against these maneuvers, even the most stringent FEC rules provide practically no barrier.

Moreover, as Ailes and his colleagues know, the chance that anyone, including the FEC, will probe the activities of an independent committee or search out its links to an official campaign is negligible. Although the circumstantial evidence linking the Republican consultant to the Horton ad is considerable, cooperation could be difficult to prove—even in an official inquiry.

"I'm against independent expenditure groups doing these kinds of things," a presumably sincere Ailes told *The Washington Post* in October 1988, because "people will get confused and somehow think that it's linked to the campaign." And that would be terrible. Wouldn't it?

JOE CONASON

Joe Conason, a New York journalist, is working on a national PBS news pilot.

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 6, 1990

James M. Ruvolo, Chairman
Ohio Democratic Party
88 E. Broad Street, Suite 1920
Columbus, Ohio 43215

RE: MUR 3069

Dear Mr. Ruvolo:

This letter acknowledges receipt on May 30, 1990, of your complaint alleging possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"), by Bush-Quayle '88, J. Stanley Huckaby, as treasurer, the National Security Political Action Committee, Elizabeth I. Pediay, as treasurer, Larry McCarthy, Roger Ailes and Jesse T. Raiford. The respondents will be notified of this complaint within five days.

You will be notified as soon as the Federal Election Commission takes final action on your complaint. Should you receive any additional information in this matter, please forward it to the Office of the General Counsel. Such information must be sworn to in the same manner as the original complaint. We have numbered this matter MUR 3069. Please refer to this number in all future correspondence. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

If you have any questions, please contact Retha Dixon, Docket Chief, at (202) 376-3110.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosure
Procedures

2204038409 3

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 6, 1990

State Representative Ray Miller
President, Black Elected
Democrats of Ohio
3040 Elborn Avenue
Columbus, Ohio 43209

RE: MUR 3069

Dear Mr. Miller:

This letter acknowledges receipt on May 30, 1990, of your complaint alleging possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"), by Bush-Quayle '88, J. Stanley Huckaby, as treasurer, the National Security Political Action Committee, Elizabeth I. Fediay, as treasurer, Larry McCarthy, Roger Ailes and Jesse T. Raiford. The respondents will be notified of this complaint within five days.

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Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosure
Procedures

2040384094

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 6, 1990

Elizabeth I. Pediay, Treasurer
National Security Political Action Committee
3200 Morrison Avenue, N.W.
Washington, D.C. 20015

RE: MUR 3069

Dear Ms. Pediay:

The Federal Election Commission received a complaint which alleges that the National Security Political Action 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 3069. Please refer to this number in all future correspondence.

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

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

2040384025

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

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

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

22040383407976

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 6, 1990

Larry McCarthy
c/o National Security Political Action Committee
3200 Morrison Avenue, N.W.
Washington, D.C. 20015

RE: MUR 3069

Dear Mr. McCarthy:

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 3069. 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.

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2040384097

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

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

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

22040384098

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 6, 1990

Roger Ailes
Ailes Communications
440 Park Avenue South
New York, NY 10016

RE: MUR 3069

Dear Mr. Ailes:

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 3069. 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.

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2204038410939

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

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

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

22040384100

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 6, 1990

Jesse T. Raiford
Raiford Communications, Inc.
928 Broadway
New York, NY 10010

RE: MUR 3069

Dear Mr. Raiford:

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 3069. Please refer to this number in all future correspondence.

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2040384101

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

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

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

20040381102

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 6, 1990

J. Stanley Huckaby, Treasurer
Bush-Quayle '88
228 S. Washington Street
Alexandria, VA 22314

RE: MUR 3069

Dear Mr. Huckaby:

The Federal Election Commission received a complaint which alleges that Bush-Quayle '88 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 3069. Please refer to this number in all future correspondence.

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2204038403

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

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

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

cc: George Bush
White House
Washington, D.C. 20501

22040384104

OGC 6658

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

90 JUN 20 AM 9:26

LAW OFFICES
WUNDER, RYAN, CANNON & THELEN
1615 L STREET, N.W., SUITE 650
WASHINGTON, D. C. 20036
(202) 659-3005
FACSIMILE: (202) 659-3010

June 14, 1990

90 JUN 20 AM 10:10
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

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

RE: MUR 3069-Mr. McCarthy

Attn: Lois Lerner, Esq.
Associate General Counsel

Dear Ms. Lerner:

As legal counsel to National Security PAC, I have been requested to return to you your June 6th, 1990 letter which was received yesterday by National Security PAC, addressed to Mr. McCarthy.

Mr. McCarthy does not reside, nor does he conduct business from the address to which the letter and accompanying materials pertaining to the above referenced MUR were sent.

To the best of my client's knowledge, Mr. McCarthy's address is 101 9th Street, S.E., Washington, D.C. 20003.

If you have further questions, please contact me at your convenience.

Very truly yours,

Paul E. Sullivan

cc: Elizabeth I. Pedlay

2240338410 5

STATEMENT OF DESIGNATION OF COUNSEL

0GC6624

MUR 3069

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

90 JUN 19 PM 3:08

NAME OF COUNSEL: Paul E. Sullivan

ADDRESS: Wunder, Ryan, Cannon & Thelen
1615 L Street, Suite 650
Washington, DC 20036

TELEPHONE: 202/778-0884

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.

6/13/90
Date

Signature

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

90 JUN 19 PM 3:50

RESPONDENT'S NAME: Elizabeth I. Fediay

ADDRESS: National Security PAC
3200 Morrison Street, N.W.
Washington, DC 20015

HOME PHONE: 202/363-9472

BUSINESS PHONE: (same as above)

2040384196

OGC 6664

WILEY, REIN & FIELDING

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

JAN WITOLD BARAN
(202) 429-7330

FACSIMILE
(202) 429-7049
TELEX 248348 WYRN UR

June 19, 1990

FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 JUN 20 PM 3:45

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

Attn: Xavier McDonnell

Re: MUR 3069

Dear Mr. Noble:

This office represents Bush-Quayle 88, Inc. and J. Stanley Huckaby, as treasurer ("Respondent"), in the above captioned matter. Enclosed please find an executed Statement of Designation of Counsel which confirms our representation.

A response to this complaint is currently due on June 26, 1990. In order to fully confer with Respondent and to obtain whatever information and documentation which may prove necessary, I respectfully request a twenty day extension of time to and including July 16, 1990 within which to respond.

Your favorable consideration of this request will be appreciated.

Sincerely,

Jan Witold Baran

Enclosure

JWB/CAL:lsw

2040384107

STATEMENT OF DESIGNATION OF COUNSEL

MUR 3069

NAME OF COUNSEL: Jan W. Baran

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

TELEPHONE: (202) 529-7330

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

Date 6/19/90

Signature

RESPONDENT'S NAME: Bush-Quayle '88

ADDRESS: 228 So. Washington St.
Suite 200
Alexandria, VA 22314

HOME PHONE:

BUSINESS PHONE:

2204038408

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 21, 1990

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

RE: MUR 3069
Bush-Quayle 88, Inc. and
J. Stanley Huckaby, as treasurer

Dear Mr. Baran:

This is in response to your letter dated June 19, 1990 requesting an extension of 20 days to respond to MUR 3069. After considering the circumstances presented in your letter, I have granted the 20 day extension. Accordingly, your response is due by the close of business on July 17, 1990.

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

Sincerely

Lisa Klein
Assistant General Counsel

2204038411 09

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 22, 1990

Mr. Larry McCarthy
108 9th Street, S.E.
Washington, D.C. 20003

RE: MUR 3069

Dear Mr. McCarthy:

Enclosed please find materials in the above captioned matter which were sent prior to our receipt of your present address. Your response is due within fifteen days of receipt of this package.

If you have any questions please call Xavier K. McDonnell, the attorney assigned to this matter at at (202) 376-5690.

Sincerely,

Lois G. Lerner
Associate General Counsel

Enclosures

2204038111O

RAIFORD COMMUNICATIONS, INC.

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

90 JUN 25 AM 10 10

90 JUN 25 PM 1:20
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

June 20, 1990

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

RE: MUR 3069

Dear Mr. Noble,

Thank you for providing me with an opportunity to respond to the complaint lodged by James Ruvolo.

As Joe Conason's New Republic article is the basis of his accusations, concerning my involvement in this matter, I'd like to examine the article's assertions, point by point.

Conason correctly identifies my company, my title, the fact that my company was involved in the production of the National Security Political Action Committee (Americans for Bush) Commercial, and the fact that I worked at Ailes Communications for six years.

Next, Conason questions whether I actually stopped working for Ailes before the NSPAC commercials were made. Let's examine, as he puts it, his, "considerable circumstantial evidence."

First, Conason alludes to a resume that I used as a free-lance producer. The resume, written in January of 1988, is not misleading or inaccurate. I worked on both the Dawkins and Danforth campaigns as they were beginning, during the Fall of 1987, before I left Ailes Communications. The resume is also not in conflict, despite Conason's attempt to deceive, with Kathy Ardleigh's statement that I did not work on either campaign in 1988. Kathy started working on both campaigns, in 1988, after I had left Ailes.

928 Broadway, Suite 500 • New York, NY 10010 • Telephone (212) 254-7055

Next, Conason suggests possible impropriety because my company was incorporated by a major law firm. He is correct in stating that Nixon, Hargrave, Devans & Doyle, the law firm that handled all $325 worth of my incorporation proceedings 20 months ago, is a large and politically influential firm. However, the firm has no connection to Ailes Communications. I selected the firm because Robert Sentner, my non-politically influential roommate, who happened to be a first year associate at that firm, volunteered to handle this single transaction, after my small, non-politically influential, Democrat, accountant advised me to form an S-Corp for tax purposes. Although I have not required the services of Nixon Hargrave, or any other firm since then, Robert Sentner remains a friend.

Conason is correct in stating that I did rent office space and incorporate nine months after leaving Ailes. However, the timing of both events is irrelevant. I did both to better service the needs of the non-political client base that I had developed as a free-lance producer working out of my apartment. Roger Ailes had nothing to do with, and no knowledge of either move. My company is still incorporated and still at the same address. My company has also never done business with Ailes Communications. In fact, I have competed with his firm for non-political projects.

Next, Conason cites a 1990 listing in Campaigns & Elections as proof that I am presumably still a "contact" at Ailes. However, Conason's source at C&E, F. Clifton Smith, (Director of Advertising, tel: 202-331-3222) told me that this was, "the first time the guide was published," that, "there are over three thousand listings in the guide," that, "the listing was not paid for, or initiated, by Ailes", and most importantly, that, "C&E keeps a file containing several mistakes that appeared in the guide." Smith also told me, as he told Conason, that, "every company was contacted". But he has no record of who supposedly verified the information at Ailes. He could only provide me with a date that the call was reported to have been made -- by a temporary employee at Campaigns & Elections.

Smith also told me that, "during a very brief phone call with Conason," he, "could not recall Conason making any attempt to verify who C&E spoke to regarding the free listing."

I have never been a "contact" at Ailes Communications. The C&E listing is inaccurate. Conason simply didn't bother to check with any of the dozens of legitimate sources who could have instantly dismissed the C&E mistake. Nevertheless, he devotes one eighth of his article to the C&E listing, assuring his readers that, "C&E went to great lengths to be accurate." It might be interesting to listen to the New Republic's Editor tell his readers why he failed to go to any lengths to check the accuracy of Conason's "reporting."

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Conason finally accuses my company of having something to hide because I refused to answer his questions. However, as I repeatedly told Conason, I don't speak for my clients -- I have never been a spokesperson for clients, including the clients I worked for while at Ailes, my free-lance clients in 1988, or any of my current clients.

I am not involved in political consulting or strategy. I don't give interviews or talk to the press. I am not qualified, or paid, to do so. I am a vendor. I provide specific, limited, technical services. After my clients decide what a commercial should look like, they call me to help them hire the talent and equipment necessary to take the commercial from the script to the television screen. If I worked in the print business, instead of the television business, my services might be likened to those of a typesetter. As a "typesetter" I am hardly qualified to discuss the writing of the book.

I left Ailes Communications in January of 1988. I free-lanced for several clients between January of 1988 and September of 1988 before forming Raiford Communications, Inc. I formed my company at the request of a non-political, commercial client who wanted a commercial bid to come from a production company, not a free-lance producer. I immediately incorporated and my company won the bid.

Roger Ailes had no knowledge of, and nothing to do with, the formation of my company. He also had no knowledge whatsoever of my work for the National Security PAC. I never communicated with Roger Ailes, his staff or clients, directly or indirectly, in any way, by any means, at any time, regarding any of my work with the National Security Political Action Committee.

To my knowledge, there was absolutely no communication or coordination between anyone associated with the National Security Political Action Committee and Roger Ailes, his staff, or clients, regarding the NSPAC commercials.

I provided technical consulting services to the National Security PAC during the production of the "Willie Horton" spot. My work on that commercial was entirely independent of the Bush-Quayle '88 campaign. My services as a vendor were not arranged, coordinated nor directed by any agents of the Bush-Quayle '88 campaign. Neither Mr. Ruvolo's complaint, nor the articles he has submitted, provide any evidence, whatsoever, to the contrary.

Please let me know if you have any further questions regarding this matter.

Sincerely,

Jesse T. Raiford

Jesse T. Raiford

2040384113

00C6832

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM
90 JUL -3 AM 9:02

LAW OFFICES
WUNDER, RYAN, CANNON & THELEN
1615 L STREET, N.W., SUITE 850
WASHINGTON, D. C. 20036
(202) 659-3005
FACSIMILE: (202) 659-3010

June 28, 1990

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

90 JUL -3 AM 9:00
RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

RE: MUR 3069

Attn: Lois Lerner, Esq.
Associate General Counsel

Dear Ms. Lerner:

On behalf of National Security Political Action Committee ("NSPAC") and Elizabeth I. Fediay, Treasurer, I have been requested to seek an extension of twenty (20) days in which to respond to the complaint filed on this matter. The complaint, received by the respondent on June 14, 1990 has required us to seek out various individuals, and obtain documentation from them. This process is still proceeding and it will require the additionally requested time in which to analyze and submit it to you for your consideration.

Therefore, I would request that the Commission grant the respondent in the above referenced matter an extension of time until July 18, 1990 in which to file a response in the above referenced matter.

Thank you for your time and attention to this issue.

Very truly yours,

Paul E. Sullivan

cc: Elizabeth I. Fediay

2204038414

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 6, 1990

Paul E. Sullivan
Wunder, Ryan, Cannon & Thelen
1615 L. Street, N.W.
Suite 650
Washington, D.C. 20036

RE: MUR 3069
National Security Political
Action Committee, and
Elizabeth I. Pediay, as treasurer

Dear Mr. Sullivan:

This is in response to your letter dated June 28, 1990, requesting an extension of 20 days to respond to MUR 3069. 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 July 18, 1990.

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

Sincerely

Lisa Klein
Assistant General Counsel

2204038415

OGC6837

WILEY, REIN & FIELDING

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

JAN WITOLD BARAN
(202) 429-7330

FACSIMILE
(202) 429-7049
TELEX 248348 WYRN UR

July 3, 1990

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

Attn: Xavier K. McDonnell

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 JUL -3 PM 2:43

Re: MUR 3069 Bush-Quayle 88, Inc.
and J. Stanley Huckaby, as
Treasurer

Dear Mr. Noble:

I am writing to request an additional ten day extension of time to respond to the complaint filed against Bush-Quayle 88, Inc. and J. Stanley Huckaby, as Treasurer in Matter Under Review ("MUR") 3069. This additional time is requested in order to enable the Respondent to confer with Roger Ailes, named in the complaint as an agent of Bush-Quayle 88, Inc. Mr. Ailes is currently out of the country and will not be available for consultation until July 16, 1990.

A response to the complaint is currently due on July 17, 1990. Due to this unanticipated circumstance, I respectfully request an additional ten day extension of time to and including July 27, 1990 within which to respond. Because this Matter involves activity alleged to have occurred almost two years ago, during the 1988 election cycle, this additional extension should not prejudice the Commission's review of this Matter in any way.

Your favorable consideration of this request will be appreciated.

Sincerely,

Jan Witold Baran

2204038116

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 6, 1990

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

RE: MUR 3069
Bush-Quayle 88, Inc. and
Stanley Huckaby, as treasurer

Dear Mr. Baran:

This is in response to your letter dated July 3, 1990, requesting an additional extension of 10 days to respond to MUR 3069. After considering the circumstances presented in your letter, I have granted the additional 10 day extension. Accordingly, your response is due by the close of business on July 28, 1990.

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

Sincerely

Lisa Klein
Assistant General Counsel

2204038417

OGC 6997

LAW OFFICES
WUNDER, RYAN, CANNON & THELEN
1615 L STREET, N.W., SUITE 650
WASHINGTON, D. C. 20036
(202) 659-3005
FACSIMILE: (202) 659-3010

FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 JUL 20 AM 9:13

July 19, 1990

Ms. Lois Lerner
Associate General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

RE: MUR 3069

Dear Ms. Lerner:

The Response in the above action was due at your office this date. I am hereby seeking a seven (7) day extension for filing that Response. The reason for the request involves a respondent.

Mr. McCarthy, a named respondent, yesterday requested me to represent him in this matter. Merging the information provided yesterday into the brief for National Security PAC will require several days.

Thank you for your consideration in this matter.

Very truly yours,

Paul E. Sullivan

2040381 18

Larry McCarthy
106 9th Street, S.E.
Washington, D.C. 20003
(202) 546-5516

7/19/90

RE: MUR 3069

To Whom It May Concern:

I hereby designate Paul Sullivan, Esq. to represent me before the Federal Election Commission.

Larry McCarthy

2340384119

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 23, 1990

Paul E. Sullivan
Wunder, Ryan, Cannon & Thelen
1615 L. Street, N.W.
Suite 650
Washington, D.C. 20036

RE: MUR 3069
National Security Political Action Committee, and
Elizabeth I. Fediay, as treasurer
Larry McCarthy

Dear Mr. Sullivan:

This is in response to your letter dated July 19, 1990, requesting an additional extension of 7 days to respond to MUR 3069. Pursuant to our earlier agreement, your response was due July 18, 1990. After considering the circumstances presented in your letter, I have granted the requested extension. Accordingly, your response is now due by the close of business on July 25, 1990.

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

Sincerely

Lisa E. Klein
Assistant General Counsel

2040384120

OGC 7/16

WILEY, REIN & FIELDING

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

JAN WITOLD BARAN
(202) 429-7330

July 30, 1990

FACSIMILE
(202) 429-7049
TELEX 248348 WYRN UR

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

ATTN: Xavier McDonnell, Esq.

Re: MUR 3069 (Bush-Quayle '88 and
J. Stanley Huckaby, as Treasurer)

90 JUL 31 AM 9:21

Dear Mr. Noble:

This Response, including the attached Affidavits, is submitted on behalf of Bush-Quayle '88 and J. Stanley Huckaby as Treasurer in reply to a complaint filed by the Ohio Democratic Party and designated Matter Under Review ("MUR") 3069. The complaint alleges that certain political advertisements produced and aired by an organization known as "Americans for Bush," were not independent expenditures as defined by 11 C.F.R. § 109.1(a), and therefore, by implication, that these expenditures should have been reported as in-kind contributions to Bush-Quayle '88. See 2 U.S.C. §§ 434(b)(2) and 441a(a)(7)(B)(i). For the reasons set forth herein, the Federal Election Commission ("FEC" or

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"Commission") should find that there is no reason to believe Bush-Quayle '88 has violated any provision of the Act.

Facts

Bush-Quayle '88 ("the Committee") is the authorized principal campaign committee of then-Vice President George Bush and Senator Dan Quayle for the 1988 general election campaign for the Presidency pursuant to 2 U.S.C. § 432(e)(1).

On information and belief, "Americans for Bush" is a fundraising designation used by the National Security Political Action Committee ("NSPAC"), a group registered with the Commission as an independent expenditure committee, and which is not connected or affiliated with Bush-Quayle '88.

Bush-Quayle '88 and George Bush for President, Inc. have long objected to the activities of the group calling itself "Americans for Bush." In June 1988, George Bush for President, Inc. (the principal campaign committee of then-Vice President Bush for the Republican Party nomination for President) filed a Complaint (designated MUR 2638) with the FEC concerning the solicitation and reporting practices of NSPAC through its fundraising designation "Americans for Bush." That Complaint informed the Commission of NSPAC's failure to notify contributors, pursuant to 2 U.S.C. § 441d(a), that it was not authorized by George Bush for President, Inc. or Bush-Quayle '88 to seek contributions, and

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that NSPAC was improperly reporting its expenditures in violation of 2 U.S.C. § 434. At that time, George Bush for President, Inc., strongly objected to the activities undertaken by "Americans for Bush" and urgently requested intervention by the Federal Election Commission. To the knowledge of Bush-Quayle '88, that Matter is still under Commission review or investigation. George Bush for President, Inc. also filed a complaint regarding NSPAC'S activities with the U.S. Postal Service.

At some point in 1988, NSPAC apparently produced certain television advertisements. According to the articles attached to the Complaint in this Matter, an independent media consultant by the name of Larry McCarthy created these commercials for NSPAC, and an independent producer by the name of Jesse Raiford filmed them. Neither Bush-Quayle '88 nor its agent Ailes Communication had any prior knowledge of the production of these ads nor any direction or influence over their creation or broadcast. Affidavit of Roger Ailes in MUR 3069 (hereinafter "Ailes Aff.") attached hereto at Tab 1, at ¶¶ 2 and 9-11.*/

---

*/ Bush-Quayle '88 encloses herewith the Affidavit of Roger Ailes, whose firm, Ailes Communications, Inc., was responsible for the planning and implementation of advertising for the Bush Campaign.

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After the commercials were released, James A. Baker, III, Campaign Chairman for Bush-Quayle '88, responded to public inquiries from NSPAC by expressing Vice President Bush's and the campaign's disapproval of NSPAC's activities. (Letter attached hereto at Tab 2.) Bush-Quayle '88 did not and does not condone the substance of these ads nor endorse the activities of NSPAC in any way. In fact, the campaign found NSPAC's independent expenditures harmful. See Ailes Aff. at ¶ 6. The campaign was forced to send letters to the television and cable networks clarifying the record by specifying that the controversial "Willie Horton" ad was not produced by or condoned by the Bush-Quayle Campaign. See Tab 3.

It appears that Ailes Communications' previous business relationships with persons who later allegedly assisted NSPAC in producing television advertisements constitute the key ingredient of the Complaint in this Matter. In that regard, Roger Ailes' sworn testimony should be dispositive. Mr. Ailes states that Larry McCarthy and Jesse Raiford are now, and were in 1988, former employees of Ailes Communications, Inc. Ailes Aff. at ¶¶ 7, 8 and 12. By the time the "Willie Horton" advertisement was made, McCarthy was a competitor of Ailes and had worked for Senator Robert Dole in the primary campaign, in direct opposition to Roger Ailes and to his candidate, George Bush. Ailes Aff. at ¶ 7. Raiford became

2204038412 4

an independent contractor in January 1988, and did free-lance television production work from New York. Ailes Aff. at ¶ 8.

Most importantly, Mr. Ailes swears under oath in his Affidavit that he had no prior knowledge of either McCarthy's or Raiford's involvement with the Horton advertisement for NSPAC. Ailes Aff. at ¶ 9. He never discussed the Horton advertisement with McCarthy or Raiford, or with anyone at "Americans for Bush" or the National Security Political Action Committee. See Ailes Aff. at ¶ 2. Further, it was the opinion of the Bush campaign that advertisements featuring Willie Horton would be counterproductive. Ailes Aff. at ¶ 3. Mr. Ailes' Affidavit also explains, in detail, why he objects to such independent expenditures for professional reasons and finds them potentially harmful to the candidates they allegedly seek to support. See Ailes Aff. at ¶ 6.

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Discussion and Legal Analysis

Both the Act and the Commission's regulations define an "independent expenditure" as:

> an expenditure by a person for a communication expressly advocating the election or defeat of a clearly identified candidate which is not made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or any agent or authorized committee of such candidate.

2 U.S.C. § 431(17); 11 C.F.R. § 109.1(a). An expenditure which fails to qualify as an independent expenditure is treated as a contribution to the candidate subject to the Act's contribution limits. See 2 U.S.C. § 441a(a)(7)(B)(i).

The regulations state that the determination whether an expenditure is in fact independent turns on whether there was:

> (i) Any arrangement, coordination, or direction by the candidate or his or her agent prior to the publication, distribution, display or broadcast of the communication. An expenditure will be presumed to be so made when it is --
>
> (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).

The Commission has developed these criteria to distinguish Constitutionally-protected independent expenditure activity from expenditures coordinated between candidates and related committees. The United States Supreme Court has consistently viewed independent expenditures as representing political expression "at the core of our

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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)). It was this legal standard which frustrated the Bush-Quayle '88 campaign's ability to prevent the objectionable and misleading independent expenditures which are at issue here. See Ailes Aff. at ¶ 4.

As seen below, while the Complaint makes general allegations of coordination, there are no facts which support a presumption of coordination. Rather, the evidence, as supported by Mr. Ailes' affidavit, shows no evidence of any arrangement, coordination, or direction by the candidate or his agent prior to the broadcast of the Willie Horton advertisement.

The record concerning the views of Bush-Quayle '88 towards NSPAC's independent expenditure activities should be quite clear. Bush-Quayle '88 has repeatedly denounced the activities of the National Security Political Action Committee. First, George Bush for President brought the activities of NSPAC and "Americans for Bush" to the attention of the Commission in the Complaint which initiated MUR 2638, and to the U.S. Postal Service. Then, the Bush-Quayle Campaign denounced NSPAC's misleading use of George Bush's name and requested that it cease its misrepresentations in a letter sent by Bush-Quayle '88 Campaign Chairman James A.

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Baker, III. Finally, the campaign was being dogged by NSPAC'S objectionable independent expenditure activities to the point of being forced to write each television network to make it clear that the "Willie Horton" advertisement was not produced by the Bush-Quayle campaign. See Tab 3. As Roger Ailes states in his Affidavit, "independent expenditure advertisements can easily be mistaken for the campaign's advertisements by all but the most careful observers, thereby tarring the campaign and candidate with any inaccurate or controversial features of such an independent production. This, of course, is what happened with NSPAC's 'Willie Horton' piece." Ailes Aff. at ¶ 6. The only action not taken by the campaign -- a request that NSPAC cease using the Willie Horton advertisements -- was perceived by the campaign as legally dangerous, as it might raise a presumption that NSPAC's activities were coordinated with the campaign, if NSPAC complied with the request. See Ailes Aff. at ¶ 4. This consideration is indeed ironic in view of the fact that the effect of the Complaint is to criticize the campaign for failing to influence NSPAC's expenditures.

The facts of this matter demonstrate that there are no grounds for reason to believe that NSPAC's expenditures may have been coordinated with the Bush-Quayle campaign. In fact, there is no evidence which even raises a presumption of

2204038412 8

coordination. A review of the Commission's criteria for evidence of such coordination reveals the following:

A. There was no arrangement, coordination or direction between President Bush, Bush-Quayle '88 or its agents and NSPAC with respect to the "Willie Horton" commercials produced by "Americans for Bush."

The only evidence before the Commission demonstrates that Bush-Quayle '88 and its agents vigorously disassociated themselves from the activities of Americans for Bush, and that no such arrangement, coordination or direction of activities occurred. Ailes Aff. at ¶ 11. In fact, the Bush campaign undertook the following activities specifically to disavow the conduct of NSPAC:

1) George Bush for President, Inc. filed a complaint with the Commission, now designated MUR 2638, requesting a review of NSPAC's compliance with federal law in connection with its activities under its fundraising designation "Americans for Bush";

2) George Bush for President, Inc. filed a complaint with the U.S. Postal Service objecting to NSPAC's activities;

3) The Bush campaign wrote letters to all of the national television networks alerting them that the "Willie Horton" advertisements were not produced, authorized or approved by the Bush campaign. See Tab 3;

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4) Finally, James A. Baker, III, Chairman of Bush-Quayle '88, sent a letter to NSPAC requesting it cease its misrepresentations. See Tab 2.

Even the Complaint in the present Matter contains no evidence of coordination (as opposed to general speculation about motives). To the contrary, the article submitted by the Complainant quotes Larry McCarthy as specifically stating that he designed the Willie Horton campaign "without consulting his old boss." See New Republic article of May 28, 1990, at 17, attached to the Complaint. Additionally, the article quotes a statement by Jesse Raiford:

> I emphatically deny that I ever communicated with Roger Ailes, his staff or clients, directly or indirectly, in any way, by any means, at any time, regarding any of my work with the National Security Political Action Committee. To my knowledge, there was absolutely no communication or coordination between anyone associated with the National Security Political Action Committee and Roger Ailes, his staff or clients, regarding the NSPAC commercials.

Id. at 18.

There is simply no evidence of any arrangement, coordination or direction between the Bush-Quayle campaign and "Americans for Bush" or NSPAC. There is now sworn testimony in the record that such arrangement, coordination or direction did not occur. See Ailes Aff. at ¶¶ 2, 9 and 11.

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B. There is no evidence that President Bush, Bush-Quayle '88 nor its agents or employees provided any information about the candidate's plans projects or needs to NSPAC with a view toward having an expenditure made.

Complainant also appears to allege, without any proof, that NSPAC was somehow provided with information by the campaign that was not publicly available in order to assist it in the production of the commercials. However, Roger Ailes testifies that the campaign's own initial knowledge of the "Willie Horton" issue stemmed from a nationally-distributed article in Readers' Digest, and from nationally-televised comments during the Democratic primary debates. Ailes Aff. at ¶ 3. Clearly, there was public awareness of the "Willie Horton" issue without need for "inside" information from the Bush campaign.

As important, Roger Ailes has testified that the campaign did not plan to use Horton's name or image in its radio and television pieces, and that this decision was made "because of the potential for a negative impact on the campaign." Ailes Aff. at ¶ 3. Thus, the production of "inferior" or "inaccurate or controversial" advertisements which "tar" the campaign and produce a "backlash," (Ailes Aff. at ¶¶ 4 and 6), all contrary to the campaign's media

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planning, can hardly be said to result from collusion or special access to campaign strategy.

The Complaint seeks to tie the campaign to NSPAC's "Willie Horton" advertisements by citing an expenditure by the Ohio Republican Party which mentioned Willie Horton. See Plain Dealer article of Nov. 3, 1988, attached to the Complaint. Attached hereto (at Tab 4) is an Affidavit by Robert T. Bennett, Chairman of the Ohio Republican Party, which states that he knows of no connection between that state party's mailer and NSPAC activities. It should be dispositive that the mailer was apparently produced in late October or early November and the NSPAC advertisements which allegedly mimicked the mailer were aired in late summer or early fall, over a month earlier, according to the Complaint.

C. No person associated with "Americans for Bush" was an officer of, was authorized to raise or expend funds for, or otherwise received any form of compensation from President Bush, Bush-Quayle '88 or its agents during the 1988 campaign.

The New Republic article attached to the Complaint in this Matter intimates that Larry McCarthy or Jesse Raiford, or both, left their jobs with Ailes Communication only long enough to produce the NSPAC commercials and avoid the legal standard for coordination of activity with the Bush campaign. In fact, both were (and still are) independent contractors

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who in the past had been Ailes Communications' employees. Ailes Aff. at ¶ 12. McCarthy was a competitor of Roger Ailes at the time he was apparently engaged by NSPAC, and he appears to have used the services of Raiford, an independent production coordinator. Given the limited number of people providing political media services, it is not surprising that the persons hired by NSPAC had past ties to Ailes Communications, a leading firm in the field: nor does that fact have any particular legal significance under the Commission's standards of inquiry.

However, there is no evidence in the Complaint or the record that the persons at "Americans for Bush" and NSPAC who conceived and executed this independent expenditure campaign were, or ever had been, agents of Bush-Quayle in any way, shape or form. Except for the fact that they apparently hired Larry McCarthy and Jesse Raiford, who had once been Ailes Communications' employees, there is not any suggestion that there was any connection whatsoever between the two organizations.

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Conclusion

In sum, the Complaint in this MUR is based solely on the post-election speculation of members of the press. The Complaint is built only upon quotations from those

unsubstantiated press articles attached to the Complaint. Thus, while the complaint is titillating in its many conjectures and conspiracy theories, its allegations are countered by signed, sworn affidavits submitted to a federal agency under threat of criminal prosecution. Further, the Commission itself, as much as anybody, is familiar with the Bush campaign's long history of frustration as a result of its attempts to disassociate itself from "Americans for Bush" and NSPAC.

Accordingly, the Commission should find no reason to believe that Bush-Quayle '88 or J. Stanley Huckaby, as Treasurer, violated the Act.

Sincerely,

Jan Witold Baran

Trevor Potter
Counsel for Bush-Quayle '88

2204038413 4

BEFORE THE FEDERAL ELECTIONS COMMISSION

Borough of Manhattan)

State of New York) MUR 3069

AFFIDAVIT OF ROGER AILES

ROGER AILES, being first duly sworn, deposes and says:

1. I am ROGER AILES, Chairman of Ailes Communications, Inc., ("ACI") a firm which was retained in 1987 by the Bush campaign to provide advice and assistance concerning political communications and advertising for the 1988 Republican Presidential nomination and the 1988 Presidential election. My responsibilities for the Bush campaign included planning the campaign's media strategy. This included conceiving, producing, and placing television advertising for the campaign in the primary and general elections.

2. I am making this affidavit to state that neither I nor any agent or employee of ACI (based on my questioning of them) ever communicated in any way with any independent expenditures committee, or employee or agent thereof, including but not limited to Larry McCarthy or Jesse Raiford regarding any independent expenditures programs of any kind, including but not limited to the specific "Willie Horton" advertisement created by McCarthy and Raiford (except as set forth in Paragraph 10 hereof). The background for this statement follows.

3. I became aware of press accounts concerning Willie Horton's record and furlough from a Massachusetts prison some

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time in the Spring of 1988. These accounts included a nationally-circulated Reader's Digest article and press reports of the debates amongst the Democratic primary candidates. Although Bush campaign representatives later made mention of Horton as an example of the failures of Massachusetts' law enforcement policies during the period that Michael Dukakis was Governor, no television or radio advertisement was ever prepared or aired by the campaign which mentioned Willie Horton's name or which contained his image. Nor was it ever the intention of the Bush campaign to produce such an advertisement. In fact, the campaign made a conscious decision not to utilize Horton's image in such television advertisements because of the potential for a negative impact on the campaign.

4. I believe that I first heard of the "Americans for Bush" group in June of 1988, when I saw a televised "biography" advertisement of George Bush which I had not produced or previously been aware of. I was upset by that piece, and requested information on who was producing it and asked whether we could prevent its distribution. I had already produced my own Bush "biographical" piece for the campaign, which aired throughout the primaries, and felt that this independent advertisement was inferior to my own, and might be confused with my work. I was told that a group known as "Americans for Bush" which was part of an organization calling itself the "National

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Security Political Action Committee" or "NSPAC," was apparently conducting an independent expenditure campaign, and that the Bush campaign therefore had no control over whether such advertisements were broadcast, could not force their removal from the air and that any communication with NSPAC sponsors to request that they cease showing the advertisement might legally be construed as an attempt to coordinate their expenditures with the Bush campaign.

5. I first recall becoming aware of a television advertisement depicting Willie Horton when I saw such an advertisement on television sometime in the late summer or early fall of 1988. I immediately called the Bush headquarters and asked where this advertisement had come from. I do not recall the date of this first viewing, but I know it was the first I knew of the existence of such an advertisement. My staff told me that this piece, too, was an independent expenditure by NSPAC.

6. As a general matter, I believe independent expenditures have the potential to disrupt and injure the candidate on whose purported behalf they are made. As the person responsible for the Bush media campaign, I was particularly disturbed with any media activity aired on the purported behalf of Bush-Quayle which was not campaign-initiated and controlled. First, part of planning a campaign strategy is to determine whether to produce

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comparative or positive advertisements and when to air them. An independent expenditure can completely frustrate such planning and establish an unwanted or counter-productive tone at precisely the wrong moment. Second, independent expenditure advertisements can easily be mistaken for the campaign's advertisements by all but the most careful observers, thereby tarring the campaign and candidate with any inaccurate or controversial features of such an independent production. This, of course, is what happened with NSPAC's "Willie Horton" piece. Finally, there has historically been a counterproductive press backlash against independent expenditures.

7. When I inquired in June about the NSPAC "biography" advertisement, I was also told that Larry McCarthy had produced that piece. McCarthy was a former employee of Ailes Communications, Inc. who had left to become a competing independent campaign media consultant in January of 1987. When he first left Ailes Communications, Inc., he had a consulting contract from the firm to assist with Ailes Communications' work on behalf of Senator Danforth, but that contract was terminated once he became a consultant to the Dole for President campaign in 1987, in what I believed was a violation of a non-competition clause in that consulting agreement.

8. I was also told that Jesse Raiford, a free-lance producer, may have served as a production manager for Larry

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McCarthy. Jesse Raiford was another former employee of Ailes Communications who left the firm on January 1, 1988 to go into business as an independent producer/production manager based in New York. As an independent technical contractor, he was in the pool of persons who were, on occasion, sub-contracted by producers of ACI to set up shoots and production days or to film specific scenes if our own in-house employees were not available to do the work.

9. At the time that the "Willie Horton" advertisement appeared, I had no knowledge that either McCarthy or Raiford might have produced or filmed such an advertisement.

10. I have a general recollection that, once I knew that Larry McCarthy had produced the June 1988 unauthorized Bush biography for NSPAC, I spoke with him by telephone only to tell him that he had "blown it" because the Bush campaign had considered using McCarthy for some comparative advertising. I explained to him that that was now absolutely impossible because of his work for an independent expenditure group. That was the full extent of the conversation.

11. In summary, neither I nor ACI was involved in any way in any attempt to coordinate NSPAC's "Willie Horton" advertisement, or any other independent expenditures, with the Bush campaign. I personally was completely unaware of the advertisement until I saw it aired on television, and I know of

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no one associated with the Bush campaign who was aware of it before then. Neither I nor, to my knowledge, any other person associated with the Bush campaign had knowledge that such an advertisement was to be aired by NSPAC, or the projected or actual schedule or distribution plan for the advertisement.

12. I am familiar with the statement in an article attached to the Complaint in this Matter that Jesse Raiford is currently listed in an independent Guide as a "contact person" for Ailes Communications. Such a listing is inaccurate and reflects information now several years out of date. Neither Larry McCarthy nor Jesse Raiford have returned to ACI in any capacity following the 1988 elections.

Roger Ailes

Roger Ailes

22040381140

New York City

New York

Subscribed to and sworn before me this 1 day of August, 1990.

NANCY L. KAISER
NOTARY PUBLIC, STATE OF NEW YORK
No. 4907088
QUALIFIED IN NASSAU COUNTY
COMMISSION EXPIRES SEPTEMBER 14, 1991

Nancy L. Kaiser

Notary Public

My Commission Expires: September 14, 1991

Bush 88 Quayle

(2)

September 27, 1988

Ms. Elizabeth Fediay
National Security Political
Action Committee
3200 Morrison Street, N.W.
#420
Washington, D.C. 20015

Dear Ms. Fediay:

This responds to your letter of September 8, 1988.

You have expressed an interest in my "wishes" regarding the activities of National Security Political Action Committee. You further suggest that "senior advisors" such as myself "have remained silent" on this subject. I don't believe that is accurate.

On May 4, 1988, Mr. Jan W. Baran, General Counsel and a member of the senior staff of this campaign, wrote to you and conveyed the disapproval of the Vice President of NSPAC's activities, particularly with respect to a fundraising project which you call "Americans for Bush." Mr. Baran also stated the following:

> The Vice President has asked me to tell you that he does not endorse nor approve of your activities. The Vice President requests that you and NSPAC immediately cease using his name, the name "Americans for Bush," and any other name that suggests his association with you or NSPAC.

According to published reports and continuing complaints to this campaign from supporters of the Vice President, you have not consented to the Vice President's request. I and all of us at the campaign concur with the Vice President's sentiments and renew his request that you cease using his name, the name "Americans for Bush" and any other name that suggests his or this campaign's association with you or NSPAC.

733 15th Street, N.W. Suite 800 Washington, D.C. 20005 202/842-1988

Paid for by Bush-Quayle '88

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In light of the fact that this campaign has filed a formal complaint against NSPAC with the Federal Election Commission, please direct any future correspondence or inquiries to the Legal Department of Bush-Quayle 88, Inc.

Sincerely,

James A. Baker III

cc: Jan W. Baran, Esquire

22040384142

Bush & Quayle 88

(3)

October 25, 1988

Ms. Sandra Baron, General Counsel
NBC Television
Rockefeller Center
Room 1022
New York, New York 10112

Dear Ms. Baron:

This letter is on behalf of Bush-Quayle 88, the only campaign committee authorized by Vice President George Bush and Senator Dan Quayle. The purpose of this letter is to advise your network news department that certain television advertisements occasionally attributed to the Bush-Quayle campaign are in fact not authorized, paid for or approved by Bush-Quayle 88.

According to news accounts, a television advertisement has been broadcast which displays a black and white photograph of Willie Horton. A notice at the end of the spot states that it is paid for by National Security Political Action Committee ("NSPAC"). NSPAC is an independent committee not authorized by or associated with Bush-Quayle 88. NSPAC has operated over our objections under the name "Americans for Bush." For your information, the Vice President neither endorses nor approves of NSPAC's activities. Enclosed please find a copy of a letter from James A. Baker III (September 27, 1988) to NSPAC's Chairman which conveyed the Vice President's sentiments.

For your additional information, please be advised that Bush-Quayle 88 has never produced any television spot which displays a photograph or image of Willie Horton. Indeed the campaign has never mentioned the name of Willie Horton in any of its spots.

I trust that this information will be of value to your news organization in light of recent public charges and statements made in connection with the presidential election campaign.

Sincerely,

Jan W. Baran
General Counsel

Enclosure
cc: News Director

2204088143

Bush & Quayle

October 25, 1988

Mr. George Vradenburg
Vice President and General Counsel
CBS Inc.
51 West 52nd Street
New York, New York 10019

Dear Mr. Vradenburg:

This letter is on behalf of Bush-Quayle 88, the only campaign committee authorized by Vice President George Bush and Senator Dan Quayle. The purpose of this letter is to advise your network news department that certain television advertisements occasionally attributed to the Bush-Quayle campaign are in fact not authorized, paid for or approved by Bush-Quayle 88.

According to news accounts, a television advertisement has been broadcast which displays a black and white photograph of Willie Horton. A notice at the end of the spot states that it is paid for by National Security Political Action Committee ("NSPAC"). NSPAC is an independent committee not authorized by or associated with Bush-Quayle 88. NSPAC has operated over our objections under the name "Americans for Bush." For your information, the Vice President neither endorses nor approves of NSPAC's activities. Enclosed please find a copy of a letter from James A. Baker III (September 27, 1988) to NSPAC's Chairman which conveyed the Vice President's sentiments.

For your additional information, please be advised that Bush-Quayle 88 has never produced any television spot which displays a photograph or image of Willie Horton. Indeed the campaign has never mentioned the name of Willie Horton in any of its spots.

I trust that this information will be of value to your news organization in light of recent public charges and statements made in connection with the presidential election campaign.

Sincerely,

Jan W. Baran
General Counsel

Enclosure
cc: News Director

9204088414

Bush Quayle

October 25, 1988

Mr. Stephen Weiswasser
Senior Vice President
and General Counsel
ABC
1330 Avenue of the Americas
New York, New York 10019

Dear Mr. Weiswasser:

This letter is on behalf of Bush-Quayle 88, the only campaign committee authorized by Vice President George Bush and Senator Dan Quayle. The purpose of this letter is to advise your network news department that certain television advertisements occasionally attributed to the Bush-Quayle campaign are in fact not authorized, paid for or approved by Bush-Quayle 88.

According to news accounts, a television advertisement has been broadcast which displays a black and white photograph of Willie Horton. A notice at the end of the spot states that it is paid for by National Security Political Action Committee ("NSPAC"). NSPAC is an independent committee not authorized by or associated with Bush-Quayle 88. NSPAC has operated over our objections under the name "Americans for Bush." For your information, the Vice President neither endorses nor approves of NSPAC's activities. Enclosed please find a copy of a letter from James A. Baker III (September 27, 1988) to NSPAC's Chairman which conveyed the Vice President's sentiments.

For your additional information, please be advised that Bush-Quayle 88 has never produced any television spot which displays a photograph or image of Willie Horton. Indeed the campaign has never mentioned the name of Willie Horton in any of its spots.

I trust that this information will be of value to your news organization in light of recent public charges and statements made in connection with the presidential election campaign.

Sincerely,

Jan W. Baran
General Counsel

Enclosure
cc: News Director

9204084145

Bush & Quayle

October 25, 1988

Mr. Steve Korn
General Counsel
CNN
1 CNN Center
P.O. Box 105366
Atlanta, Georgia 30348-5366

Dear Mr. Korn:

This letter is on behalf of Bush-Quayle 88, the only campaign committee authorized by Vice President George Bush and Senator Dan Quayle. The purpose of this letter is to advise your network news department that certain television advertisements occasionally attributed to the Bush-Quayle campaign are in fact not authorized, paid for or approved by Bush-Quayle 88.

According to news accounts, a television advertisement has been broadcast which displays a black and white photograph of Willie Horton. A notice at the end of the spot states that it is paid for by National Security Political Action Committee ("NSPAC"). NSPAC is an independent committee not authorized by or associated with Bush-Quayle 88. NSPAC has operated over our objections under the name "Americans for Bush." For your information, the Vice President neither endorses nor approves of NSPAC's activities. Enclosed please find a copy of a letter from James A. Baker III (September 27, 1988) to NSPAC's Chairman which conveyed the Vice President's sentiments.

For your additional information, please be advised that Bush-Quayle 88 has never produced any television spot which displays a photograph or image of Willie Horton. Indeed the campaign has never mentioned the name of Willie Horton in any of its spots.

I trust that this information will be of value to your news organization in light of recent public charges and statements made in connection with the presidential election campaign.

Sincerely,

Jan W. Baran
General Counsel

Enclosure
cc: News Director

Tax Form Street, N.W. Suite 800 Washington D.C. 20005 202/872-1988

Paid for by Bush-Quayle '88

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BEFORE THE ELECTION COMMISSION

MUR 3069

AFFIDAVIT OF ROBERT T. BENNETT

(4)

ROBERT T. BENNETT, being first duly sworn, deposes and says:

1. I am ROBERT T. BENNETT, Chairman of the Ohio Republican Party, a position I have held since February, 1988.

2. I am familiar with a newspaper article from the Cleveland Plain Dealer dated November 3, 1988 which was enclosed in the Complaint in MUR 3069. This article refers to a campaign mailer which included a picture of Willie Horton, the murderer and rapist furloughed by Massachusetts. This mailer was paid for by the Ohio Republican Party.

3. I have never had any contact with a group known as National Security Political Action Committee, (NSPAC), or with a group known as Americans for Bush, nor to my knowledge with any agent of either group. I have no knowledge of any coordination between the Bush-Quayle campaign or its agents and either Americans for Bush or NSPAC or their agents.

4. To my knowledge, there is no connection whatsoever between the mailer paid for by the Ohio Republican Party which was the subject of the November 3, 1988 Cleveland Plain Dealer article and any television advertisements which may have been produced as an independent expenditure by Americans for Bush or by NSPAC.

Robert T. Bennett

Franklin County)
)
State of Ohio) Columbus, Ohio

Subscribed to and sworn before me this 25th day of July, 1990.

Notary Public

My Commission Expires: May 1, 1995

BOBBI J. CRABTREE
NOTARY PUBLIC, STATE OF OHIO
MY COMMISSION EXPIRES MAY 1, 1995

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OGC 7372

LAW OFFICES
WUNDER, RYAN, CANNON & THELEN
1615 L STREET, N.W., SUITE 650
WASHINGTON, D. C. 20036
(202) 659-3005
FACSIMILE: (202) 659-3010

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

90 AUG 10 AM 10:48

HAND DELIVERED

August 10, 1990

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 AUG 10 PM 2:43

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

Re: James M. Ruvolo v. National Security PAC,
Bush-Quayle 88, et al. (MUR 3069)
NSPAC and Larry McCarthy Response

Dear Mr. Noble:

Enclosed please find the NSPAC and Larry McCarthy Response in the above-referenced matter before The Federal Election Commission.

Would you please date stamp and return one copy of the Response for our records.

Sincerely,

Paul Sullivan

Paul E. Sullivan

cc: Elizabeth I. Fediay
Chairman Elliott
Vice-Chairman McGarry
Commissioner Aikens
Commissioner Josefiak
Commissioner McDonald
Commissioner Thomas

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BEFORE THE FEDERAL ELECTION COMMISSION

MUR 3069

James M. Ruvolo	)	**NSPAC and**
	)	
v.	)	**Larry McCarthy Response**
	)	
National Security PAC,	)	
Bush-Quayle 88, et al.	)	

I.

INTRODUCTION

Pursuant to 2 U.S.C. § 437(g)(a)(1), National Security PAC ("NSPAC"), Elizabeth I. Fediay, as Treasurer, and Larry McCarthy (collectively, "Respondents"), submit this answer to the complaint filed by James M. Ruvolo ("Ruvolo").

The complaint is based exclusively upon two articles: (1) the November 3, 1988 edition of The Plain Dealer ("Dealer Article") and (2) a more recent article appearing in the May 28, 1990 issue of The New Republic entitled "The Making Of Willie Horton" by Martin Schram and a corresponding article in the same publication entitled "Roger and He" written by Joe Conason. ("New Republic Articles"). The complainant points to these articles as support for his contention that there was coordination, consultation, or otherwise cooperation in the activities between NSPAC and the Bush/Quayle campaign. As it applies to the Respondents, the complainant points to these aforementioned articles to support the contention that Mr. McCarthy and Mr. James T. Raiford had a business relationship with Mr. Roger Ailes who, in 1988 was the chief media consultant for Bush/Quayle '88 so as to taint the independent expenditure status of the Horton furlough

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commercial which was produced and aired by NSPAC.

Perhaps the best summary of the Respondents answer to these allegations is found in a classic West Texas saying, "Big hat, no cattle". The issue involved here, namely the "Willie Horton" furlough advertisement, is one which drew much attention, criticism, and was the source of contention between the two presidential campaigns and NSPAC. Secondly, the mere fact that the Horton spot was produced in the context of a independent expenditure, placed it in an even more controversial environment.

Respondents submit that, putting aside the controversy, politics, and focusing merely on the facts, this is an allegation of much political rhetoric and no substance. From the case presented below, it is clearly evident that there was absolutely no coordination, consultation or communication, either between the Bush-Quayle and NSPAC committees, or amongst either committee's vendors or consultants on any matters, let alone this particular advertisement at issue.

Respondents would also submit that, notwithstanding the controversy surrounding the concepts of independent expenditures which have surfaced recently in the federal campaign finance arena, this is a case in which the facts overwhelming support the Respondent's contention and thus, it should be dismissed without a finding of "reason to believe." The Respondents are sensitive to the Commission's need to be certain that there was no coordination relative to such a controversial issue and amongst rather controversial political committees. To that end, the Respondents have taken the extra step of providing direct

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testimony from all participants with whom NSPAC had direct control in order that no legitimate issues are left unanswered in the proceeding at this stage.[1] The Respondents contend that with the evidence presented herein, there is absolutely no reasonable basis upon which to make a reason to believe finding and hereby seek a finding of no reason to believe and dismissal of this matter.

II.

FACTUAL SUMMARY

The Ruvolo complaint is based upon a May 25, 1990 letter sent to the Commission by Mr. James M. Ruvolo, Chairman of the Ohio Democratic Party. Mr. Ruvolo's letter itself makes no factual submission to the Commission upon which to argue that there was coordination between Bush-Quayle '88 and NSPAC relative to the Horton commercial. The factual basis upon which Mr. Ruvolo submits this complaint is contained in the Plain Dealer article and the New Republic articles, both of which were attached to and incorporated as part of the complaint.

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[1] *See attached affidavits at Exhibit "A", of Elizabeth Fediay (Fed. Aff.); Larry McCarthy (McC. Aff.); Craig Shirley (Sh. Aff.); Floyd Brown (Br. Aff.); Anthony Fabrizio (Fab. Aff.).*

Based on those articles, Mr. Ruvolo contends that, "...the two people responsible for preparing the ads for Americans for Bush[2] - the person who made them, Larry McCarthy, and the person who filmed them, Jesse T. Raiford - either worked for Roger Ailes, the chief media advisor for Bush-Quayle '88, at the time they made the ads or had quit only shortly before".[3] Mr. Ruvolo claims that, based on that allegation and apparently only on that allegation, that statement gives rise to the presumption pursuant to 11 CFR 109.1(b)(4)(i)(A) that the Horton ad was aired by NSPAC with the prior arrangement, coordination or direction of Ailes and other agents of the Bush-Quayle '88 committee. However, such was not the case as will be demonstrated below.

For purposes of sifting through the political rhetoric of the Plain Dealer article and the New Republic articles, a relevant factual summary of the two articles is set forth below.

A. Plain Dealer Article:

This Plain Dealer article makes no reference to Mr. McCarthy, NSPAC nor even the Horton furlough commercial which was produced by NSPAC. The issues involved in this article references the campaign material published by the Ohio Republican Party in 1988. That material allegedly consisted of fliers with a picture of Horton, with a phrase underneath the picture stating, "Michael Dukakis has said he will do for America what he

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2 *"Americans for Bush" was the name of the "project" through which NSPAC conducted its independent expenditure.*

3 *See Ruvolo complaint, May 25, 1990 letter, at page 1.*

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has done for Massachusetts. Meet Willie Horton."

The article also makes passing reference to a similar piece of literature allegedly published by the Maryland Republican Party featuring a photo of Horton and Mr. Dukakis with the phrase, "Is this your pro-family team for 1988?"

Clearly there is no reference to NSPAC, Mr. McCarthy nor to anyone affiliated with NSPAC. The Plain Dealer article provides no facts or allegations regarding NSPAC let alone of any wrong doing by Respondents, thus it is irrelevant to the issues of this response.

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B. New Republic Article:

The principle thrust of the New Republic article centers on what it classifies as the "con" which McCarthy allegedly executed relative to getting the "Horton furlough" spot on the air and subsequently getting the free media news coverage to broadcast the spot as a portion of its news coverage. The issue of how Mr. McCarthy got news shows to air the Horton commercial is not relevant to any Federal Election Campaign Act (FECA) issue. The only FECA item in the articles relevant to the complaint appears to be the fact that Larry McCarthy had previously worked for Ailes Communication, Inc. (ACI).

As will be discussed below, Mr. McCarthy had terminated all employment with ACI approximately one and one-half years prior and all contract work nine months prior to the airing of the NSPAC Horton spot. In addition, the single phone call referenced in the article was concluded immediately upon Mr. McCarthy's statement to Mr. Ailes that he

was then a consultant to NSPAC. But for these two items in the article, there are no factual statements which implicate any activity which would taint the independent expenditure in question.

In the accompanying article, "Roger and He," Mr. Conason does make an inaccurate, though relevant statement. He indicated that Mr. Jesse Raiford actually "filmed" the Horton commercial. This was not correct. Mr. McCarthy was the only person who actually produced the spot. The commercial consisted only of graphics and voice-overs and therefore there was no "filming" necessary. Mr. Raiford's duties consisted of technical support in locating necessary facilities and conducting accounting procedures necessary for the business transactions involved in the production. (McC. Aff., at ¶8 and ¶10).

C. NSPAC Organization and Personnel:

NSPAC is a federal multi-candidate political committee registered with the Federal Election Commission and which conducted a substantial amount of independent expenditure activity during 1988 on behalf of George Bush for President. The Chairman and Treasurer of NSPAC is, Elizabeth I. Fediay, and she had the exclusive authority to hire personnel and consultants for NSPAC. Other than herself, there were only three other NSPAC employees all who served as secretaries to Ms. Fediay during 1988; John Dutton from June 15 through July 31, 1988; Eileen McNulty, from September 1 through January 31, 1989, and Darlene Dove, August 1 through December 1989. All served solely in an administrative capacity and none were in any type of decision making or strategic planning role in NSPAC activities or

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specifically the Horton spot. (Fed. Aff. ¶3)

The principle NSPAC independent expenditure activity during 1988 consisted of direct mail to individuals promoting the Bush for President candidacy. In May, it appeared to Ms. Fediay that the fundraising efforts of NSPAC would enable the committee to conduct a media program. At that point in time, Mr. Floyd Brown was retained as a political consultant to advise on issues and strategy for NSPAC. (Fed. Aff. ¶4)(Br. Aff. ¶2)

In June of 1988, Mr. Anthony Fabrizio, President of Multi-Media was retained by NSPAC on a consulting basis for purposes of planning and strategizing necessary media time buys. (Fab. Aff. ¶2) In June, Larry McCarthy was retained to provide media consulting advice and produce the TV spots which were anticipated to be aired by NSPAC. (McC. Aff. ¶4) In late August, Craig Shirley, volunteered and later was retained by NSPAC for purposes providing advice on public relations and political strategy. (Sh. Aff. ¶2)(Fed. Aff. ¶5). In each case, prior to retaining any of the aforementioned consultants, Ms. Fediay informed each that they were being retained for purposes of conducting an independent expenditure program to promote George Bush for President. She inquired as to whether they were familiar with the FECA requirements for such a program, and received their respective assurances. (Fed. Aff. ¶6) She then received an oral agreement from each one that they or their agents/employees were not presently nor had they previously had any contact, communication or coordination with the Bush campaign. Furthermore, each consultant and Ms. Fediay has stated they had no contact, communication or coordination

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with the Bush campaign about the Horton spot or about any activity or strategy for NSPAC or the Bush campaign. (McC. Aff. ¶4, Br. Aff. ¶3, Sh. Aff. ¶3, Fab. Aff. ¶3)

D. Planning and Production of the "Horton Furlough" Spot.

The 1988 story involving Willie Horton was one which received extensive publicity during the preceding year. The case, of which I am certain the Commission is well aware, occurred April 3, 1987 when Mr. Horton an escapee from a furlough, brutally assaulted Angela Miller and her fiancee Clifford Barnes in their Maryland residence.

Respondents submit that the issue of Willie Horton was one which had received nationwide attention in the 18 months preceding the airing of the NSPAC spots. Susan Frost a reporter with the Lawrence Eagle Tribune in Massachusetts commenced an investigative report in April 1987 into the entire episode involving Horton and the collateral issue of how a convicted murderer was able to be placed on furlough and subsequently escape. The Tribune ran in excess of 175 articles about the episode. Susan Frost and the newspaper were awarded a Pulitzer prize for the series.[4] In addition, the July 1988 issue of the Reader's Digest included a detailed article on the Willie Horton story, a true and complete copy of which is attached to the affidavit of Larry McCarthy.

[4] *Germond, Jack and Jules Witcover, Whose Broad Stripes and Bright Stars?, Warner Books, Inc. 1989, at page 12.*

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The furlough policy in Massachusetts when Mr. Dukakis was Governor, was raised and criticized by Senator Albert Gore during the New York Democratic primary in April 1988.[5] In addition, by the time of the Illinois Republican Convention in Springfield in mid-June 1988, Mr. Bush was specifically referring to the Willie Horton case in attacking the policies of Mr. Dukakis relative to the furlough program.[6] To emphasize the notoriety which the Willie Horton case received nationwide prior to August 1988, a Nexis print out of the stories relative to Willie Horton between January 1, 1986 and July 1, 1988 has been attached hereto at Exhibit "B". This clearly evidences that the issue was one which received wide press throughout the country and certainly was not a discrete issue.

On August 24, 1988, Messrs. McCarthy, Shirley, Fabrizio, Brown and Ms. Fediay met for purposes of planning the next segment of the NSPAC media campaign. This was media anticipated to be aired in September and October 1988. At that meeting, numerous issues were addressed as potential themes for the media spot, including crime, defense, and the American flag. All were identified as acceptable potential themes for the September-October media program. (Fed. Aff. 8; McC. Aff. 6; Fab. Aff. ¶4 & 5; Sh. Aff. ¶4 & 5; Br. Aff. ¶4 & 5)

During the discussion involving potential issues on crime, the issue arose about the furlough program in Massachusetts during the tenure of Governor Dukakis and specifically the story which had been extensively reported about Horton.

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5 *Ibid., p. 157*

6 *Ibid., p. 162.*

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At the conclusion of the August 24, 1988 meeting, it was decided that Mr. McCarthy would draft scripts for several different themes for potential media spots and deliver them back to the group for review. One of the spots to be drafted was to involve Willie Horton and the furlough issue. (McC. Aff. ¶7, Fed. Aff. ¶9). In subsequent telephone conversations amongst the group, the decision was made to proceed with the crime issues theme.

Two crime spots were produced based on the August 24 meeting. The spot at issue in this matter, the Horton furlough "spot" aired between September 21 and October 4, 1988 on cable television. The first crime spot aired commencing September 6 through September 20, 1988. (McC. Aff. ¶8)

Larry McCarthy conducted the production of the spot on his own. He retained the services of Raiford Communications, Inc. and specifically its president Jesse Raiford for purposes of providing technical support and post-production assistance. Mr. Raiford's purpose was solely to provide technical support in the sense of locating a filming studio, accounting services, etc. (McC. Aff. ¶10). Prior to retaining the services of Mr. Raiford, Mr. McCarthy inquired into whether he or anyone working for him had any communications or activities with the Bush campaign which would prohibit him from being employed by committee conducting independent expenditures on behalf of the Bush Campaign. Mr. Raiford indicated that he understood the context of an independent expenditure and that

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there were no such contacts or communications that would preclude him from lawfully undertaking the independent expenditure contract. (McC. Aff. ¶11)

The production of the spots occurred on September 2, 1988. On the following day, Mr. McCarthy, upon reviewing the Horton furlough spot discovered a potential discrepancy in one of the factual statements contained in the ad. Upon reviewing the necessary research, and consulting with Ms. Fediay, he elected to correct the spot. On Monday, September 5, 1988 he went back to the studio to make the necessary corrections and incorporate the factual corrections. The two crime spots were then forwarded to the various cable stations on September 5, 1988. (McC. Aff. ¶8)

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III.

ARGUMENTS

A. The factual allegations on their face are insufficient to even raise a presumption that the independent expenditure was in any fashion tainted under the FECA regulations.

The issue in this MUR will be resolved by directly applying the standards of the FEC regulations to the facts. It will not mandate an indepth analysis nor a review of the Commission's positions in advisory opinions or past cases. For the facts on the face of the allegation fail to even raise a situation in which a presumption, though it be a rebuttable presumption, is supported in any fashion which would require any further inquiry into the issue.

The FEC regulations define an independent expenditure as:

> **...an expenditure by a person for a communication expressly advocating the election or defeat of a clearly identified candidate which is not made with the cooperation or with the prior consent, of or in consultation with, or at the request or suggestion of, a candidate or any agent or authorized committee of such candidate. (11 CFR 109.1(a))**

Though Ruvolo failed to even submit a copy of the Horton advertisement in question, or a verified text of its language, the Respondents will stipulate the "Horton furlough" spot was a communication expressly advocating the election of George Bush. Thus, the only remaining issue is whether it was, "made with the cooperation, or with the prior consent or in consultation with the candidate or any agent or authorized committee of the candidate." The regulations state that this phrase is interpreted to mean,

> Any arrangement, coordination, or direction by the candidate or his or her agent prior to the publication, distribution, display, or broadcast of the communication. 11 C.F.R. 109.1(b)(4)(i)

At this point, the regulation speaks in terms of the "presumption". It states that an expenditure will be presumed to have been made with the arrangement, coordination or direction of the candidate, etc. when it is,

A. Based on information about the candidate's plans, projects, or needs provided to the expending person by the candidate, or by the candidate's agents, with a view toward having an expenditure made;

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) (A) and (B)

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Applying the facts at hand to paragraph B above first, it is clear from the NSPAC monthly disclosure reports, that there were no NSPAC expenditures made to or by any person who was also an agent or an officer of the Bush for President Committee, nor were there any payments by any of its agents to NSPAC's agents. Similarly, there is no accusation pending in the complaint nor in fact did a case occur, in which the Bush Committee or any of its agents made payments to NSPAC.

The single matter present in the complaint is that Larry McCarthy and Jesse Raiford in 1988 were then, or at some previous time, employed by Mr. Ailes or ACI. There was no allegation that Mr. McCarthy nor Mr. Raiford worked for ACI at the time they were also under contract with NSPAC. Despite the fact it was not even alleged, the fact is, neither Mr. McCarthy nor Raiford had such simultaneous employment. (McC. Aff. ¶1 and 11) Unlike MUR 2766, The Auto Dealers case, there is not presented here the factual case or even the issue of a common vendor. Secondly, the mere fact that both had previously been employed by ACI, does not allege any per se impropriety relative to either of them subsequently conducting an independent effort. At the time of Mr. McCarthy's and Mr. Raiford's employment with ACI, neither ACI nor Mr. Ailes were employed by the Bush committee.

With regard to paragraph A above of the regulations, the presumption is also not triggered by the facts alleged. The complaint fails to allege, let alone proffer any evidence, that the Horton furlough spot was made based on information received from the Bush Committee's plans, projects or needs either directly or indirectly.

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The Respondents contend that the New Republic article proffered no basis upon which to allege that there was any type of coordination between the two committees or their respective agents based on information, plans, or the strategy of the campaign. The only factor to be raised in the New Republic article which is relevant to the discussion of a FECA complaint is the relationship which Mr. McCarthy had previously maintained with Mr. Roger Ailes and with ACI.

Based on that employment relationship which had terminated approximately one and one half years prior to the making of the Horton furlough commercial (McC. Aff. ¶1), the complainant requested the Commission to imply that there was communication and coordination between Mr. Ailes and Mr. McCarthy relative to the Horton spot. No basis whatsoever is proffered for this by Mr. Ruvolo.

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Due to the fact that Mr. McCarthy and the other NSPAC consultants and employees were in fact not employed, nor under contract with the Bush-Quayle '88 Committee, Roger Ailes or ACI nor any other known agent of the Bush-Quayle '88 Committee, than absent a more specific allegation there is no legitimate basis upon which to allege coordination had occurred.

The complainant requested that the Commission commence what amounts to a "fishing expedition" based merely upon past employment relationships in an attempt to discover whether or not there was any type of coordination or communication relative to

the Horton spot. The Commission should demand that in order to move any further with the complaint that the complainant provide specific information. No such information, however is available because none exists.

Thus, the complaint itself fails to even establish a basis upon which to trigger the presumption. Based on that fact, the complaint should be dismissed on its face.

B. Notwithstanding the presumption, Respondents have tendered overwhelming evidence that no coordination, communication or consultation occurred with respect to the Horton furlough spot, nor with respect to any portion of the Bush Campaign.

In an attempt to completely respond to any potential questions which the Commission may have regarding this matter, the Respondents have taken the extraordinary effort of speaking with each of the consultants who were involved with the Horton furlough spot. NSPAC has submitted herein to the Commission, affidavits indicating that no activities were undertaken in regard to the Horton furlough spot, nor for that matter, in regard to any activity undertaken by NSPAC, based upon any communication, coordination or consultation with the Bush-Quayle Committee, as defined by the FECA and accompanying regulations.

The Respondents have submitted this testimony in order to provide the Commission with all information relative to the Horton spot and to demonstrate that there is absolutely no basis upon which to move to a reason to believe stage and an investigation.

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It is clear from the matters contained in the factual summary herein, that the issue of Willie Horton and the furlough program of Michael Dukakis was an issue of wide spread controversy and one which was well known amongst the general public by the time the decision was made by NSPAC to center one of their crime theme media spots on the Horton furlough issue.

The facts show that the Lawrence- Eagle Tribune, had run an extensive number of articles relative to Willie Horton and the furlough program. A copy of the August 16, 1987 article by the Tribune is attached hereto as Exhibit "C" as an example of the type of articles written. In addition, the Reader's Digest article, delivered to literally millions of people appeared in the July 1988 edition. In the book entitled, Who's Broad Stripes and Bright Stars, an historical look at the 1988 presidential campaign by Germond and Witcover,[7] there is an antidote which describes that during a motorcycle riders convention at the Luray Motor Inn in Virginia, a woman "biker" was overheard talking about the Horton article in the Reader's Digest and expressed how horrible it was that Horton was able to even be out on furlough.[8] Clearly, the Horton issue was not one known only to the sophisticated research efforts of the Bush campaign.

It is obvious that given the amount of publicity and the public airing of the issue, it did not require a covert political message to be issued by the Bush-Quayle '88 Committee

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[7] *See FN 4 infra.*

[8] *Germond, pp.163-4*

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for any political operative to realize that this was a very hot political issue which should be capitalized upon for the benefit of the Bush campaign.

The strategy session in which the Horton furlough spot was initially discussed, involved only Ms. Fediay, Mr. McCarthy, Mr. Fabrizzio, Mr. Brown, and Mr. Shirley. (Fed. Aff. ¶8, Fab. Aff. ¶4) Each of those people made their profession in the area of political consulting. Mr. McCarthy, for example had been the media consultant for the Dole for President campaign. (McC. Aff. ¶2) Amongst this group of people, the issues involving the Horton furlough were well known. Such knowledge did not require the instigation of the Bush campaign or any of its agents. In addition, each of those individuals, merely based on their political background could assess the political benefits which could be realized from this particular issue. Again, this is not an issue which required the instigation, the advise or communication of the Bush campaign. Most any political consultant, whether Democrat or Republican, would have recognized the impact which such an issue would bring to the campaign, and in fact did. (Fed. Aff. ¶8; McC. Aff. ¶6)

To imply or to state outright that NSPAC required the guidance of the Bush campaign, Roger Ailes or any of their agents, completely avoids the pure facts of the situation; the Horton issue was already being widely discussed in the public arena and by the time that the NSPAC-Horton spot was made in the beginning of September, the issue was familiar, not only to political committees and consultants but to the general public.

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To be direct and succinct, the decision by NSPAC to specifically utilize the Horton furlough issue as one of the crime spots, was made only as the result of the August 24, 1988 meeting with no input or coordination from the Bush campaign or its agents. There was in fact no coordination, communication, or consultation by any NSPAC employees, or Messrs. Brown, Shirley, Fabrizio, McCarthy or Ms. Fediay with the Bush campaign nor any of its agents, including but not limited to, Mr. Ailes or ACI regarding the decision to use the Horton furlough issue or in the production or airing of the spot. (See Fed. Aff. ¶10, McC. Aff. ¶7, Sh. Aff. ¶6, Br. Aff. ¶6, Fab. Aff. ¶6). You will note that, the affidavit secured from each of those individuals attending and participating in that meeting are not limited solely to the issue of the production of the Horton furlough spot, but are blanket denials that at any time were there any communications or consultations with the Bush campaign or with any of its agents on any matters relative to the campaign. (Fed. Aff. ¶13, McC. Aff. ¶12, Br. Aff. ¶7, Sh. Aff. ¶7, Fab. Aff. ¶7)

This testimony greatly exceeds the evidence required to overcome the presumption that there was coordination amongst the two committees based on any type of past, or 1988 contemporary, relationships of McCarthy and Ailes, ACI or its agents about the discussion of issues or strategy. This testimony eliminates any legitimate question whatsoever, regarding coordination between the two committees or their agents.

The only caveat expressed to the general denials above involved Mr. McCarthy and is detailed in his affidavit. The New Republic article references only one contact between Mr. Ailes and Mr. McCarthy of any relevance whatsoever. In June of 1988, Mr. Ailes

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apparently contacted Mr. McCarthy when he learned that Mr. McCarthy had accepted a contract with NSPAC as a media consultant. Mr. Ailes apparently stated that it was regretful that Mr. McCarthy had accepted such a position with NSPAC because he was considering subcontracting with Mr. McCarthy to produce some media spots on behalf of the Bush campaign directly. Mr. McCarthy's affidavit clearly states that was all that was said prior to Mr. McCarthy terminating the conversation. He indicated that he was prohibited from discussing the issue with Mr. Ailes due to the contractual relationship with NSPAC and the fact that NSPAC was conducting independent expenditures. (McC. Aff. ¶5) Thus, the affidavit of Mr. McCarthy counters any of the inferences in the Ruvolo complaint and eliminates the need for further inquiries by the Commission relative to any type of coordination or consultation between Mr. McCarthy, and the Bush committee, ACI or any of their agents.

Each of the aforementioned consultants involved with NSPAC and specifically in the Horton furlough advertisement spot, are experienced political professionals who appreciate the independent expenditure requirements of the FECA. Each was apprised of the fact that NSPAC would be conducting independent expenditures and each provided statements as a condition of employment that they had not had previous contacts with the Bush campaign, nor would they in the future during their tenure with NSPAC. (See: Fed. Aff. ¶6 & 7; Br. Aff. ¶3; McC. Aff. ¶4; Sh. Aff. ¶3; Fab. Aff. ¶3) Each of these individuals have submitted an affidavit attesting to the fact that they did not have contact or communication with Bush-Quayle '88 or its agents relative to the Horton furlough spot, and they have taken the extra step of assuring the Commission that they had no such

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coordination or consultation with the Bush campaign or any of its agents at any time relative to the presidential campaign, its strategy, or the like.

A last point which should be brought to the Commission's attention is that there was a relatively short window of time between the August 24, 1988 meeting at which time the decision was made to produce the Horton spots and the production and forwarding of the spots to the cable television stations on September 6, 1988. However, the affidavits clearly indicate that there was no communication with the Bush campaign or any of its agents prior to the time the spots were made, during their production or their airing, or thereafter.

In summary, NSPAC has taken the extra ordinary step to tender overwhelming evidence to indicate that contrary to public perceptions and second-guessing by political pundits, press, and the like, the NSPAC Horton furlough spot was planned by a NSPAC group at the August 24, 1988 meeting , it was produced exclusively by Mr. McCarthy, and at no time during the term of their respective tenures with NSPAC did any of those individuals have any contact, coordination, or consultation with the Bush campaign or its agents. The only thing which remains of the complaint is, a lot of tall hats - but no cattle.

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CONCLUSION

Based upon the facts set out above and the legal arguments contained herein, the Respondents respectfully request that the Commission make a finding of No Reason to Believe and close this file.

Respectfully submitted,
Wunder, Ryan, Cannon & Thelen

by Paul E. Sullivan, Counsel
for NSPAC
Elizabeth I. Fediay
Treasurer
and Larry McCarthy

cc: Chairman Elliott
Vice-Chairman McGarry
Commissioner Aikens
Commissioner Josefiak
Commissioner McDonald
Commissioner Thomas

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EXHIBIT "A"

BEFORE THE FEDERAL ELECTION COMMISSION

AFFIDAVIT

OF

LARRY McCARTHY

MUR 3069

Having been duly sworn and under penalty of perjury, the affiant declares as follows:

1. **I am Larry McCarthy and I have personal knowledge of the matters set forth below herein. I have reviewed the complaint filed in MUR 3069 by Mr. James Ruvolo. I am by profession, a media consultant, which includes the planning, scripting, and producing of media advertisement for both commercial and political accounts. Since January of 1987, I have conducted my business as a sole proprietor. Prior to that time, I was employed by the media relations firm of Ailes Communications Inc. (ACI). Subsequent to my departure from ACI, I conducted projects on a contractual basis with ACI. However, such relationships were terminated in December of 1987. Since that time, I have not been retained by nor have I retained by ACI nor any of its employees.**

2. In December of 1987, I was retained the Dole for President Committee as a media consultant and produced media for the Dole Committee. At that time, Roger Ailes and ACI were acting as the media consultant for the Bush for President Committee. Given the competing roles which Mr. Ailes and I

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played with the respective presidential campaigns, there were no reasons nor was there in fact, any contact between myself and Mr. Ailes nor anyone at ACI regarding any matters pertaining to the Bush campaign, the Dole campaign, nor any political matters whatsoever.

3. There were several contacts between Mr. Ailes and myself but none of which included a discussion of the Bush campaign or the NSPAC media program. But for one instance, from the time of January 1988 through November 1988, the only contact I had with Mr. Ailes was of a passing social nature; for example, running into one another in restaurants or at airports. At no time during these brief encounters did we ever discuss anything relative to the Bush presidential campaign, NSPAC or political matters. The only other encounter I had with Mr. Ailes, was in late October of 1988 when I interviewed him on behalf of Gannett Journal. At that time, nothing was discussed relative to NSPAC nor any of the media spots which I produced for NSPAC, nor any of the ACI or the Bush for President activities anticipated for the balance of the election 1988 cycle.

4. In June of 1988 I was retained by NSPAC as a media consultant. Ms. Fediay, as Chairman of NSPAC informed me at the time that I was retained, that NSPAC was conducting an "independent expenditure" for the benefit of George Bush. I had knowledge and an appreciation for the term "independent expenditure" as used in the context of the FECA. I informed

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Ms. Fediay that I had no conflicts in that I was not then, nor had I previously been retained by the Bush Committee directly or indirectly, including but not limited to Mr. Ailes or ACI. I also informed her that in the future, neither I nor any of my agents would have any contact with the Bush campaign nor any of its agents, including Mr. Ailes and ACI.

5. The single exception reference in paragraph three above, was a phone call which I received in June of 1988 from Mr. Ailes. This was the phone call referenced in the New Republic Article and made part of the Ruvolo complaint. Mr. Ailes had apparently learned that I had been retained by NSPAC to produce media advertisement on behalf of NSPAC. The conversation was rather short and to the point. Mr. Ailes had indicated that prior to learning of my relationship with NSPAC he was considering subcontracting with me to produce media spots for the Bush campaign. I informed him that I could not speak to him relative to any matters pertaining to the campaign, including media or strategy, because I was on retainer with NSPAC. At that point the conversation concluded and no other items were discussed relative to the presidential campaign or any political matters whatsoever. That was the sole extent of the conversation and the issue was never again raised with or by Mr. Ailes, ACI, the Bush campaign or any of its agents.

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6. During a NSPAC media and strategy planning session in August 1988 of which I participated, the decision was made to produce and air at least two T.V. advertisements promoting the candidacy of George Bush for President. The intent of the spots were to polarize the records between Michael Dukakis and George Bush. Discussions centered on different items, including crime, defense, and pro-American themes. As part of the discussion on issues involving crime, the record of Mr. Dukakis as Governor relative to providing furloughs was discussed. This was an issue which had been in the news media and the political marketplace for some time. Numerous articles of which I was aware had been written about the furlough program, specifically as it related to an incident involving William Horton, Jr. One such article of which I was aware, appeared in the July 1988 edition of Readers Digest, a true and complete copy of which is attached hereto as Exhibit "A". I personally considered it to be the type of issue which would dramatically emphasize the difference between Bush and Dukakis.

7. I wrote several scripts relative to furlough programs, and other crime related issues. After reviewing the proposed scripts, the decision was made by the same NSPAC strategy group to produce the furlough spot in which Mr. Horton was used as an example of the problems of furloughs in the state of Massachusetts under the governorship of Mr. Dukakis. I created the idea, wrote and produced the ad on my own and at no time did I consult, coordinate or have any dealings whatsoever with the Bush for President

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committee, any of its agents or employees, nor specifically Roger Ailes, ACI, its agents or employees. Similarly, I did not have any contacts nor consult with any other employees or agents of any other political campaign or political party whatsoever regarding the Bush campaign. The only individuals participating in the production and airing of the spot were those involved in the strategy session, Ms. Fediay, Mrrs. Brown, Shirley, Fabrizzio, myself and Mr. Jesse Raiford of Raiford Communications, Inc. At no time during the strategy session, filming or editing did I, nor did any one indicate that there had been any communication with the Bush Committee, Mr. Ailes, ACI or any of their respective employees or agents regarding the furlough issue, William Horton or any matter involving the Bush campaign strategy.

8. The furlough spot itself was not technically difficult to produce. It merely used graphics and voice-overs. Thus, I required no other assistance in the production of the spot. The spot was originally produced on September 2, 1988. On the following day, I discovered a potential discrepancy in one of the statements in the furlough "Horton" spot. On the following Monday, September 5, 1988, I went back into the studio to reshoot the spot to incorporate the factual corrections necessary as a result of the reviews made the preceding Friday. On the evening of September 5, 1988, the furlough spot and a second "crime" spot were sent to various cable T.V. stations. On Tuesday, September 6, the spot aired, and the "Horton" furlough spot aired between September 21 and October 4, 1988.

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9. At no time prior or during the production or during or after the airing of the furlough commercial, was there any contact by me with Mr. Ailes, ACI, its employees, agents or any employees', agents or the like of the Bush for President Committee, except for those specifically noted herein.

10. Mr. Raiford is the individual who I routinely used in post-production editing. His role is one of a technical support person. He was responsible for locating suitable studio facilities to conduct editing, and his company was the entity through which production bookkeeping is conducted. The fees and expenses which I incurred relative to the production of these spots were paid to Raiford Communications. Contrary to statements in the New Republic article, entitled "Roger and He," made part of the complaint, Raiford did not "film" the furlough ad. I was solely responsible for the filming and production.

11. I personally informed Mr. Raiford that this was a spot which was an "independent expenditure" for Mr. Bush and I discussed with Mr. Raiford the requirements of independent expenditures in that there could not be any consultation or coordination with Bush campaign or any of its agents. Nor could he be working in any capacity as an agent, employee, or the like for the Bush Campaign. Mr. Raiford indicated to me that he did not fulfill any of those roles and thus would be eligible to provide his normal post-production services to me for this spot. Having conducted the necessary due diligence

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relative to independent expenditures, I decided to utilize the services of Mr. Raiford.

12. In summary, contrary to the accusations in the complaint neither I nor anyone affiliated with me had any contact, consultation or communication with the Bush Committee, Roger Ailes, ACI or any of their respective agents, regarding any item or strategy including but not limited to the issue of Willie Horton or the furlough media spot reference in the complaint.

I swear under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Larry McCarthy

Executed this 1st day of August, 1990

My Commission Expires June 14, 1991

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In Massachusetts, convicted killers roamed the streets on weekend passes. Then a crusading newspaper and outraged citizens took action

Getting Away With Murder



By Robert James Bidinotto

On the night of October 26, 1974, Joey Fournier, age 17, was working alone at the Marston Street Mobil service station in Lawrence, Mass. Three men drove up, and two entered the gas station, brandishing knives and demanding money. Joey gave them $276.37 and pleaded for his life.

Minutes later, Michael Byron, one of Joey's friends, stopped by. The office floor was covered with blood. Horrified, Michael found Joey's body stuffed in a trash barrel, his feet jammed up near his chin. He had been stabbed 19 times.

Three men—Alvin Wideman, Roosevelt Pickett and William R. Horton, Jr.—were soon apprehended. All confessed to the robbery, but not to Joey's murder. Prosecutors were convinced, however, that the actual killer was Horton. He had previously served three years in South Carolina for assault with intent to murder.

In May 1975, the trio was convicted of armed robbery and first degree murder. In many states, they could have forfeited their lives. But a few weeks earlier, Gov. Michael Dukakis had vetoed a death penalty bill.

Still, a first-degree murder conviction in Massachusetts was supposed to mean a mandatory sentence of life in prison, with no possibility of parole. The Fournier family,

PHOTO: © DAVID YORK/THE STOCK SHOP

devastated by their loss, took comfort in the prosecutor's assurance that Joey's killers would never again walk the streets.

Under a little-known state law, however, such first-degree killers were eligible for unguarded, 48-hour furloughs from prison. On June 6, 1986, William Horton was released from the Northeastern Correctional Center in Concord. He never came back.

About 7:30 P.M. on April 3, 1987, Clifford Barnes, 28, heard footsteps in his house in Oxon Hill, Md. He called out, thinking Angela Miller, his fiancée, had returned early from a wedding party. Instead, a man suddenly loomed before him, pointing a gun. It was William Horton.

For the next seven hours, a laughing Horton punched, pistol-whipped and kicked him. Horton also cut him 22 times across his midsection.

Later that night, Angela returned. Bound and gagged, Cliff listened in helpless horror to Angi's screams as Horton savagely attacked her. For four hours, she was assaulted, tied up, and twice raped.

Finally Cliff broke free and staggered to a neighbor's home for help. When Horton went to check on him, Angi cut herself loose and escaped through a window. Now panicked, Horton stole Cliff's car and fled. After a high-speed police chase, he was wounded in a shoot-out and captured.*

In Lawrence, Susan Forrest, a young reporter for the *Eagle-Tribune*, was covering Horton's rampage and recapture. But one chilling detail puzzled her. "The question everyone wants answered," she wrote, "is how a cold-blooded murderer ever got out in the first place."

Forrest's editor, Dan Warner, encouraged her to find out. But she ran into a bureaucratic stone wall. Michael Fair, commissioner of the Massachusetts Department of Correction, at first refused to talk to her. Then he cited the state's 1972 Criminal Offender Record Information Act, which strictly limits public access to court and prison records of convicted criminals. The law granted convicted killers a right to privacy that made their crimes virtually a state secret.

Warner and Forrest were outraged. They could not find out why Horton had been released—or how many other Hortons were walking the streets. Forrest appealed to the governor for an interview, but was rebuffed.

Still, Susan Forrest's hard-hitting front-page stories provoked public wrath. And two state repre-

*On October 20, 1987, Horton was sentenced in Maryland to two consecutive life terms plus 85 years. The sentencing judge refused to return Horton to Massachusetts, saying, "I'm not prepared to take the chance that Mr. Horton might again be furloughed or otherwise released. This man should never draw a breath of free air again."

sentatives—former police officer Larry Giordano and Joseph Hermann—introduced a bill to ban furloughs for first-degree murderers.

At the public hearing on Giordano's bill on May 27, 1987, members of Joey Fournier's family listened as his sister, Donna Fournier Cuomo, and father, Ronald, begged lawmakers to end the furloughs. Another witness, George Chaffee of Derry, N. H., told a harrowing tale. His 44-year-old mother had been brutally beaten and murdered in 1970 by confessed Massachusetts rapist John Zukoski. Even after being convicted for second-degree murder, Zukoski became eligible for furloughs; and in September 1986 he was paroled. A few months later, Zukoski was arrested and indicted yet again for beating and raping a woman.

"How many times," Chaffee demanded, "does a person have to rape and murder before he is locked up for good?"

The victims' families made a powerful impact on everyone present. The biggest shock, however, came from the testimony of Associate Correction Commissioner Dennis Humphrey.

A sentence of "life without parole," Humphrey revealed, was meaningless. It was assumed that eventually everyone—even first-degree murderers like Horton—would have their sentences commuted and "get out." After only ten years, a lifer was routinely transferred to a minimum-security facility, which has no walls. There he became eligible for furloughs. At that moment, Humphrey said, such facilities held about 160 first-degree killers. Horton had been one of them; he was on his tenth weekend pass when he disappeared.

The Massachusetts inmate-furlough program was enacted in 1972 under Gov. Francis W. Sargent, and a killer soon escaped. This stirred up a legal controversy, but in 1976 Governor Dukakis pocket-vetoed a bill to ban furloughs for first-degree murderers. It would, he said, "cut the heart out of efforts at inmate rehabilitation."

The furlough program, in essence, released killers on an "honor system" to see if they would stay out of trouble. This trial-and-error approach helped the governor decide when to commute, or reduce, a first-degree murder sentence, thus making a lifer eligible for parole. On average, in Massachusetts, prisoners whose sentences are commuted from life without parole spend fewer than 19 years in prison. Governor Dukakis, in fact, had already commuted the life sentences of 21 first-degree murderers by May 1987.

When Donna Fournier Cuomo learned that Horton had been repeatedly granted furloughs, all the nightmares of her brother's death returned. At the May 27 hearing, she met other concerned women: Maureen Donovan, Joan Bamford,

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Joanne Pekarski and Gertrude Lavigne. They had learned that the weekend Horton fled, he'd been spotted only two blocks from Donovan's home. "It could have been my family he went after," she said.



Gov. Michael Dukakis

The women circulated a petition to support Representative Giordano's furlough ban bill. But the bill was stalled in committee by legislative allies of Governor Dukakis.

In the face of growing public opposition, the Dukakis administration made some revisions in the furlough guidelines (eligibility became 12½ years in prison rather than ten), but defended the program relentlessly. At a news conference, bureaucrats trotted out figures showing that relatively few killers on furlough had escaped. Human Services Secretary Philip Johnston told astonished reporters, "Don't forget that Mr. Horton had nine previous successful furloughs."

To Commissioner Fair, furloughs were a prison "management tool." Unless a lifer has hope of parole, he argued, "we would have a very dangerous population in an already dangerous system." But, critics wondered, if armed guards can't control "very dangerous" killers inside locked cells, how are unarmed citizens supposed to deal with them?

When Dukakis visited the Andover, Mass., police station one day, furlough opponents Maureen Donovan, Joanne Pekarski and Mary Gravel got to meet with him. Gravel told the governor about her own daughter's unsolved murder. "What if Claire's killer is caught and convicted, then furloughed?" she asked. "What do you think it would do to my family if they were walking down the street and saw this person?"

"I'd probably feel the same way you do," Dukakis responded. "But, unfortunately, it's not going to change my mind."

The governor began recounting a recent discussion with inmates' families about their grievances, but Maureen Donovan angrily interrupted. "You'll meet with prisoners' families, but you keep avoiding us."

The meeting quickly deteriorated. Dukakis explained that he hadn't asked for the power of commutation. Gravel replied, "There's no law that says you have to use it."

"If you don't like the system, you

PHOTO © IRA WYMAN/BYDGA

can change it," the governor said.

"Thank you very much," Donovan answered. "That's exactly what we'll do."

The encounter with Dukakis convinced the women that their best option was to put a referendum about furloughs on the November 1988 ballot. Within weeks, they formed CAUS—Citizens Against Unsafe Society.

Susan Forrest had still been unable to get Horton's records. Fed up, Dan Warner invited every newspaper editor in the state to a meeting in May 1987. There he and Forrest denounced the prisoner-privacy statute and asked for support to open Horton's files. The result was a flood of articles and indignant editorials. Finally, under pressure, the state released Horton's records. These confirmed that while in prison he had a record of 11 disciplinary infractions, three drug-related. Yet prison officials eventually gave Horton "excellent" evaluations and said "he projects a quiet sense of responsibility."

In the months following the hearing, there were other revelations:

- Legislators learned that Horton had also been turned loose daily, with little supervision, on a work-release program. His job: to help mental patients.
- Of over 80 Massachusetts convicts listed as escaped and still at large, only four had actually "escaped." The rest simply walked away from furloughs, prerelease centers and other minimum-security programs. These convicts included murderers, rapists, armed robbers and drug dealers.
- Commissioner Fair personally approved first-degree lifer Armand Therrien's transfer from a medium-security prison to a minimum-security one, which made him eligible for a work-release program. Therrien, a two-time murderer, walked off and vanished in December 1987.

None of the women of CAUS had ever been involved in grass-roots politics, and they faced an enormous job of gathering 50,525 certified voter signatures by early December 1987, the deadline for the 1988 ballot. Before long, they were regular fixtures on talk shows, and other volunteers came forward.

Many of the CAUS members, like the Fournier and Gravels, were families of murdered children. George Hanna, a retired police officer, was an early recruit. His son, George Jr., a state trooper, was shot and killed while on duty in 1983. Marion and John Spinney's daughter, Karen, was stabbed to death in 1975 by an armed robber who was on furlough. The man who killed Jim and Paula Danforth's 19-year-old daughter, Paula Marie, in 1986 was also given a meaningless sentence of "life without parole."

The signature drive became their crusade. Working 15-hour days, the core group of 20 people canvassed the state, haunting shopping



Donna Fournier Cuomo in front of abandoned gas station where her brother was murdered



malls, bingo halls, and churches. Paula Danforth, eight months pregnant, helped corral a thousand signatures in one day.

A Massachusetts House committee held further hearings. Families of other victims told their stories, including Vivianne Ruggiero, whose 27 year old husband, John, a police officer, had been shot in the head five times without provocation. John left his widow with two small children. Meanwhile, Vivianne testified, John's convicted killer, Daniel Ferreira, sentenced to life without parole, had married while on one of 33 furloughs. "Isn't he lucky that he can go on with his life?" Vivianne said bitterly. "I wish I could have a furlough—one weekend, or one hour, when my husband's death is not on my mind."

Cliff and Angi Barnes, Horton's victims, also testified. "I'm tired of hearing about the rights of prisoners," Angi said. "As far as I'm concerned, they gave up their rights when they took another person's life." Cliff was asked about statistics touting the success rate of the furlough program. "So we're expendable," he retorted. "Is that what they're saying?"

After the hearings, CAUS members worked feverishly to collect and deliver signed petitions to city halls across the state. Late at night on December 1, 1987, nine bone-weary volunteers crowded into Joan Bamford's living room to tally the results. They needed 50,525 signatures. They had 52,407. There were screams, tears and hugs all around.

In the waning days of 1987, CAUS members were glad they had taken matters out of the politicians' hands. The state's House passed Giordano's bill overwhelmingly. But in the Senate, Royal Bolling, Sr., used parliamentary stalling tactics to kill it as the legislative session ended.

A month later, Bolling received a standing ovation for his efforts from 400 inmates at Norfolk prison. "I'm always glad to see some of my old friends," he said, smiling. "I hope I will continue to deserve your good will."

The occasion for this strange episode was "Legislative Awareness Day," an annual event that reminds inmates in Massachusetts they are allowed to vote. An inmate leader urged fellow convicts to register and vote against the referendum banning furloughs. A deputy secretary of state, Richard Shibley, brought in hundreds of absentee-ballot applications.

Although the CAUS referendum was virtually assured of voter approval in November, Representative Giordano reintroduced his furlough-ban bill to halt the program even sooner. And, as spring arrived, Dukakis came under mounting public pressure to end the furlough program himself before it hurt his Presidential campaign.

On March 22, 1988, at a packed news conference, the governor promised not to veto Giordano's bill. Asked if he was personally in favor of furloughs, Dukakis answered, "That's irrelevant. The fact of the matter is that the people of this Commonwealth and the legislature aren't." He added he *still* wanted some alternative program to help him commute the sentences of first-degree murderers. On April 28, after the legislature passed the furlough ban by a wide margin, the governor signed it into law. (In preparing this article, Reader's Digest requested an interview with Governor Dukakis, but he declined.)

For Maureen Donovan, CAUS's feisty co-founder, the work to reform the system has just begun. With Dukakis seeking an alternative to the furlough program, CAUS has announced its next goal will be to restrict the governor's power to commute life sentences.

For the Lawrence *Eagle-Tribune*, an effort to uncover hidden facts became a crusade. After nearly 200 stories by Susan Forrest, Barbara Walsh and other determined reporters, the furlough system was finally exposed to public scrutiny. On March 31, 1988, the *Eagle Tribune* received journalism's highest honor: the Pulitzer Prize.

For Donna Fournier Cuomo, the issue remains hauntingly, harshly personal. On the 13th anniversary of her brother's murder, she visited the now-deserted gas station in Lawrence. She cried softly as she stared at the weeds and empty windows, symbols of a terrible waste. *Jerry*, she thought, *would have been 30 years old.*

"Someone asked, 'Are you doing this for your brother?' " Donna once testified. "I guess I am . . . because if I didn't—he'd have died for nothing. And then you couldn't live with yourself, because justice would not have been served." ●●●●●

PHOTO © LOU JONES

BEFORE THE FEDERAL ELECTION COMMISSION

AFFIDAVIT

OF

ELIZABETH I. FEDIAY

MUR 3069

Having been duly sworn and under penalty of perjury, the affiant declares as follows:

1. **I am Elizabeth I. Fediay, Treasurer and Chairman of the National Security Political Action ("NSPAC") and I have personal knowledge regarding the facts stated below herein.**

2. **During 1988, NSPAC conducted several activities constituting independent expenditures to promote the candidacy of George Bush for President. I was then and am now familiar with the term "independent expenditure" as utilized in the Federal Election Campaign Act of 1971, and the Federal Election Regulations. During that time, I also retained legal counsel to advise NSPAC relative to the requirements to maintaining the independence of any expenditures made on behalf of the Bush candidacy.**

3. **In my capacity as Chairman of NSPAC, I ran the day to day operation of the PAC and specifically I was the only individual with the authority to hire employees or consultants. The only employees of NSPAC during 1988 were**

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Darlene Dove who served as my secretary from August 1, 1988 through December 1989; John Dutton, a secretary from June 15 through July 31, 1988 and Eileen McNulty, a secretary from September 1, 1988 through January 31, 1989. All other individuals or companies were retained as consultants.

4. During May of 1988, it became apparent that NSPAC would have sufficient funds to conduct a cable media program relative to promoting Bush for President. At that time, Mr. Floyd Brown was retained as a consultant for political strategy.

5. In June of 1988, in anticipation of the media program, NSPAC retained Larry McCarthy to produce the advertising campaign and Mr. Anthony Fabrizio of Multi-Media for time buying services. Starting in August, Mr. Craig Shirley volunteered his professional services to NSPAC and on September 1, 1988 Mr. Shirley was formally retained to provide public relations advice to NSPAC.

6. As was the case with Mr. Brown, Mr. Shirley, Mr. Fabrizio, and Mr. McCarthy, all NSPAC employees or consultants were informed prior to retaining their services, that all the activities of NSPAC and specifically the proposed media campaign were required to qualify as an "independent expenditure" as that term is defined by the FECA. They all indicated that they appreciated the requirements of conducting an independent expenditure

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effort and all assured me that none individually or through their businesses, had any contracts, activities, communications, or consultations with the Bush Campaign or any of its agents.

7. I further advised them that by accepting a consulting position with NSPAC, I expected them not to subsequently accept a position, coordinate or consult with the Bush Campaign or any of its agents. This was a similar admonition which I gave to all consultants prior to them being retained by NSPAC. Mr. McCarthy, Mr. Fabrizio, Mr. Brown and Mr. Shirley, all agreed to the conditions set forth above.

8. A planning session for the media program was held on August 24, 1988 to discuss concepts for media spots. The participants in that session were confined to Messrs. McCarthy, Fabrizio, Brown, Shirley and myself. During that session, a number of ideas were presented and discussed. One of the items raised under the category of crime, was the furlough issue relative to Mr. Dukakis' tenure as governor. Several of the individuals in the planning group had read stories criticizing the Massachusetts furlough program. Specifically, there had been news stories during the preceding six months relative to the case involving William Horton, Jr. The story of a convicted murderer being released on furlough numerous times and then escaping during the furlough program and committing other grotesque crimes was exactly the type of issue which would polarize the policies of Mr. Bush and

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Mr. Dukakis.

9. Mr. McCarthy drafted several media scripts relative to the various ideas discussed. One of the draft media scripts involved the Willie Horton and the Dukakis furlough program.

10. At no time was there any mention or discussion that the concept for the furlough media spot was done at the request, suggestion or consultation with the Bush committee or any of its agents. The furlough issue cited in the complaint was one that was solely generated as a result of roundtable discussions held amongst the individuals listed above.

11. At no time did I contact, consult or coordinate with the Bush campaign or any of its agents on any issue, let alone the issue of media spots referenced in the complaint in MUR 3069.

12. As the Commission is well aware, during that time period, the Bush for President Committee, had filed a complaint with the FEC against NSPAC relative to the Americans for Bush Project. Due to certain allegations contained in the original Bush complaint, but subsequently dropped in the amended complaint, there was substantial ill will at the time between the two committees contrary to public perceptions and comments. NSPAC was conducting other Bush independent expenditure efforts, primarily direct mail

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during this time period and therefore, the admonishment relative to the independence of any and all activities for NSPAC including the media spots, was an activity which I continually monitored and was sensitive to enforcing. At no time during any of the activities involving any of the independent expenditure efforts of NSPAC including the media program at issue in this MUR, did I or any of the employees or consultants of NSPAC, contacted, communicate or consult with the Bush for President Committee or any of its agents.

13. In addition, prior to, and during the production and airing of the furlough media spot, and subsequently through the date of the election, I had no contact or communication with the Bush campaign or any of its agents and specifically did not communicate, consult or coordinate on any issue involving the NSPAC independent expenditure effort including the media programs.

I certify under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Elizabeth I. Fediay

Executed this 9 day of August, 1990

Sworn to before me this 9 day of August. 1990.

Notary

My Commission Expires February 14, 1994

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BEFORE THE FEDERAL ELECTION COMMISSION

AFFIDAVIT

OF

ANTHONY FABRIZIO

MUR 3069

Having been duly sworn, the affiant under penalty of perjury states as follows:

1. **I am Anthony Fabrizio, President of First Media Services Corporation, trading as Multi-Media Services, a company geared primarily to media planning and buying, and I have personal knowledge of the matters set forth below.**

2. **In June of 1988 I was invited by Elizabeth Fediay, the Treasurer and Chairman of National Security PAC (NSPAC), and Floyd Brown to provide advice to NSPAC relative to time buying. I was informed by Mr. Brown and Ms. Fediay that NSPAC was planning to produce and air several commercials promoting George Bush for President. These would be required to be "independent expenditures" as that term is defined in the Federal Election Campaign Act (FECA).**

3. **I am well versed in the requirements of operating independent expenditures under the FECA based upon my past political experience with federal independent expenditure efforts. At the time I was retained by NSPAC, Ms. Fediay inquired if I or my company had any contracts, coordination or**

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consultation with the Bush campaign or any of its agents, and I responded in the negative to each inquiry. I further stated that I realized that by assuming a consulting role with NSPAC, neither I nor my company would subsequently have any consultation, coordination or contact with the Bush campaign or any of its agents.

4. On Wednesday, August 24, 1988 I, along with Mr. Brown, Mr. McCarthy, Mr. Shirley and Ms. Fediay met to discuss potential themes for the anticipated NSPAC media program for September and October 1988.

5. Several themes, including crime, were discussed as potential subjects to dramatically distinguish the records and philosophy of George Bush and Michael Dukakis. During the discussion of crime issues, the subject of the Dukakis furlough program was raised. Recent articles had focussed on the subject and the crimes Willie Horton committed after having escaped custody while on furlough. It was discussed and recognized by the group as the type of issue to distinguish the positions of Bush and Dukakis. Mr. McCarthy agreed to include this as one theme in draft scripts which he would bring back to the group for approval.

6. The concept for producing the "Horton" furlough script was one which surfaced during the August 24th meeting and there was no indications by any participant that the furlough theme or the use of the "Horton" example was

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in any fashion suggested by the Bush campaign or any of its agents.

7. At no time did I or any of the Multi-Media employees have any contact, coordination or consultation with the Bush campaign or any of its agents regarding, the "Horton" spot or about any activity or strategy for NSPAC or the Bush campaign.

I swear that the matters contained herein are true and correct to the best of my knowledge.

Dony Fabrizio

Executed this 3rd day of August 1990

Sworn to and subscribed before me this 3rd day of August, 1990

Witness my hand and official seal.

James L. Amacost Notary Public

JAMES ARMACOST NOTARY
ALEXANDRIA, VA PUBLIC
COMM. EXPIRES APRIL 30, 1993

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BEFORE THE FEDERAL ELECTION COMMISSION

AFFIDAVIT

OF

CRAIG SHIRLEY

MUR 3069

Having been duly sworn, the affiant under penalty of perjury states as follows:

1. **I am Craig Shirley, and I have personal knowledge of the matters set forth below,**

2. **In August of 1988 I was invited by Elizabeth Fediay, the Treasurer and Chairman of National Security PAC (NSPAC), and Floyd Brown to provide advice to NSPAC relative to public relations and political strategy. I was informed by Mr. Brown and Ms. Fediay that NSPAC was planning to produce and air on cable T.V. several commercials promoting George Bush for President. These would be required to be "independent expenditures" as that term is defined in the Federal Election Campaign Act (FECA).**

3. I am well versed in the requirements of operating independent expenditures under the FECA based upon my past political experience with federal independent expenditure efforts. Ms. Fediay inquired if I had any contracts, coordination or consultation with the Bush campaign or any of its agents, and I responded in the negative to each inquiry. I further stated that I realized

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that by assuming a consulting role with NSPAC, I would subsequently have no consultation, coordination or contact with the Bush campaign or any of its agents.

4. On Wednesday, August 24, 1988 I, along with Mr. Brown, Mr. McCarthy, Mr. Fabrizio and Ms. Fediay met to discuss potential themes for the anticipated NSPAC media program for September and October 1988.

5. Several themes, including crime, were discussed as potential subjects to dramatically distinguish the records and philosophy of George Bush and Michael Dukakis. During the discussion of crime issues, the subject of the Dukakis furlough program was raised. Recent articles had focussed on the subject and the crimes Willie Horton committed after having escaped custody while on furlough. It was discussed and recognized by the group as the type of issue to distinguish the positions of Bush and Dukakis. Mr. McCarthy agreed to include this as one theme in draft scripts which he would bring back to the group.

6. The concept for producing the "Horton" script was one which surfaced during this August meeting and there was no indications by any participant that the furlough theme or the use of the "Horton" example was in any fashion suggested by the Bush campaign or any of its agents.

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7. At no time did I have any contact, coordination or consultation with the Bush campaign or any of its agents regarding, the "Horton" spot or any activity or strategy for NSPAC or the Bush campaign.

I swear that the matters contained herein are true and correct to the best of my knowledge.

Craig Shirley

Executed this 9 day of August 1990

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BEFORE THE FEDERAL ELECTION COMMISSION

AFFIDAVIT

OF

FLOYD BROWN

MUR 3069

Having been duly sworn, the affiant under penalty of perjury states as follows:

1. I am Floyd Brown, and I have personal knowledge of the fact set forth below:

2. I am a political consultant operating as a sole proprietorship. In May of 1988 I was invited by Elizabeth Fediay, the Treasurer and Chairman of National Security PAC (NSPAC), to provide advice to NSPAC relative to political strategy. I was informed by Ms. Fediay that NSPAC was conducting a direct mail program and planning to produce and air on cable T.V. several commercials, promoting George Bush for President. These would be required to be "independent expenditures" as that term is defined in the Federal Election Campaign Act (FECA).

3. I am well versed in the requirements of operating independent expenditures under the FECA based upon my past political experience with federal independent expenditure efforts at the time I was retained by NSPAC, Ms. Fediay inquired if I had any contracts, coordination or consultation with the Bush campaign or any of its agents, and I responded in the negative to each

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inquiry. I further stated that I realized that by assuming a consulting role with NEPAC, would not subsequently have any consultation, coordination or contact with the Bush campaign or any of its agents.

4. On Wednesday, August 24, 1988 I, along with Mr. Shirley, Mr. McCarthy, Mr. Fabrizio and Ms. Fedley met to discuss potential themes for the anticipated NEPAC media program for September and October 1988.

5. Several themes, including crime, were discussed as potential subjects to dramatically distinguish the records and philosophy of George Bush and Michael Dukakis. During the discussion of crime issues, the subject of the Dukakis furlough program was raised. Recent articles had focussed on the subject and the crimes Willie Horton committed after having escaped custody while on furlough. It was discussed and recognized by the group as the type of issue to distinguish the positions of Bush and Dukakis. Mr. McCarthy agreed to include this as one theme in draft scripts which he would bring back to the group for approval.

6. The concept for producing the "Horton" furlough script was one which surfaced during the August 24th meeting and there was no indications by any participant that the furlough theme or the use of the "Horton" example was in any fashion suggested by the Bush campaign or any of its agents.

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7. At no time did I have any contact, coordination or consultation with the Bush campaign or any of its agents regarding, the "Horton" spot or about any activity or strategy for NSPAC or the Bush campaign.

I swear that the matters contained herein are true and correct to the best of my knowledge.

Floyd Brown

Floyd Brown

Executed this 2 day of August 1990

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EXHIBIT "B"

LEVEL 1 - 151 STORIES

1. Copyright (c) 1988 American Lawyer Newspapers Group, Inc.; Manhattan Lawyer, August 30, 1988 - September 12, 1988, Pg. 3, 721 words, McDermott, Will Acquires Towne, Dolgin as N.Y. Base, BY DANIEL M. GOLD

2. The New Republic Copyright (c) 1988 Information Access Company; Copyright (c) The New Republic, Inc. 1988, August 29, 1988, Vol. 199; No. 9; Pg. 17, 2256 words, Hate week; Republican National Convention, Hertzberg, HendrikThe New Republic

3. Copyright (c) 1988 U.S.News & World Report, August 29, 1988 - September 5, 1988, U.S. NEWS; THE SHAPE OF THE RACE; Vol. 105, No. 9; Pg. 54, 1125 words, 6. The key ingredient, By Andy Plattner

4. The Nation Copyright (c) 1988 Information Access Company; Copyright (c) Nation Enterprises 1988, August 27, 1988, Vol. 247; No. 5; Pg. 156, 183 words, The race button; Republican Party and racism Beltway Bandits, Corn, David; Morley, JeffersonThe Nation

5. Copyright (c) 1988 McGraw-Hill, Inc.; Business Week, August 22, 1988, COVER STORY; Number 3066; Pg. 26, 2371 words, CAN BUSH BOUNCE BACK?, Douglas Harbrecht and Howard Gleckman, with Richard Fly and Lee Walczak in Washington

6. Copyright (c) 1988 Time Inc. All Rights Reserved; Time, August 22, 1988, U.S. Edition, NATION; THE REPUBLICANS; Cover Story; Pg. 28, 1110 words, The Man Behind the Message; If anyone can build a better candidate, it is Roger Ailes, By Richard Stengel. Reported by David Beckwith/Washington

7. Copyright (c) 1988 U.S.News & World Report, August 22, 1988, U.S. NEWS; Vol. 105, No. 8; Pg. 12, 4121 words, What does Bush stand for?, By Michael Kramer

8. Copyright (c) 1988 National Journal Inc.; National Journal, August 20, 1988, NATIONAL JOURNAL CONVENTION SPECIAL; Pg. 34, 1746 words, Is Bush's Manager Himself Now an Issue?, By Burt Solomon

9. Copyright (c) 1988 The Washington Post, August 18, 1988, Thursday, Final Edition, MARYLAND WEEKLY; PAGE M1, 722 words, P.G. Judge's Prison Furlough Remarks Bceome Political Issue, Jonathan M. Moses, Washington Post Staff Writer, LEAD: Judge Vincent J. Femia of the Prince George's County Circuit Court has never been shy about voicing his opinions. But this time his comments may have landed the colorful jurist a bit part in something a little bigger than usual: a national election., MARYLAND NEWS

10. Copyright (c) 1988 The Times Mirror Company; Los Angeles Times, August 17, 1988, Wednesday, Home Edition, Part 1; Page 9; Column 1; National Desk, 586 words, 1988 REPUBLICAN NATIONAL CONVENTION; QUAYLE SELECTION STEALS SOME OF DEUKMEJIAN'S THUNDER, By GEORGE SKELTON, Times Sacramento Bureau Chief, NEW ORLEANS, LEAD: California Gov. George Deukmejian's big moment at the 1988 Republican National Convention turned out to be not his acceptance of the vice presidential nomination -- just as he had long insisted -- but a five-minute prime-time speech Tuesday night about law and order.

11. Copyright (c) 1988 A/S/M Communications, Inc.; ADWEEK, August 15, 1988, All Editions, 1141 words, Roger Ailes: Taking the Gloves Off for George Bush; Candidate's Two-Fisted Ad Strategist Believes the Best Defense Is a Good Offense By Stephen Battaglio, NEW YORK

LEVEL 1 - 151 STORIES

12. Proprietary to the United Press International 1988, August 14, 1988, Sunday, BC cycle, Sports News, 274 words, Baseball Central, PHILADELPHIA, Bb-Central, LEAD: Philadelphia Phillies third baseman Mike Schmidt hasn't played since Friday because of pain in his right shoulder. He left the second game of a double-header against the Pittsburgh Pirates after the sixth inning.

13. Copyright (c) 1988 The Christian Science Publishing Society; The Christian Science Monitor, August 8, 1988, Monday, National; Pg. 1, 782 words, Bush aims at defense, crime, taxes, John Dillin, Staff writer of The Christian Science Monitor, Washington, Elections 1988

14. Copyright (c) 1988 The Times Mirror Company; Los Angeles Times, August 3, 1988, Wednesday, Home Edition, Part 1; Page 10; Column 1; National Desk, 505 words, DUKAKIS URGES BAIL CURBS FOR MASSACHUSETTS; ACTS TO BLUNT ISSUE OF CRIME AMID FUROR OVER CHILD-KIDNAPING CASE, By DAVID LAUTER, Times Staff Writer, BOSTON, LEAD: Democratic presidential nominee and Massachusetts Gov. Michael S. Dukakis, moving to preempt further Republican attacks on the crime issue, Tuesday announced that he will submit legislation to tighten his state's bail system.

15. The Associated Press, August 2, 1988, Tuesday, AM cycle, 643 words, Dukakis Credits Congress For Plant Closing Passage; Defends Borrowing, By JOHN KING, Associated Press Writer, BOSTON, Dukakis, LEAD: Democratic presidential nominee Michael Dukakis credited Congress on Tuesday with forcing President Reagan's hand on a plant-closing notification bill, and he rejected any notion he'd lost a potent issue against Republican rival George Bush.

16. Copyright (c) 1988 The Times Mirror Company; Los Angeles Times, July 31, 1988, Sunday, Home Edition, Sports; Part 3; Page 2; Column 1; Sports Desk, 454 words, MORNING BRIEFING: RIZZUTO HASN'T LOST IT, LEAD: Phil Rizzuto is still at it. Here's a recent call by the New York Yankee announcer as passed along by Phil Jackman of the Baltimore Sun:, Column

17. Copyright (c) 1988 The Washington Post, July 31, 1988, Sunday, Final Edition FIRST SECTION; PAGE A1, 1935 words, Race: Still a Force in Politics; GOP Stronger Among Whites in Heavily Black States, Thomas B. Edsall, Washington Post Staff Writer, LEAD: Direct appeals to racial prejudice may no longer be acceptable in American politics, but race, in an indirect and sometimes subliminal way, remains a strong undercurrent in presidential politics and a driving force in the battle today between Republicans and Democrats., NATIONAL NEWS, ANALYSIS

18. Copyright (c) 1988 Newsday, Inc.; Newsday, July 28, 1988, Thursday, NASSAU AND SUFFOLK EDITION, SPORTS; Pg. 150 Other Edition: City Pg. 142, 502 words, Tomm-E-E-E'; On one play, John earns a distinction, By Joe Donnelly, BASEBALL, LEAD: Tommy John has a sense of humor. That's good. You wouldn't want what he did in the fourth inning to happen to a stoic. John will be remembered more last night for his fielding on one play than for his pitching excellence in the Yankees' 16-3 victory over the Brewers.

19. Copyright (c) 1988 Reuters, July 27, 1988, Wednesday, AM cycle, 445 words, DUKAKIS DEFENDS HIS ANTI-CRIME RECORD, SIGNS LEGISLATION, By Catherine Arnst, BOSTON, July 27, CAMPAIGN-DUKAKIS, LEAD: Michael Dukakis, the Democratic presidential nominee, signed two anti-crime bills into law on Wednesday and responded testily to questions about Republican rival George Bush's charge

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that he is soft on crime.

20. Copyright (c) 1988 U.S.News & World Report, July 25, 1988, U.S. NEWS; NEWSLETTER; TOMORROW; Vol. 105, No. 4; Pg. 29, 718 words, By David R. Gergen; Richard S. Klein

21. Copyright (c) 1988 The Times Mirror Company; Los Angeles Times, July 23, 1988, Saturday, Home Edition, Part 1; Page 1; Column 4; National Desk, 709 words RIVAL IN TEXAS, BUSH DECIDES TO JOUST FROM AFAR, By CATHLEEN DECKER, Times Staff Writer, MILWAUKEE, LEAD: If Michael S. Dukakis was sitting tall in the campaign saddle as he rode into Texas on Friday, Vice President George Bush was doing his best to knock him off the horse.

22. Copyright (c) 1988 The New York Times Company; The New York Times, July 23, 1988, Saturday, Late City Final Edition, Section 1; Page 9, Column 5; National Desk, 873 words, After the Convention; Bush, Courting Ethnic Vote, Counters Dukakis's Themes, BY GERALD M.BOYD, Special to the New York Times, POINT PLEASANT, N.J., July 22, LEAD: Vice President Bush moved today to combat two perceived political strengths of Michael S. Dukakis by making an appeal to ethnic voters and arguing that the Massachusetts Governor's overall record, not just the issue of competence, would be critical this fall.

23. Copyright (c) 1988 Educational Broadcasting and GWETA; The MacNeil/Lehrer NewsHour, July 22, 1988, Friday, Transcript #3220, 8519 words, Political Analysis; Closing Thoughts no Democratic Convention

24. Copyright (c) 1988 Educational Broadcasting and GWETA; The MacNeil/Lehrer NewsHour, July 20, 1988, Wednesday, Transcript #3218, 9045 words, Moving to Mike; Profile

25. Proprietary to the United Press International 1988, July 19, 1988, Tuesday, AM cycle, Regional News, Virginia, 484 words, Bush's son, Bliley rap prison furloughs, By MITCHELL MILLER, RICHMOND, Va., Furlough, LEAD: On a brief Virginia campaign swing Tuesday, the eldest son of Republican Vice President George Bush attacked Democrat Michael Dukakis for being ''out of step with the South'' on the issues of crime and national defense.

26. Copyright (c) 1988 The Times Mirror Company; Los Angeles Times, July 11, 1988, Monday, Home Edition, Part 1; Page 10; Column 6; National Desk, 298 words, CAMPAIGN '88; DUKAKIS-CRIME ISSUE SURFACES IN MAGAZINE, By Robert Shogan, LEAD: Vice President George Bush's presidential campaign strategists are privately thanking the Reader's Digest for aiding their effort to tag Bush's anticipated Democratic opponent, Massachusetts Gov. Michael S. Dukakis, as soft on crime.

27. Copyright (c) 1988 The Times Mirror Company; Los Angeles Times, July 10, 1988, Sunday, Home Edition, Sports; Part 3; Page 1; Column 2; Sports Desk, 2814 words, THE YEAR OF THE PITCHER; 1968; BIG STARS WERE DRYSDALE, GIBSON, MCLAIN; SEVEN HAD ERAS BELOW 2.00, By SCOTT HOWARD-COOPER, Times Staff Writer, LEAD: The backdrop was a year that belonged to the stark realities of the world, of the assassinations of Robert Kennedy and Martin Luther King, of Vietnam and the riotous Democratic National Convention in Chicago., Game Story; Profile

28. Copyright (c) 1988 Newsday, Inc.; Newsday, July 10, 1988, Sunday, ALL EDITIONS, NEWS; Pg. 15, 739 words, GOP Charts Southern Strategy, By Saul Friedman. Newsday Washington Bureau, Atlanta, REPUBLICAN PARTY; CAMPAIGN;

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ISSUE; ELECTION; PRESIDENT; CANDIDATE; 1988; MICHAEL DUKAKIS, LEAD: Vice President George Bush's southern strategy, the foundation of his drive for the presidency, was made pungently clear here yesterday - to portray Massachusetts Gov. Michael Dukakis as a "wild-eyed . . . ultra-liberal from the Frost Belt who couldn't get elected dogcatcher in the South."

29. Copyright (c) 1988 Newsday, Inc.; Newsday, July 10, 1988, Sunday, NASSAU AND SUFFOLK EDITION, SPORTS; THE CENTERPIECE; Pg. 14 Other Edition: City Pg. 12, 2460 words, THE DH AT 15; AL's batting average, run production, attendance is up, but arguments remain same., By Rich Cimini, BASEBALL; DOUBLE TRUCK, LEAD: Some people love it, others deplore it. Some believe it has been the best thing for baseball since the batting helmet; others think it has tainted the sport's integrity. Some say it has added excitement to a game that was on its way to becoming a cure for insomnia; others rank it up there with late-inning rain delays in terms of appeal.

30. Copyright (c) 1988 Newsday, Inc.; Newsday, July 10, 1988, Sunday, NASSAU AND SUFFOLK EDITION, NEWS; Pg. 6 Other Edition: City Pg. 15, 632 words, Crime, Politics and One Man's Fury, By Tom Collins and Susan Page. Newsday Washington Bureau, Washington, MICHAEL DUKAKIS; CRIME; LAW; SENTENCE; PRESIDENT; CANDIDATE; ELECTION; 1988; RAPE; SEX CRIMES; PRISONER; FUGITIVE, LEAD: Clifford Barnes, the victim of a brutal attack last year by a furloughed Massachusetts prisoner, says he is incensed that Massachusetts Gov. Michael Dukakis "has not apologized to me or my wife" for what happened to them and would even consider making campaign commercials for Vice President George

31. Copyright (c) 1988 The Washington Post, July 10, 1988, Sunday, Final Edition FIRST SECTION; PAGE A11, 1200 words, Midwest, Pacific West May Decide Presidency; Bush Believed to Have Edge in South; Drought a Wild Card That Could Help Democrats, Thomas B. Edsall, Washington Post Staff Writer, ATLANTA, July 9, LEAD: As Republicans meeting here sought to firm up tactics to try to secure the South for Vice President Bush, strategists in both major parties are separately reaching generally similar assessments that, in a close contest, the fight will concentrate on the Midwest and Pacific West instead of the South., NATIONAL NEWS

32. PR Newswire, July 8, 1988, Friday, 477 words, SEN. SPECTER, ACTING AS SURROGATE FOR GEORGE BUSH, TO ATTACK DUKAKIS' PRISON FURLOUGH PROGRAM, AT A NEWS CONFERENCE IN DENVER, JULY 9, SPECTER TO ATTACK DUKAKIS' PRISON FURLOUGH PROGRAM LEAD: U.S. Sen. Arlen Specter (R-Pa.) will hold a news conference in Denver Saturday, July 9, at noon, in Room 3211 in the airport building at the Denver Airport, in advance of the expected arrival of Gov. Michael Dukakis in Denver later that day. The purpose of Specter's trip to Denver is to discuss with the Colorado news media the details of Dukakis' disastrous prison furlough program and raise certain questions which should be answered by Dukakis.

33. Copyright (c) 1988 The Washington Post, July 8, 1988, Friday, Final Edition, EDITORIAL; PAGE A23, 793 words, William Horton's Furlough, Richard Cohen, LEAD: By April 3, 1987, William Horton Jr. was in Maryland. There, he broke into the home of Angela and Clifford Barnes, stabbing Clifford Barnes and raping his wife. Horton had been furloughed for the weekend from a Massachusetts prison where he had been serving a murder sentence. Michael Dukakis was his governor., OPINION EDITORIAL

34. Copyright (c) 1988 The Washington Post, July 7, 1988, Thursday, Final Edition, EDITORIAL; PAGE A18; LETTERS TO THE EDITOR, 695 words, The Men and

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the Candidates, LEAD: In his column June 23, Michael Kinsley shows his trademark sneering contempt for those of us who doubt Michael Dukakis' qualifications for the presidency. Unfortunately, this contempt is based on a total lack of comprehension of our concerns., LETTER

35. The Associated Press, July 6, 1988, Wednesday, BC cycle, Sports News, 165 words, Equitable All-Stars, List, NEW YORK, BBO--Equitable All-Stars, LEAD: The list of players for the third annual Equitable Old-Timers All-Star Game to be played Sunday, July 10 at Riverfront Stadium:

36. The Associated Press, July 5, 1988, Tuesday, BC cycle, Sports News, 165 words, Equitable All-Stars, List, NEW YORK, BBO--Equitable All-Stars, LEAD: The list of players for the third annual Equitable Old-Timers All-Star Game to be played Sunday, July 10 at Riverfront Stadium:

37. Copyright (c) 1988 The New York Times Company; The New York Times, July 5, 1988, Tuesday, Late City Final Edition, Section B; Page 6, Column 1; National Desk, 1549 words, Prison Furloughs in Massachusetts Threaten Dukakis Record on Crime, By ROBIN TONER, LEAD: Angela and Clifford Barnes, a young couple who live in a picture-book home in a suburb of Washington, say they had no desire to become an issue in the 1988 Presidential campaign.

38. Copyright (c) 1988 Newsweek, July 4, 1988, UNITED STATES EDITION, NATIONAL AFFAIRS; Pg. 14, 1417 words, How Liberal Is Dukakis?, BY JONATHAN ALTER

39. Copyright (c) 1988 The Times Mirror Company; Los Angeles Times, July 3, 1988, Sunday, Home Edition, Opinion; Part 5; Page 3; Column 3; Opinion Desk, 777 words, DUKAKIS PICKING HIS SECOND PLACE, THE RUNNING ARGUMENTS: A continuing Series Surveying the Presidential Campaign amd Candidates., By Stuart K. Spencer, Stuart K. Spencer was Ronald Reagan's senior campaign adviser in 1980 and 1984., IRVINE, LEAD: Gov. Michael S. Dukakis has about two weeks to announce his first "presidential" decision, a choice of running mate. This year the choices are important for both parties, revealing not only names but also tipping the hand of the whole campaign strategy -- which states will be the priorities for collecting the 270 electoral votes needed to win the presidency., Series; Opinion

40. Copyright (c) 1988 The Times Mirror Company; Los Angeles Times, July 3, 1988, Sunday, Home Edition, Opinion; Part 5; Page 3; Column 4; Opinion Desk, 702 words, BUSH ATTACKING BUT MISSING MOST ISSUES, THE RUNNING ARGUMENTS: A continuing Series Surveying the Presidential Campaign amd Candidates., By Robert G. Beckel, Robert G. Beckel, a political analyst, was Walter F. Mondale's campaign manager in 1984., WASHINGTON, LEAD: At the start of a long hot summer of presidential politics George Bush confronts a problem of historic dimensions. He has the highest negatives of any modern candidate while Michael S. Dukakis has the lowest negatives of any non-incumbent candidate. The problem worsens when Bush tries to solve it., Series; Opinion

41. Copyright (c) 1988 The Times Mirror Company; Los Angeles Times, July 2, 1988, Saturday, Home Edition, Part 1; Page 15; Column 1; National Desk, 1139 words, PRISON FURLOUGHS: CAMPAIGNS OBSCURING COMPLEX ISSUE, By DAVID LAUTER, Times Staff Writer, WASHINGTON, LEAD: As the presidential campaign serve and volley over prison furloughs continued this past week, Massachusetts Gov. Michael S. Dukakis' spokesman accused Vice President George Bush of having "his facts wrong." Bush campaign manager Lee Atwater, in turn, accused Dukakis of

having his facts wrong.

42. Copyright (c) 1988 The New York Times Company; The New York Times, June 30, 1988, Thursday, Late City Final Edition, Section A; Page 22, Column 1; Editorial Desk, 327 words, Furloughs From Common Sense, LEAD: Who would give a weekend pass to a convicted murderer? Massachusetts prison officials have done that during the administration of Gov. Michael Dukakis. The practice hardly warrants Vice President George Bush's mock shock. But it deserves more explanation.

43. The Associated Press, June 27, 1988, Monday, PM cycle, 878 words, Massachusetts Furlough Program At Center Of Dukakis-Bush Crime Debate, By JOHN KING, Associated Press Writer, BOSTON, Dukakis-Furlough, LEAD: As Republican George Bush wages an aggressive effort to portray Michael Dukakis as a liberal who is soft on crime, the man at the center of the vice president's pitch is behind bars in a Maryland prison.

44. Copyright (c) 1988 Time Inc. All Rights Reserved; Time, June 27, 1988, U.S. Edition, NATION; Pg. 22, 517 words, The One That Got Away; Why an escaped murderer haunts Michael Dukakis, By Jacob V. Lamar. Reported by Robert Ajemian/Boston and Michael Riley with Dukakis

45. The Associated Press, June 26, 1988, Sunday, AM cycle, 878 words, Massachusetts Furlough Program At Center Of Dukakis-Bush Crime Debate, By JOHN KING, Associated Press Writer, BOSTON, Dukakis-Furlough, LEAD: As Republican George Bush wages an aggressive effort to portray Michael Dukakis as a liberal who is soft on crime, the man at the center of the vice president's pitch is behind bars in a Maryland prison.

46. Copyright (c) 1988 Facts on File, Inc.; Facts on File World News Digest, June 24, 1988, UNITED STATES; Politics, Pg. 459 C1, 1325 words, The White House Race

47. Copyright (c) 1988 The Times Mirror Company; Los Angeles Times, June 24, 1988, Friday, Orange County Edition, Sports; Part 3; Page 11; Column 3; Sports Desk, 325 words, AREA ROUNDUP; OLD-TIMERS AT ANAHEIM SUNDAY WILL INCLUDE CHANCE, BELINSKI, LEAD: Former Angels Dean Chance, Bo Belinski, Joe Rudi, Vic Power and Ken Brett will be featured in the Equitable Old-timers game Sunday before the Angels' game against the Milwaukee Brewers.

48. Copyright (c) 1988 The New York Times Company; The New York Times, June 24, 1988, Friday, Late City Final Edition, Section A; Page 31, Column 6; Editorial Desk, 755 words, IN THE NATION; Bush League Charges, By TOM WICKER, LEAD: Vice President Bush must have little to say of real national importance if he can think of nothing better than to picture Michael Dukakis as soft on crime and weak on patriotism. Surely these fatuous charges are not serious Presidential campaigning, but only the customary efforts of Mr. Bush's manager, Lee

49. Copyright (c) 1988 The Washington Post, June 24, 1988, Friday, Final Edition FIRST SECTION; PAGE A6, 1082 words, Most States Allow Furloughs From Prison; Bush Lashes Dukakis for Stance on Policy That Has Been Adopted by Much of Nation T.R. Reid, Washington Post Staff Writer, LEAD: When Vice President Bush picked Massachusetts' "prison furlough" program as a rhetorical hammer to bash Gov. Michael S. Dukakis, Bush's likely opponent in the fall presidential campaign, he seemed to have his hands on a near-perfect campaign issue. The idea of giving "weekend passes" to imprisoned murderers sounded straightforward enough to

explain in a single sentence -- just right for TV news -- and it seemed to place Dukakis well to the left of the mainstream., ANALYSIS, NATIONAL NEWS

50. Copyright (c) 1988 The Times Mirror Company; Los Angeles Times, June 23, 1988, Thursday, Home Edition, Part 1; Page 18; Column 1; National Desk, 830 words, POLITICS 88; OFFERS CONSERVATIVE LAW-AND-ORDER AGENDA; BUSH SCORES DUKAKIS TIES TO ACLU, By CATHLEEN DECKER, Times Staff Writer, LOUISVILLE, Ky., LEAD: Vice President George Bush took indirect aim at Massachusetts Gov. Michael S. Dukakis on Wednesday, assailing the American Civil Liberties Union to which Bush's Democratic opponent belongs and blasting undefined "liberals" for creating legal loopholes to benefit criminals.

51. Copyright (c) 1988 Newsday, Inc.; Newsday, June 23, 1988, Thursday, NASSAU AND SUFFOLK EDITION, NEWS; Pg. 15 Other Edition: City Pg. 17, 476 words, Bush Lashes at 'Soft' Stances on Crime, By Myron S. Waldman. Newsday Washington Bureau, Louisville, Ky., ELECTION; 1988; PRESIDENT; CANDIDATE; REPUBLICAN PARTY; CAMPAIGN; ISSUE; GEORGE BUSH, LEAD: In what he billed as a non-political speech, Vice President George Bush yesterday blasted liberal judges, lawmakers and the American Civil Liberties Union as soft on criminals and resumed his attack on the Massachusetts prison furlough program.

52. Copyright (c) 1988 The New York Times Company; The New York Times, June 23, 1988, Thursday, Late City Final Edition, Section B; Page 7, Column 1; National Desk, 721 words, Bush Talks Tough on Crime, Criticizing Prisoner Furlough Program, By DAVID E. ROSENBAUM, Special to the New York Times, LOUISVILLE, Ky., June 22, LEAD: Continuing a series of speeches around the country on crime and drugs, Vice President Bush expressed contempt today for civil libertarians ''who show more compassion for the criminals than they do for the victims of crime.''

53. Copyright (c) 1988 The Washington Post, June 23, 1988, Thursday, Final Edition, FIRST SECTION; PAGE A4, 626 words, Bush Hammers Dukakis on Crime; Convict's Rampage Invoked in Bid to Paint Democrat as Too Liberal, David Hoffman, Washington Post Staff Writer, LOUISVILLE, June 22, 1988, LEAD: Vice President Bush invoked the terror of Willie Horton today in a continuing effort to portray Massachusetts Gov. Michael S. Dukakis as soft on crime., NATIONAL NEWS

54. Copyright (c) 1988 Reuters, June 22, 1988, Wednesday, AM cycle, 497 words, BUSH SAYS HE'S TOUGHER THAN DUKAKIS ON CRIME, By Christopher Hanson, LOUISVILLE, Ky., June 22, CAMPAIGN-BUSH, LEAD: Vice President George Bush, out to portray Michael Dukakis as soft on crime, said on Wednesday his Democratic presidential rival's willingness to release convicts over the weekend undermined his claim to be tough on crime.

55. The Associated Press, June 21, 1988, Tuesday, PM cycle, Sports News, 578 words, By JOHN F. BONFATTI, AP Sports Writer, BUFFALO, N.Y., BBO--Old-Timers Classic, LEAD: Tug McGraw frowned when he was asked if his fifth-inning double to deep left in the National Old Timers Classic was the longest ball he'd ever hit.

56. Proprietary to the United Press International 1988, June 21, 1988, Tuesday, BC cycle, Sports News, 303 words, BUFFALO, N.Y., Bb-Oldtime, LEAD: Hall of Famer Billy Williams drove in the winning run and pitcher Tug McGraw's two-run double capped a six-run rally in the bottom of the fifth inning, lifting the the National League to an 8-2 victory Monday night over the American League 8-2 in

the 7th Annual National Old-Timers Baseball Classic.

57. The Associated Press, June 20, 1988, Monday, AM cycle, Sports News, 241 words, National 8, American 2, By JOHN F. BONFATTI, AP Sports Writer, BUFFALO, N.Y., BBO--Old Timers Game, LEAD: A sellout crowd of 19,500 turned out at Buffalo's new Pilot Field Monday night as Billy Williams' run-scoring single broke a tie and the National League beat the American League 8-2 in the National Old Timers Baseball Classic.

58. The Associated Press, June 19, 1988, Sunday, AM cycle, Sports News, 451 words, By JOHN F. BONFATTI, AP Sports Writer, BUFFALO, N.Y., BBO-Old-Timers Game LEAD: The annual National Old-Timers Classic, held for its first six years in Washington, D.C., moves to Buffalo's new Pilot Field Monday night.

59. Copyright (c) 1988 Newsday, Inc.; Newsday, June 19, 1988, Sunday, NASSAU AND SUFFOLK EDITION, NEWS; Pg. 7 Other Edition: City Pg. 15, 1706 words, Questions for Dukakis On Furlough Program, By Ellis Henican. Newsday Staff Correspondent, Lawrence, Mass., MICHAEL DUKAKIS; MASSACHUSETTS; PRISON; PRISONER; CRIME; MURDER; PRESIDENT; CANDIDATE; ELECTION; CAMPAIGN; ISSUE; 1988, LEAD: It all started with a terrible murder one Saturday night in 1974, long before the term prison "furlough" had entered the consciousness of the people of Massachusetts.

60. Copyright (c) 1988 The Times Mirror Company; Los Angeles Times, June 13, 1988, Monday, Home Edition, Part 1; Page 1; Column 4; National Desk, 1870 words, CRIME ISSUE BECOMING ELECTION BATTLEGROUND; DUKAKIS CAMP DETERMINED TO COUNTER BUSH'S ATTACK ON DEATH-PENALTY, PRISON-FURLOUGH STANDS, By DAVID LAUTER, Times Staff Writer, BOSTON, LEAD: Fourteen years have gone by, but tears still come to Donna Cuomo's eyes when she remembers her kid brother and the man who killed him. "Joey," she says, "was just a regular kid, he liked to play the drums. He was a happy-go-lucky type kid, always smiling."

61. The Associated Press, June 9, 1988, Thursday, PM cycle, Sports News, 803 words, BBO--Baseball Today, LEAD: Thursday, June 9 Baseball Today, By The Associated Press, SCOREBOARD Detroit at Cleveland

62. The Associated Press, June 8, 1988, Wednesday, AM cycle, Sports News, 778 words, BBO--Baseball Today, LEAD: Thursday, June 9Baseball Today, By The Associated Press, SCOREBOARDDetroit at Cleveland

63. The Associated Press, June 8, 1988, Wednesday, AM cycle, Sports News, 264 words, BBO--This Date In Baseball, LEAD: This Date in BaseballJune 91901The New York Giants set a major league record with a 31-hit attack against Cincinnati as they beat the Reds 25-13. Al Selbach of the Giants went 6-for-7 with two doubles and four singles and scored four runs.

64. Proprietary to the United Press International 1988, June 5, 1988, Sunday, BC cycle, Sports News, Wisconsin, 390 words, MILWAUKEE, Bb-Oldtimers, LEAD: Age was showing on many of the former major-leaguers, but both fans and participants enjoyed the Equitable Old-Timers game held before the Milwaukee Brewers faced the California Angels.

65. PR Newswire, May 16, 1988, Monday, 302 words, SIX TO ENTER MICHIGAN SPORTS HALL OF FAME, DETROIT, May 16, SIX TO ENTER MICHIGAN SPORTS HALL OF FAME, LEAD: DETROIT, May 16 /PRN/ -- Upwards of 1,000 persons will be on hand Thursday (May 19) in Cobo Hall to witness the induction of six honorees into the State of

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Michigan Sports Hall of Fame. The six honorees and their sports are: Lynn Chandnois, Dick (Night Train) Lane and Yale Lary, football; Glenn Johnson, golf; Sheila Young-Ochowicz, speed ice skating; and the late Jack Castignola, Trenton High School football coach.

66. Copyright (c) 1988 The Washington Post, May 14, 1988, Saturday, Final Edition, SPORTS; PAGE D6, 1161 words, Steinbrenner Appears And the Losing Starts Dave Winfield, Tom Parker, LEAD: By the close of spring training, the 1985 Yankees were the closest knit team I'd ever been on. There wasn't a bad apple in the bunch. It was also a team capable of scoring a lot of runs, creating havoc for the opposition. There were Don Mattingly, Willie Randolph, Don Baylor and George Steinbrenner's newest acquisition, Rickey Henderson., NATIONAL NEWS

67. The Associated Press, May 9, 1988, Monday, PM cycle, 636 words, Dukakis Braces For Bush Attacks On Crime Issues, By CHRISTOPHER B. DALY, Associated Press Writer, BOSTON, Dukakis-Crime, LEAD: During last year's legislative session, Massachusetts Senate President William Bulger relegated a capital-punishment bill to committee, effectively killing it. Bulger supports the death penalty. But he also supports Michael Dukakis _ and his move spared the governor from having to veto a death-penalty bill.

68. The Nation Copyright (c) 1988 Information Access Company; Copyright (c) Nation Enterprises 1988, May 7, 1988, Vol. 246; No. 18; Pg. 632, 1080 words, A disgusting award for a disgusting paper; Pulitzer Prize to the Lawrence Eagle-Tribune Beat the Devil, Cockburn, AlexanderThe Nation

69. Proprietary to the United Press International 1988, April 29, 1988, Friday, BC cycle, Regional News, Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont, 187 words, Dukakis signs law banning lifer furloughs, BOSTON, Ma-Furlough, LEAD: Gov. Michael S. Dukakis quietly signed a law Thursday that bans furloughs for first-degree murders, ending a 16-year program that allowed the controversial practice.

70. The Associated Press, April 28, 1988, Thursday, AM cycle, Domestic News, 471 words, Dukakis Signs Ban On Inmate Furloughs, BOSTON, Dukakis-Furloughs, LEAD: Gov. Michael Dukakis signed into a law Thursday a ban on furloughs for first-degree murderers, a measure prompted by public outcry over a stabbing and rape by an inmate who fled the state while on a pass.

71. Copyright (c) 1988 The Times Mirror Company; Los Angeles Times, April 28, 1988, Thursday, Southland Edition, Sports; Part 3; Page 1; Column 3; Sports Desk 653 words, TIGERS FELT LIKE ORIOLES FOR 19 GAMES IN '75, By AP, DETROIT, LEAD: Bill Freehan and Willie Horton know how the Baltimore Orioles feel. Tom Brookens can't imagine., Wire

72. The Associated Press, April 27, 1988, Wednesday, AM cycle, Domestic News, 235 words, Senate Sends Dukakis Bill Banning Furloughs For First-degree Murderers, By JOHN DIAMOND, Associated Press Writer, BOSTON, Furloughs, LEAD: The Massachusetts Senate on Tuesday sent to Gov. Michael S. Dukakis' desk a bill to ban furloughs for first-degree murderers, a measure Dukakis has said he would sign.

73. The Associated Press, April 27, 1988, Wednesday, AM cycle, Sports News, 655 words, By HARRY ATKINS, AP Sports Writer, DETROIT, BBA--1975 Tigers Streak, LEAD: Bill Freehan and Willie Horton know how the Baltimore Orioles feel. Tom

Brookens can't imagine.

74. Proprietary to the United Press International 1988, April 27, 1988, Wednesday, BC cycle, Regional News, Maryland, Virginia, 339 words, Furlough ban wins Senate approval, BOSTON, Furloughs, LEAD: The Massachusetts Senate gave overwhelming approval to a voter-backed initiative petition to ban prison furloughs for first-degree murderers, sending the bill on to Gov. Michael S. Dukakis for his signature.

75. Proprietary to the United Press International 1988, April 26, 1988, Tuesday, BC cycle, Regional News, Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont, 337 words, Furlough ban wins Senate approval, BOSTON, Ma-Furloughs, LEAD: The Massachusetts Senate gave overwhelming approval Tuesday to a voter-backed initiative petition to ban prison furloughs for first-degree murderers, sending the bill on to Gov. Michael S. Dukakis for his signature.

76. Proprietary to the United Press International 1988, April 25, 1988, Monday, BC cycle, Regional News, Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont, 566 words, Ban on furloughs wins final House approval, By KEN CAFARELL, UPI Statehouse Reporter, BOSTON, Ma-Furloughs, LEAD: A voter-backed initiative petition to ban the granting of prison furloughs to first-degree murderers was overwhelmingly approved Monday by the Massachusetts House.

77. PR Newswire, April 18, 1988, Monday, 465 words, LEONARD BROSE, CHUCK BURNS AND THE LATE SAM BISHOP, SOUTHFIELD, Mich., April 18, MICHIGAN JEWISH SPORTS HALL OF FAME INDUCTEES, LEAD: SOUTHFIELD, Mich., April 18 /PRN/ -- The fourth group of inductees to the Michigan Jewish Sports Hall of Fame has been announced and includes tennis great Lenny Brose, table tennis champion Chuck Burns, and the late Sam Bishop, longtime football, baseball, and track coach at Detroit's Northwestern High School.

78. Proprietary to the United Press International 1988, April 7, 1988, Thursday, BC cycle, Regional News, Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont, 352 words, House panel votes to ban furloughs for lifers, By KEN CAFARELL, UPI Statehouse Reporter, BOSTON, Ma-Furloughs, LEAD: A Senate-approved ban on weekend prison furloughs for first-degree murderers was overwhelmingly approved by the House Ways and Means Committee Thursday and sent to the House, which is expected to follow suit.

79. Copyright (c) 1988 Newsday, Inc.; Newsday, April 5, 1988, Tuesday, ALL EDITIONS, SPORTS; Pg. 113, 372 words, Just Another Day at the Park; Viola tries to keep season-opening start in perspective, Tom Verducci, BASEBALL, LEAD: Yes, Frank Viola did go to Disneyworld. The Twins pitcher spent five days there this winter after winning the World Series most valuable player award and appearing in a Disneyworld commercial. Today, he visits another adventure park, Yankee Stadium. This time, he is putting business ahead of pleasure.

80. Proprietary to the United Press International 1988, March 29, 1988, Tuesday, BC cycle, Regional News, Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont, 352 words, Senate approves ban, By KEN CAFARELL, UPI Statehouse Reporter, BOSTON, Ma-Furloughs, LEAD: A bill to ban prison furloughs for first-degree murders was overwhelmingly approved by the state Senate Tuesday and sent on to the House, which was also expected to give the bill quick approval.

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81. The Associated Press, March 22, 1988, Tuesday, AM cycle, 615 words, Dukakis Changes Position on Furloughs for Murderers, By JOHN DIAMOND, Associated Press Writer, BOSTON, Dukakis-Furlough, LEAD: Massachusetts Gov. Michael S. Dukakis changed his stance and agreed Tuesday to support a ban on furloughs for first-degree murderers after public pressure stemming from the release of a murderer who raped a Maryland woman. 17

82. Proprietary to the United Press International 1988, March 22, 1988, Tuesday, BC cycle, Regional News, Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont, 1131 words, Dukakis says he will not oppose furlough ban, By KEN CAFARELL, UPI Statehouse Reporter, BOSTON, Ma-Dukakis, LEAD: Bowing to public pressure, Gov. Michael S. Dukakis reversed his field Tuesday and said he will not oppose a ban on prison furloughs for first-degree murderers likely to be approved by the Legislature this year. 18

83. Copyright (c) 1988 Newsday, Inc.; Newsday, March 6, 1988, Sunday, ALL EDITIONS, THE NEWSDAY MAGAZINE; COVER STORY; Pg. 9, 4600 words, Welcome To Wellness; American businesses are promoting worker health as if they were pushing cars or deodorants - and with signs of the same hard sell., JEFF COPLON. Jeff Coplon is a freelance writer., HEALTH; EXERCISE; CORPORATION, LEAD: "If I'd known I was going to live so long, I'd have taken better care of myself."

84. Proprietary to the United Press International 1988, February 25, 1988, Thursday, BC cycle, Regional News, Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont, 152 words, BOSTON, Ma-Furloughs, LEAD: The Massachusetts Legislature Thursday appeared to remain sharply divided on the controversial question of whether first-degree murderers should be granted prison furloughs. 20

85. Proprietary to the United Press International 1988, February 22, 1988, Monday, BC cycle, Regional News, Massachusetts, 508 words, BOSTON, Ma-Furlough, LEAD: Pam Allen, sobbing openly in a packed hearing room, held up a photograph of her baby grandaughter taken as the tot visited her murdered mother's grave. 21

86. Dallas Business Journal; Copyright The Dallas Business Journal, Inc. 1988; Business Dateline; Copyright (c) 1988 UMI/Data Courier, January 25, 1988, Vol 7; No 23; Sec 1; pg 1, 1226 words, Battery Seller Shines on, Dean Lampman, Dallas; TX; US, LEAD: An oversized map of the United States peppered with small, multicolored pins and flags dominates the lobby of Interstate Battery System of America's headquarters on Forest Lane in North Dallas.

87. Copyright (c) 1988 Newsweek, January 25, 1988, UNITED STATES EDITION, SOCIETY; Justice; Pg. 63, 539 words, The Ballot Box Goes to Prison, MARK STARR in Boston 23

88. Copyright (c) 1988 The New York Times Company; The New York Times, January 10, 1988, Sunday, Late City Final Edition, Section 3; Page 1, Column 1; Financial Desk, 2405 words, B.P. AMERICA'S 'HATCHET GENTLEMAN': Robert B. Horton; Cost-Cutter With a Soft Touch, By WILLIAM GLABERSON, CLEVELAND, LEAD: JUST about the minute Bob Horton arrived in town two years ago as the new chairman of the Standard Oil Company, he slashed the budget for the big bash the company was planning to celebrate the opening of its new headquarters on Public Square here. They still had the party, but it was not nearly as much fun.

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89. Proprietary to the United Press International 1987, December 30, 1987, Wednesday, AM cycle, Regional News, Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont, 530 words, Lifers returned to medium-security facilities, By KEN CAFARELL, UPI Statehouse Reporter, BOSTON, Ma-Furloughs, LEAD: Corrections Commissioner Michael Fair, under fire for months over his department's prisoner furlough program, said Wednesday he has ordered all inmates serving time for first-degree murder back into medium security facilities. 25

90. Proprietary to the United Press International 1987, December 29, 1987, Tuesday, AM cycle, Regional News, Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont, 303 words, BOSTON, Ma-Furloughs, LEAD: The Legislature's Human Services Committee Tuesday approved a resolution calling on state Corrections Commissioner Michael Fair to suspend the prison work release program for first-degree murderers. 26

91. Proprietary to the United Press International 1987, December 16, 1987, Wednesday, AM cycle, Regional News, Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont, 313 words, BOSTON, Ma-Furloughs, LEAD: The Massachusetts House Wednesday approved by a wide margin a ban on prison furloughs for first degree murderers, putting the bill on a fast track to the desk of Gov. Michael S. Dukakis. 27

92. Copyright (c) 1987 The Times Mirror Company; Los Angeles Times, November 29, 1987, Sunday, Bulldog Edition, Part 1; Page 18; Column 1; Advance Desk, 602 words, MASSACHUSETTS GROUP SEEKS TO HALT PRISON PRACTICE OF GIVING FURLOUGHS TO MURDERERS, By KAREN McGRATH, Associated Press, BOSTON, LEAD: Donna Comeau was reading a newspaper last year when she spotted a familiar name. William Horton Jr., who had fatally stabbed her brother more than a decade before, had fled when on furlough from prison., Wire 28

93. The Associated Press, November 16, 1987, Monday, PM cycle, Domestic News, 72 words, Massachusetts Reviewing Furloughing Of Murderers, By KAREN McGRATH, Associated Press Writer, BOSTON, Prison Furloughs, LEAD: Donna Comeau was reading a newspaper last year when she spotted a familiar name. William Horton Jr., who fatally stabbed her brother more than a decade before, had fled while on furlough from prison. 29

94. Proprietary to the United Press International 1987, November 5, 1987, Thursday, AM cycle, Regional News, Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont, 594 words, Couple calls for furlough ban, BOSTON, Ma-Furloughs, LEAD: A Maryland couple terrorized by a Massachusetts murderer who escaped while on furlough said Thursday that Bay State authorities must stop releasing killers. 30

95. Proprietary to the United Press International 1987, November 4, 1987, Wednesday, AM cycle, Domestic News, 456 words, Cavemen took care of physically disabled, By GAYLE YOUNG, UPI Science Writer, NEW YORK, Cavepeople, LEAD: The skeleton of a dwarf who died some 12,000 years ago indicates cave people cared for physically disabled members of their communities, a researcher said Wednesday.

96. Proprietary to the United Press International 1987, November 4, 1987, Wednesday, PM cycle, Domestic News, 503 words, Cavemen took care of physically disabled, By GAYLE YOUNG, UPI Science Writer, NEW YORK, Cavepeople, LEAD: In

their prehistoric struggle for survival, cavemen still managed to care for members of their community too disabled to forage and hunt with the clan, according to evidence found in southern Italy.

97. Proprietary to the United Press International 1987, October 29, 1987, Thursday, BC cycle, Regional News, Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont, 194 words, BOSTON, Ma-Furloughs, LEAD: Public Safety Secretary Charles V. Barry said Thursday he is considering the possibility of making public the criminal records of inmates who violate terms of their furloughs. 33

98. Proprietary to the United Press International 1987, October 26, 1987, Monday, BC cycle, Regional News, Georgia, 301 words, BRUNSWICK, Ga., Allen, LEAD: A Missouri man convicted of the 1986 murder of a Brunswick convenience store clerk was condemned to die by a Glynn County Superior Court jury. 34

99. Proprietary to the United Press International 1987, October 21, 1987, Wednesday, AM cycle, Regional News, Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont, 393 words, Corrections chief defends record, BOSTON, Ma-Furloughs, LEAD: Embattled state Corrections Commissioner Michael Fair, whose job is rumored to be in jeopardy, strongly defended his department's use of prison furloughs at a four-hour legislative hearing Wednesday. 35

100. Copyright (c) 1987 The New York Times Company; The New York Times, September 28, 1987, Monday, Late City Final Edition, Section C; Page 3, Column 1; Sports Desk, 664 words, Blue Jays' Catcher Rooted for the Tigers, By JOE SEXTON, Special to the New York Times, TORONTO, Sept. 27, LEAD: When he was in high school in suburban Detroit, Ernie Whitt would wake up on Saturday mornings in the summer, grab his glove and the crosstown bus and head out to seek fame or, at least, the good fortune of being asked to do it all over again a week later.

101. Copyright (c) 1987 The Times Mirror Company; Los Angeles Times, September 20, 1987, Sunday, Home Edition, Calendar; Page 94; Calendar Desk, 1291 words, MERRY WIDOW OF COUNTRY LEGENDS, By JOHN PRIME, Prime is a free-lance writer based in Shreveport., SHREVEPORT, La., LEAD: Being the widow of two country music legends has been nothing if not eventful for Billie Jean Horton. But if her life with the legacies of Hank Williams and Johnny Horton were to be made into a country song, the title would probably be "Double Trouble.", Profile

102. Copyright (c) 1987 The Times Mirror Company; Los Angeles Times, September 3, 1987, Thursday, San Diego County Edition, Sports; Part 3; Page 13; Column 1; Sports Desk, 1061 words, CITY CENTRAL FOOTBALL; LEAGUE PREVIEW; WITH LINCOLN WEAKER, RACE COULD BE OPEN, Second in a series of San Diego County high school football previews. Friday: Grossmont 3-A League, By CHRIS ELLO, SAN DIEGO, LEAD: Coach Vic Player stood on the sidelines at San Diego Jack Murphy Stadium last December, applauding his Lincoln High School football team, which had just overwhelmed Oceanside, 41-7, to win its second straight San Diego Section 2-A championship., Series

103. Proprietary to the United Press International 1987, August 30, 1987, Sunday, BC cycle, Sports News, Michigan, 441 words, DETROIT, Bba-Tigers-bits, LEAD: Bengal Bits:

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104. Proprietary to the United Press International 1987, August 26, 1987, Wednesday, AM cycle, Regional News, Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont, 409 words, New furlough regulations, BOSTON, Ma-Furlough, LEAD: State officials, reacting to the arrest of an escaped murderer on rape charges, tightened regulations Wednesday on the granting of furloughs to inmates serving life sentences for first-degree murder.

105. Proprietary to the United Press International 1987, August 19, 1987, Wednesday, BC cycle, Sports News, Michigan, 281 words, DETROIT, Bba-Tigers-bits, LEAD: Bengal Bits:

106. Copyright (c) 1987 The New York Times Company; The New York Times, August 16, 1987, Sunday, Late City Final Edition, Section 3; Page 1, Column 1; Financial Desk, 2295 words, TOBACCO GOES BACK ON TRIAL, By WILLIAM GLABERSON, LEXINGTON, Miss., LEAD: TOBACCO never grew in this part of the South. But Ella Mae Horton and her lawyers hope it will begin to die here.

107. Copyright (c) 1987 The New York Times Company; The New York Times, August 10, 1987, Monday, Late City Final Edition, Section D; Page 5, Column 4; Financial Desk, 197 words, Bevill Agrees To Payment, AP, NEWARK, Aug. 9, LEAD: Robert L. Bevill, the former chairman of Bevill, Bresler & Schulman Inc., has agreed to turn over $2.3 million to court-appointed trustees managing the collapsed securities firm and a related firm, a trustee's attorney said.

108. Proprietary to the United Press International 1987, August 5, 1987, Wednesday, AM cycle, Regional News, Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont, 603 words, By KARIN DAVIES, UPI Statehouse Reporter, BOSTON, Ma-Petitions, LEAD: Massachusetts voters Wednesday filed 18 initiative petitions to do everything from allow homeowners to do their own plumbing, to reduce taxes, to limit legislative sessions to six months.

109. Copyright (c) 1987 Chicago Tribune Company; Chicago Tribune, August 2, 1987, Sunday, FINAL EDITION, SPORTS; Pg. 18; ZONE: C ON THIS DATE IN SOX, CUB HISTORY SOX, 270 words, LEAD: 1957--Jim Rivera returns from 10-game benching with game-opening homer and game-tying single in 9th, but Jackie Jensen's bases-loaded single off third baseman Fred Hatfield's glove gives Red Sox 5-4 victory in 10 innings before 31,007 at Fenway Park. Sox fall 5 games behind 1st-place Yankees. 1967--Indians rip Wilbur Wood and John Buzhardt and pile up 15 hits to win 5-1 in Cleveland, but Sox stay 2 1/2 games ahead of 2d-place Boston.

110. The Associated Press, July 21, 1987, Tuesday, BC cycle, Sports News, 224 words, Most Putouts, Nine-Inning Game, BBO--Most Putouts, LEAD: The most putouts in a nine-inning game by position with names, teams and dates:

111. The Associated Press, July 20, 1987, Monday, BC cycle, Sports News, 224 words, Most Putouts, Nine-Inning Game, BBO--Most Putouts, LEAD: The most putouts in a nine-inning game by position with names, teams and dates:

112. Copyright (c) 1987 The Times Mirror Company; Los Angeles Times, July 18, 1987, Saturday, San Diego County Edition, Sports; Part 3; Page 1; Column 4; Sports Desk, 973 words, PADRES CAN'T WITHSTAND THE HEAT AS WORRELL COMES TO THE RESCUE FOR THE CARDINALS IN 4-3 VICTORY, By BILL PLASCHKE, Times Staff Writer, LEAD: It was 9:30 p.m. on a wet, misty Friday in Jack Murphy Stadium . . . and on comes the heat., Game Story

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113. The Associated Press, July 13, 1987, Monday, PM cycle, Sports News, 419 words, American League 4, National League 1, By STEVE WILSTEIN, AP Sports Writer OAKLAND, Calif., BBO--Old-Timers, LEAD: Hall of Famer Bob Feller, whose fastballs broke more than a few bats during his career from the 1930s to the 1950s, says the secret to playing in old-timers games is to take it easy on the other old-timers.

114. Copyright (c) 1987 Time Inc. All Rights Reserved; Time, July 13, 1987, U.S. Edition, SPORT; Pg. 72, 861 words, Sport; It's a Routine . . . Home Run; From Speier to Dwyer, everyone is swinging from the heels, By Tom Callahan. Reported by Lawrence Mondi/New York

115. The Associated Press, July 12, 1987, Sunday, AM cycle, Sports News, 277 words, American League 4, National League 1, By STEVE WILSTEIN, AP Sports Writer OAKLAND, Calif., BBO--Old Timers, LEAD: Larry Doby, a star for the Cleveland Indians in the 1940s and 1950s, hit a two-run double to lead a squad of American League oldtimers to a 4-1 victory Sunday over former National League stars.

116. Copyright (c) 1987 Chicago Tribune Company; Chicago Tribune, July 1, 1987, Wednesday, NATIONAL EDITION, SPORTS; Pg. 4; ZONE: C, 336 words, HORTON KEYS AL WIN IN OLD-TIMERS, LEAD: Willie Horton hit three home runs and drove in eight runs to lead the American League to a 24-11 comeback victory over the National League Monday in the Sixth Annual Old-Timers Game.

117. The Associated Press, June 30, 1987, Tuesday, PM cycle, Sports News, 519 words, By DAVID GINSBURG, AP Sports Writer, WASHINGTON, BBO--Old Timers Game, LEAD: Before the Sixth Annual Old Timers Game, much of the talk around the batting cage centered on the number of home runs that have been flying out of major league ballparks.

118. The Associated Press, June 30, 1987, Tuesday, PM cycle, Sports News, 92 words, Monday's Sports in Brief, WASHINGTON, Briefs, LEAD: BASEBALL

119. Copyright (c) 1987 Chicago Tribune Company; Chicago Tribune, June 30, 1987, Tuesday, CHICAGOLAND EDITION, SPORTS; Pg. 5; ZONE: C, 37 words, HORTON LEADS AL TO OLD-TIMERS ROUT, From Chicago Tribune wires, WASHINGTON , LEAD: Willie Horton hit three home runs and drove in eight runs Monday night to help the American League rally from an 11-run deficit and rout the National League 24-11 in the sixth annual Old-Timers Baseball Classic.

120. Copyright (c) 1987 The Times Mirror Company; Los Angeles Times, June 30, 1987, Tuesday, Home Edition, Sports; Part 3; Page 6; Column 6; Sports Desk, 106 words, NEWSWIRE, LEAD: Willie Horton hit three home runs and drove in eight runs to lead the American League to a 24-11 comeback victory over the National League in the Sixth Annual Old-Timers Game at Washington., Column

121. Copyright (c) 1987 The New York Times Company; The New York Times, June 30, 1987, Tuesday, Late City Final Edition, Section D; Page 30, Column 6; Sports Desk, 169 words, 13 Blasts From the Past, AP, WASHINGTON, June 29, LEAD: Willie Horton hit three home runs and drove in eight runs to lead the American League to a 24-11 comeback victory over the National League tonight in the Sixth Annual Old-Timers' Game before a crowd of 23,113.

122. Proprietary to the United Press International 1987, June 30, 1987, Tuesday, AM cycle, Sports News, 557 words, Baseball Quickies, By BILL WOLLE, UPI Sports

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Writer, Bb-Almanac, LEAD: Quick Quiz Willie Horton hit three home runs and drove in eight runs to help the AL outscore the NL 24-11 Monday in the sixth annual National Old Timers Classic in Washington. Within 15, how many homers did Horton blast in his career, which lasted between 1963-1980? (answer below) Monday's Hero Wade Boggs went 3 for 5, belted a grand slam and drove in seven runs to power the Red Sox to a 14-3 pounding of the Orioles.

123. Proprietary to the United Press International 1987, June 30, 1987, Tuesday, PM cycle, Sports News, 557 words, Baseball Quickies, By BILL WOLLE, UPI Sports Writer, Bb-Quickies, LEAD: Quick Quiz Willie Horton hit three home runs and

drove in eight runs to help the AL outscore the NL 24-11 Monday in the sixth annual National Old Timers Classic in Washington. Within 15, how many homers did Horton blast in his career, which lasted between 1963-1980? (answer below) Monday's Hero Wade Boggs went 3 for 5, belted a grand slam and drove in seven runs to power the Red Sox to a 14-3 pounding of the Orioles.

124. Copyright (c) 1987 The Washington Post, June 30, 1987, Tuesday, Final Edition, SPORTS; PAGE C1, 925 words, Homers Flew Out of RFK, Legitimately, THOMAS BOSWELL, Lively Ball Delivers Power to Homer-Hitting Seniors, LEAD: Maybe it was the CBS camera on top of the home plate umpire's mask. Maybe it was the prospect of getting 90 minutes of national TV time when the game is replayed on the Fourth of July. Maybe it was the way Jim Perry, a spring chicken of 50, was bringing some pretty respectable fastballs and nickel curves to home plate, rather than the sort of junk usually seen in Old, COLUMN

125. Copyright (c) 1987 The Washington Post, June 30, 1987, Tuesday, Final Edition, SPORTS; PAGE C1, 887 words, Old Timers Add New Wrinkle to Live-Ball Theory; Horton Has 3 Homers, 8 RBI As AL Rallies to Win, 24-11, David Aldridge, Washington Post Staff Writer, LEAD: Willie Horton and the American League provided further evidence last night that there is something in the baseball this season., GAME COVERAGE, DC NEWS

126. The Associated Press, June 29, 1987, Monday, AM cycle, Sports News, 352 words, American 24, National 11, By DAVID GINSBURG, AP Sports Writer, WASHINGTON BBO--Old Timers Game, LEAD: Willie Horton hit three home runs and drove in eight runs to lead the American League to a 24-11 comeback victory over the National League Monday in the Sixth Annual Old Timers Game.

127. Proprietary to the United Press International 1987, June 29, 1987, Monday, BC cycle, Sports News, 174 words, WASHINGTON, Bb-Oldtimers, LEAD: Willie Horton hit three home runs and drove in eight runs Monday night to help the American League Old Timers rally from an 11-run deficit and rout the National League 24-11 in the sixth annual National Old Timers Classic.

128. The Associated Press, June 20, 1987, Saturday, AM cycle, Sports News, 123 words, HOUSTON, BBO-Old-Timers, LEAD: The National League's Willie Davis and Frank Thomas each drove in runs off American League pitcher Pedro Ramos, leading the NL to a 2-1 victory in the The Equitable Old-Timers All-Star game in The Astrodome Saturday.

129. Proprietary to the United Press International 1987, June 19, 1987, Friday, BC cycle, Sports News, Texas, 368 words, HOUSTON, Oldtimers, LEAD: Seven former Houston Astros, including pitcher J.R. Richard, will lead a team of National League Old Timers Saturday against an AL squad headed by Hall-of-Famer Bob Feller.

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130. The Associated Press, June 14, 1987, Sunday, BC cycle, Sports News, 142 words, SEATTLE, BBA--Old-Timers-Mariners, LEAD: Gaylord Perry, who won his 300th major-league game in the Kingdome, returned Sunday and again was the winning pitcher as a team of former Seattle Mariners beat Bob Feller and an Old-Timers All-Star squad 7-0.

131. Proprietary to the United Press International 1987, June 14, 1987, Sunday, BC cycle, Sports News, Idaho, Oregon, Washington, 93 words, SEATTLE, Bba-Oldtimers, LEAD: Willie Horton drove in three runs and four pitchers combined on a 2-hitter over 3 innings Sunday to lead the Seattle Oltimers past the Equitable All-Stars, 7-0.

132. The Associated Press, June 9, 1987, Tuesday, PM cycle, Sports News, 613 words, BBO--Baseball Today, LEAD: Tuesday, June 9

133. The Associated Press, June 8, 1987, Monday, AM cycle, Sports News, 686 words, BBO--Baseball Today, LEAD: Tuesday, June 9

134. Proprietary to the United Press International 1987, June 3, 1987, Wednesday, AM cycle, Regional News, Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont, 558 words, State toughens furlough policies, By KARIN DAVIES, UPI Statehouse Reporter, BOSTON, Ma-Furlough, LEAD: Furlough policies for first- and second-degree murderers were toughened Wednesday in response to outrage over an alleged stabbing and rape committed by a Lawrence convict who escaped while furloughed. 70

135. Copyright (c) 1987 Chicago Tribune Company; Chicago Tribune, May 30, 1987, Saturday, SPORTS FINAL EDITION, SPORTS; Pg. 4; ZONE: C, 261 words, CUBS, LEAD: 1957--Lose Game 1 of County Stadium double-header 5-2 to Braves and Ray Crone as Billy Bruton and Del Rice hit home runs; Cubs win 2d game 4-2 before 35,930 as Walt Moryn drives in 2 runs with pinch single.

136. Proprietary to the United Press International 1987, May 27, 1987, Wednesday, AM cycle, Regional News, Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont, 487 words, By JERRY BERGER, UPI Statehouse Reporter, BOSTON, Ma-Furloughs, LEAD: Massachusetts should consider the rights of crime victims and end a corrections department policy that permits the furlough of first-degree murderers, a legislative committee was told Wednesday. 72

137. Proprietary to the United Press International 1987, May 26, 1987, Tuesday, AM cycle, Regional News, Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont, 441 words, Lawmakers challenge furloughs, By KARIN DAVIES, UPI Statehouse Reporter, BOSTON, Ma-Furlough, LEAD: Alarmed by a stabbing and rape allegedly committed by a man who escaped while furloughed from a life sentence for killing a gas station attendant, a Massachusetts House panel agreed Tuesday to investigate furlough policies. 73

138. Copyright (c) 1987 The Times Mirror Company; Los Angeles Times, May 14, 1987, Thursday, Home Edition, Sports; Part 3; Page 1; Column 2; Sports Desk, 2433 words, THE BEST LEADOFF MAN EVER?; HENDERSON'S PLAY CHANGES THE GAME, By ROSS NEWHAN, Times Staff Writer, NEW YORK, LEAD: In the off-Broadway theater that is Yankee Stadium, and elsewhere in the American League, he is described as a "one-man show, the most perfect player we've seen in years.", Profile

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139. The Associated Press, May 13, 1987, Wednesday, AM cycle, Domestic News, 380 words, Murderers' Group Condemns Furlough Granted Man Charged In Rape Case, LAWRENCE, Mass., Murderers' Plea, LEAD: A group that represents convicted murderers says it is dismayed that a furlough was granted a killer who allegedly used the opportunity to break into a house to rape a woman and slash her boyfriend.

140. Copyright (c) 1987 Chicago Tribune Company; Chicago Tribune, April 20, 1987, Monday, SPORTS FINAL EDITION, SPORTS; Pg. 12; ZONE: C, 861 words, THE TOTAL SCHMIDT 10 GOLD GLOVES GO WITH THOSE 500 HOMERS, By Jerome Holtzman, LEAD: Philadelphia's Mike Schmidt has joined the exclusive 500 Home Run Club --the door swung open in Pittsburgh Saturday afternoon--and he will be remembered as one of the best power hitters in big-league history.

141. Copyright (c) 1987 Chicago Tribune Company; Chicago Tribune, March 15, 1987, Sunday, FINAL EDITION, SPORTS; Pg. 3; ZONE: C, 1026 words, JOHNSON IS A HIT AS SOX COACH, By Ed Sherman, Chicago Tribune, SARASOTA, FLA. , LEAD: Jim Fregosi stood back and watched Deron Johnson at work.

142. Proprietary to the United Press International 1987, March 12, 1987, Thursday, BC cycle, Regional News, Kansas, 222 words, WICHITA, Kan., Horton, LEAD: A Wichita man who won a new trial on a conviction of involuntary manslaughter was acquitted of the charge Thursday in Sedgwick County District Court.

143. Proprietary to the United Press International 1987, February 17, 1987, Tuesday, AM cycle, Regional News, Florida, 245 words, Report details deadly cop shootout, FORT PIERCE, Fla., Copshoot, LEAD: A police officer who survived a deadly shootout in which two detectives died had put away his pistol just before gunfire erupted during a drug investigation, court records show.

144. Copyright (c) 1987 Chicago Tribune Company; Chicago Tribune, February 15, 1987, Sunday, CITY EDITION, SPORTS; Pg. 3; ZONE: C, 747 words, RECALLING SOX YEAR OF RUDE AWAKENINGS, By Ed Sherman. Estate Features Service, P.O. Box 6710, San Francisco Calif. 94101, LEAD: Spring training is a time for dreams. And the White Sox had plenty of them last year.

145. The Associated Press, January 27, 1987, Tuesday, BC cycle, Sports News, 200 words, NEW YORK, BBA--AL's Top DH, LEAD: Don Baylor of Boston has been voted the American League's top designated hitter of 1986, the AL office announced Tuesday.

146. Proprietary to the United Press International 1987, January 26, 1987, Monday, AM cycle, Regional News, Florida, 244 words, Grand jury indicts suspect in cop shooting deaths, FORT PIERCE, Fla., Copshoot, LEAD: A grand jury indicted a truck mechanic on first-degree felony murder charges Monday in the deaths of two Fort Pierce police detectives gunned down during a drug investigation.

147. The Associated Press, January 17, 1987, Saturday, PM cycle, Domestic News, 224 words, Widows Weep As Slain Officers Are Buried, FORT PIERCE, Fla., Police Funeral, LEAD: The widows of two slain police officers wept as "Taps" was played at the men's funeral, which drew law enforcement officials from across the state.

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148. The Associated Press, January 16, 1987, Friday, AM cycle, Domestic News, 231 words, 3,000 Attend Funeral For Slain Officers, FORT PIERCE, Fla., Police Funeral, LEAD: About 3,000 mourners formed a procession nearly 10 miles long Friday for the funeral of two police officers killed in a drug raid.

149. Proprietary to the United Press International 1987, January 14, 1987, Wednesday, AM cycle, Regional News, Florida, 755 words, Lawyer says murder suspect fired no shots, By JEFF BATER, FORT PIERCE, Fla., Copshoot, LEAD: A truck mechanic sat in jail on murder charges Wednesday, but his lawyer said there was no proof the man fired any shots in a gunfight that killed two detectives and a drug suspect.

150. Proprietary to the United Press International 1987, January 13, 1987, Tuesday, AM cycle, Regional News, Florida, 809 words, By JEFF BATER, FORT PIERCE, Fla., Copshoot, LEAD: An undercover narcotics operation blew up in a fusillade of gunfire, leaving two police officers and a drug suspect dead and another detective seriously wounded.

151. Proprietary to the United Press International 1987, January 13, 1987, Tuesday, BC cycle, Sports News, Michigan, 320 words, DETROIT, Michfame, LEAD: Former Detroit Tigers' outfielders Willie Horton and Don Lund, Rhodes Scholar and Heisman Trophy winner Pete Dawkins and the late bantamweight boxer Kayo Morgan have been elected to the Michigan Sports Hall of Fame.

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EXHIBIT "C"

Lawrence Eagle-Tribune August 16,1987

"My body or spirit ... can be broken or stolen like a discarded piece of furniture."

Rape victim

How 12 hours shattered two lives

By Susan Forrest
Eagle-Tribune Writer

LA PLATA, MD. — "I thought you were dead," she said.

"I knew you were alive because I heard you screaming for me and pleading with this animal," her fiance replied.

"I thought you would feel differently about me afterward," she said.

"Why?" he said. "You didn't do anything wrong. You're not the animal."

"I felt dirty," she said. "I was scared you wouldn't want me anymore."

Clifford C. Barnes, 28, paused for a moment, then turned to me.

"I'm glad you came down from Massachusetts to meet us. (She's) saying some things she never said before. I know she needs counseling. We both need counseling."

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This conversation took place last week in a booth of the Szechuan Gardens, a Chinese restaurant in Waldorf, Md.

The speakers are a couple who police say were tortured — both physically and mentally — April 3 and 4 by furloughed killer William Horton Jr. of Lawrence.

I wanted to meet them for so long, ever since I started writing Horton stories back in early April. They invited me to Maryland. I got to know this couple as people, not as just "those victims."

The Eagle-Tribune is withholding the name of Barnes' 27-year-old fiancee as it does the names of other women who say they have been raped.

To clear up one thing, however, the victim says she is not, nor was she ever, pregnant, as was announced at a legislative hearing in Boston two months ago.

Anyway, what I learned from this courageous young couple is that any of us could have been the victims.

They never returned to the house in Oxon Hill, Md., where police say their 12-hour ordeal took place. They did drive by there last Monday, to show where it happened. She would not get out of the car and wanted to leave almost immediately.

They are selling that home and buying another one. In the meantime, they are renting a three-bedroom house located in the woods about 20 miles from Oxon Hill. The only way to get there is by dirt roads. They have five attack dogs that sleep outside.

"I couldn't ask her to go back to the house where she was raped by this animal," Barnes explained. "Would any man make his wife or girlfriend do that?

"This house is OK for now until we move into our new house because no one can get near here with the attack dogs," he said. "We can barely get near the attack dogs."

Why the convicted first-degree murderer from Lawrence ended up in Maryland after he failed to return from a weekend furlough from the Massachusetts Department of Correction last year remains a mystery.

Police said Horton did not know the Maryland couple. Police said he was apparently living in the same neighborhood of Oxon Hill and had staked out their house for three to four days before going on his rampage.

"We didn't learn that he was a furloughed killer from Massachusetts until four days after he did what he did to us," Barnes said.

"It's weird because the next morning after it happened we both said at about the same time that he looked and acted like he had killed before.

"We didn't know that he really had until we were told by police that his name was Horton and that

Two victims speak out

Eagle-Tribune reporter Susan Forrest has followed the William Horton story ever since the convicted killer went AWOL on furlough and the circumstances of his being released from prison came to light.

Today's chapter was written as Horton awaits trial in Maryland for terrorizing a young couple.

Some descriptions in this story are explicit and wrenching. We apologize. We felt, though, that the story could not be told without them.

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he had stabbed a boy to death 19 times in 1974."

I pictured the couple to look and act the way they did — attractive and kind to others. She is a blond and blue-eyed woman and stands 5 feet 10 inches. Barnes is rugged and handsome. He is 6 feet 1 inch and weights 225 pounds.

"I had no fair shot with this animal because he put the barrel of the gun in my mouth, forced me to the basement, tied up every part of my body and then stuck a sweatshirt in my mouth so I couldn't yell or scream," Barnes told me, his voice cracking.

"I'd love to get this animal alone in a room with me now, one-on-one with no weapons."

The couple has been together three years. They were to be married last May 30 but postponed it until Sept. 26 because of the attack.

They work in Washington, D.C. Barnes is the manager of a car dealership and automotive repair center. She is an accountant with a prestigious company. She is still in school, working to become a certified public accountant.

Barnes' father died in 1974 and his mother, brother and two sisters live in neighboring Virginia.

Her father abandoned the family when she was an infant and her mother died when she was 17. She feels close to her brother and two sisters, but they are scattered across the country.

"I'm the only family she really has here," Barnes said.

He calls himself a Baptist, but says he no longer believes in God because of what happened.

She is Catholic and says she believes in God more than ever because she is still alive.

One thing Barnes is thankful for is that the AIDS tests they took right after the ordeal came back negative.

"That would have been cause for suicide," he said.

"I was suicidal anyway, you know," she said. "Lots of times suicide still isn't far from my mind."

"You never told me that," he replied.

"You never asked," she said.

= = =

I listened more than I usually do during interviews. I rarely had to ask questions during my three-day stay. I just let them talk.

"I got home from work first that night," Barnes recalled. "She was at a party."

An intruder burst through the door and he became the first victim.

"As I was tied up and being beaten by this man," he said, "I prayed so hard that she wouldn't come home that night. I prayed she would notice something strange and run back out.

"Every man out there who loves a woman or who has ever loved a woman probably can't imagine what it was like to be helpless while a maniac is violating, raping and beating that woman.

"I had resigned myself to dying, but I wanted to live for her sake."

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For months I had tried to contact the couple for an interview, but they have an unlisted phone number and Maryland police said they could not give me any information.

As it turned out, Barnes wanted to find me as much as I wanted to find them.

He phoned me two weeks ago at the Eagle-Tribune.

"Is this Susan Forrest?" he asked.

"I've been looking for you. Someone in your area has been sending us all your articles on William Horton. We like your stories. We feel like we know you. We feel a connectiveness with you."

= = =

I met them at my hotel in Maryland on Sunday and it was awkward. They were both wary of my intentions. They were afraid of her name being printed in the newspaper. She did not want her face in the newspaper.

She probably said about 10 words in five hours during our first meeting.

"I'm sure you're a good reporter, but I don't see how you're going to be able to explain the impact this had on us," Barnes said.

I told her I admired her courage — trying to grab Horton's gun at one point, trying to humanize the situation by asking him for a beer and then talking about a television show so that he would not rape her again, and untying her

A chilling coincidence in Mexico

Last May, one month after the attack, Barnes took his fiancee to Cancun, Mexico, to get away from it all.

Beside the hotel's pool, they met the Beauchesne family of Hampstead, N.H.

The Beauchesnes were formerly of Lawrence, where they lived next door to the Fournier family.

Joseph Fournier, 17, was murdered by Horton in 1974.

"Small world, huh," Barnes said.

"We told them we were the couple who that guy attacked and then they told us they lived next to the Fournier boy in the early 1970s.

"When we went our separate ways. They promised to start sending us articles, and they did."

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ropes knowing he could burst back in the bedroom any minute.

She finally admitted she was embarrassed about the rapes.

"You know, he liked having the metal knife on my body," she said. "When I realized he was going to rape me, I lied and told him I had herpes, hoping that would scare him off.

"Instead, he said, 'OK, let's see.' He put the knife down there and checked. He laughed and said, 'Nope, can't find anything.' Then he just did it.

"God," she added, "I never even told the police that part."

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In my countless interviews with them — on their boat, in restaurants, in their home, in my hotel room and even in Prince George County courthouse as we waited to see if Horton's case would go forward — I learned so much more about the attack, how it changed them both and how their relationship changed.

She went back to work shortly after the ordeal. She went to a few rape counseling sessions, but stopped because it was too difficult to face up to what had happened.

Barnes wants her to go back into therapy. He says they need help to replenish their relationship.

"I thought the scars would go away eventually if we pretended it never happened," she said.

"It won't get better by itself," Barnes said.

He looked at me and said, "She handles it real well in front of other people. I don't even know what she's thinking sometimes anymore."

Then he got angry.

"We had everything going for us before. We are two of the nicest people I know. (She) is smart and giving and loving. We always did things for other people, especially our families. We keep going over and over in our heads why it happened to us, but we don't understand."

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During the interviews they periodically cried, got angry or became quiet. I saw her fear of everything that moved when we were out in public. I watched the way she walked around her house, expecting some maniac to jump out from behind every corner.

"I am angry, hurt and mostly afraid of my own shadow," she said. "I feel like a weak rag doll.

"The absolute terror I feel inside is that I don't have complete authority or control over who has my body or spirit," she said.

"It can be broken or stolen like a discarded piece of furniture. I am no longer in charge of my emotions or independent. I feel like I am at the mercy of any crazy person who decides to rape or kill me."

"She carries a knife all the time when she's in the house now, and she won't go to the bathroom until she checks behind the shower stall first," Barnes said. "Can you blame her? I mean, your home is supposed to be the place where you feel safest, but I was on the toilet when this maniac burst into the bathroom holding a gun."

"I'm afraid of my own shadow," she added. "I will go back to counseling and I am going to get better."

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They said they used to fight about silly things, like who would do the dishes or make up the bed.

Now, they said, they fight about this.

They said they never had problems sleeping through the night before.

Now, they said, they are up and down all night.

"I keep hearing her screams over and over in my head," Barnes said. "I hated not being able to help her."

"I keep remembering him standing over me with his ugly face and sick laugh," she said.

They said they used to be very independent people. They said they used to go out separately with friends, like on the night they say Horton broke into their home.

Now, they said, they are always together, except during working hours.

"She never used to call me at work and now she calls me 12 times a day to make sure I'm all right," Barnes said. "And I'm no better. I'm always calling her during the day, for no reason, just to make sure she is where she is supposed to be."

They said they used to have a passionate, wonderful and constant sex life.

Now, they said, they make love maybe once every two weeks and she does not enjoy it much.

"It has definitely changed our love life," Barnes said.

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There are some good things that have not changed, though, like the hobbies that brought them together in the first place — boating, dancing and watching old movies.

She is an avid animal lover like me. I will stop my car to help an injured squirrel off the road. She says she pulls over to assist slow-moving turtles.

"Horton's an animal," Barnes said.

"No," she replied. "My dogs are animals. I love my dogs. I love all animals. He's not good enough to be called an animal. He's a monster."

"You're right," Barnes said. "He's a monster. I'd like to kill him."

"I don't wish him dead," she said. "I want him to rot in jail."

Barnes said he believes Horton would have killed them both if Barnes had not escaped to a neighbor's house.

"It was like a cat and mouse

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game with this guy," he said. "He was like a cat who caught the mouse but wanted to watch it suffer first before it made the final kill.

"He never dug the knife straight into me 't was always a slow dragging motion."

Barnes has dozens of scars on his stomach as proof.

"Horton had no intention of just robbing this house. If he did, he could have left a long time before. We had three VCRs in that house and four color TV sets. He didn't take any of that stuff. He liked torturing me. He used the knife on me in such a way that I moaned and squirmed. He enjoyed it. He laughed.

"The reason he got caught was because he stole my red Z28. How many red Z28s are speeding on a highway at 6:30 in the morning?" Barnes asked. "He was an easy mark."

They said they do not know what would have happened to their lives if Horton had not been caught.

But he was caught. And if convicted of all the charges Maryland has against him, and if he is sent back to Massachusetts to continue serving his life sentence, he will be a very old man before he sees the outside world.

The couple say they will sue the Massachusetts Department of Correction for the hell they endured.

Through Eagle-Tribune articles, they sought out the man who prosecuted Horton in 1975, Michael Stella Jr.

Stella is now a private attorney in Lawrence. He is representing them.

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As I waved goodbye to the couple last week, I felt like I was saying goodbye to old friends.

"We knew there was someone in Massachusetts we could talk to," Barnes said, "someone who could try and help us to understand how this ever happened in the first place."

"I will never be able to understand it," she said, "but at least I feel like a big weight has now been taken off my shoulders."

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

SENSITIVE

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FIRST GENERAL COUNSEL'S REPORT

MUR # 3069
DATE COMPLAINT RECEIVED
BY OGC: May 30, 1990
DATE OF NOTIFICATION TO
RESPONDENTS: June 6, 1990
STAFF MEMBER: Xavier K. McDonnell

COMPLAINANTS: Ohio Democratic Party, and
James M. Ruvolo, Chairman
Black Elected Democrats of Ohio,
and Ray Miller, President

RESPONDENTS: Bush-Quayle '88, and
Stanley Huckaby, as treasurer
National Security Political Action Committee,
and Elizabeth I. Fediay, as treasurer
Roger Ailes
Ailes Communications
Larry McCarthy
Jesse T. Raiford

RELEVANT STATUTES: 2 U.S.C. § 431(17)
2 U.S.C. § 434(b)
2 U.S.C. § 441a(a)
2 U.S.C. § 441a(a)(7)
26 U.S.C. § 9003(b)
11 C.F.R. § 109.1(a)
11 C.F.R. § 109.1(b)

INTERNAL REPORTS CHECKED: Disclosure Reports

FEDERAL AGENCIES CHECKED: None

I. GENERATION OF MATTER

The Ohio Democratic Party and James M. Ruvolo, as chairman, and the Black Elected Democrats of Ohio, and Ray Miller, as president, (collectively "Complainants") have filed a complaint alleging that during the 1988 presidential election cycle Bush-Quayle '88 (or the "Bush Committee" or the "Bush campaign") and its agent, Roger Ailes, coordinated, cooperated or consulted with National Security Political Action Committee ("NSPAC"), and its agents, (collectively "Respondents") with respect to the

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"Willie Horton" television advertisements. If these allegations prove accurate, NSPAC's expenditures would not be independent and would be deemed to be excessive contributions to the Bush Committee, in violation of 2 U.S.C. § 441a(a), and the Bush Committee's acceptance of such contributions would be in violation of 26 U.S.C. § 9003(b).

II. FACTUAL AND LEGAL ANALYSIS

A. Applicable Law

The Federal Election Campaign Act of 1971, as amended, (the "Act") requires each political committee to submit reports to the Commission which disclose all contributions or expenditures. 2 U.S.C. § 434(b). The Act limits contributions made by persons and political committees. 2 U.S.C. § 441a(a). Independent expenditures are not limited by the Act. Buckley v. Valeo, 424 U.S. 1, 39 (1976). An independent expenditures is defined as:

> an expenditure by a person expressly advocating the election or defeat of a clearly identified candidate which is made without cooperation or consultation with any candidate, or any authorized committee or agent of such candidate, and which is not made in concert with, or at the request or suggestion of, any candidate or agent of such candidate. 2 U.S.C. § 431(17); 11 C.F.R. § 109.1(a).

Expenditures made by any person in cooperation, consultation or concert with, or at the request or suggestion of, a candidate, his authorized political committees, or their agents, shall be considered to be a contribution to such candidate. 2 U.S.C. § 441a(a)(7)(B)(i). The Commission's regulations further provide that expenditures are not independent when they are made by: "any arrangement, coordination, or direction by the candidate or his or her agent prior to the publication, distribution, display, or

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broadcast of the communication." 11 C.F.R. § 109.1(b)(4)(i). Under Commission regulation 11 C.F.R. § 109.1(b)(4)(i), an expenditure will be presumed to be so made when it is

> (A) Based on information about the candidate's plans, projects, or needs provided to the expending person by the candidate, or by the candidate's agents, with a view toward having an expenditure made;
>
> (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.

Under the Presidential Election Campaign Fund Act (the "Fund Act"), a Presidential candidate may elect to receive public financing. To become eligible to receive public funds, the candidates of a major party must certify to the Commission, under penalties of perjury, that no contributions to defray qualified campaign expenses have been or will be accepted by such candidates or any of their authorized committees except under certain limited circumstances. 26 U.S.C. § 9003(b)(2).

B. Summary of Allegations

During the 1988 election cycle, as part of its independent expenditure project called "Americans for Bush", NSPAC created and aired a television advertisement which featured a photograph of Willie Horton.[1] According to the Complainants, "the 'Willie Horton' theme was a widely-announced, integral, and approved part of Bush-Quayle '88's campaign program," and there was a similarity in the themes of the two Committees' campaign advertisements.

1. Horton is a convicted murderer who fled from Massachusetts to Maryland while on a weekend furlough. In Maryland, Horton committed more crimes, including rape, kidnaping and attempted murder.

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Attachment 1 at pages 1-2. The Complainants also allege that the two persons responsible for preparing NSPAC's ads, Larry McCarthy and Jesse T. Raiford, either worked for Roger Ailes, the chief media advisor to George Bush (the "Candidate") and Bush-Quayle '88, "at the time they made the ads or had quit only shortly before." Id. at page 1. The Complainants cite information published in certain magazine and newspaper articles to support their contention that the Willie Horton ads "were prepared and aired by arrangement, coordination, or direction of Roger Ailes and/or other agents of Bush-Quayle '88." Id. at page 2.

One of the articles enclosed with the complaint discloses that Larry McCarthy, who produced the Willie Horton ad, has close ties with Ailes and his firm, Ailes Communications ("ACI"). In fact, McCarthy was formerly senior vice president of ACI, where he was employed for six years. See Attachment 1 at pages 4-5; Schram, "The Making of Willie Horton," The New Republic, May 29, 1990, at page 17. Moreover, that article indicated that Ailes called McCarthy shortly after the latter began working for NSPAC to say that it was "too bad" he was working for NSPAC, because he "wanted to hire" his former employee for the Bush campaign "to do negative spots." Attachment 1 at page 5. The article suggests that Ailes' comments during that telephone call could have been "just the hint McCarthy needed to get the notion that he could help Ailes and Bush by making his own negative ads." Id.

In reference to his work for NSPAC, McCarthy said: "I just tried to run it as if I were Roger [Ailes]. I tried to spare him [Ailes] from doing some of these things." Id. at page 4. McCarthy also said he "figured" the Bush campaign would begin

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attacking Dukakis by mid-September, so his plan was to "lead" Ailes and the Bush Committee in airing negative ads by a couple of weeks. Id. When the Horton ad was first released, NSPAC allegedly announced that it would "yank" the ad off the air if the Bush campaign's former Chairman, James A. Baker, III, formally requested. Id. at page 5. According to this article, Mr. Baker made such a request, but not until three days before the ad was scheduled to stop running. Id.

The New Republic article also indicates that a couple of weeks after NSPAC released its Horton ad, "Ailes aired his own campaign classic: the revolving jailhouse door," an ad that apparently was also critical of the furlough program, but which never showed Horton's photo or mentioned his name.[2] Ailes reportedly said that the Bush Committee "very carefully elected not to show him [Horton] or mention him because we knew we'd be hit with racism." Id. at page 5.

Mr. Raiford, who assisted McCarthy on the Willie Horton ad, also worked for Ailes/ACI for six years. In fact, the article attached to the Complaint suggests that it is unclear whether Raiford had actually left Ailes Communications at the time the Horton commercials were produced. See Attachment 1 at page 3. Conason "Roger and He," The New Republic, May 29, 1990 at 18. That article indicates that, although Raiford's resume and an executive at Ailes Communications both state that Raiford left that corporation in

2. The Complainants statement concerning the "similarity of themes" is apparently, in part, a reference to any similarity between NSPAC's advertisements, which featured Horton's photograph, and Bush's television commercial known either as "Furlough," the "Revolving jail-house door," and/or "Crime quiz" an ad which made reference to prisoners who escaped and committed crimes while on a weekend furlough. See Attachment 1 at page 5.

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January of 1988, Raiford did not open his own office until August of 1988, the same month that the Horton commercials were produced. Attachment 1 at page 3. Moreover, Raiford's production firm, Raiford Communications, was not incorporated until September 2, 1988, a few days after the Horton commercial was completed.[3] In addition, the February 1990 edition of Campaigns & Elections, lists Raiford as a contact for Ailes Communications, which suggests Raiford has an ongoing affiliation with his former employer. Attachment 1 at page 3.

The third article attached to the Complaint indicates that the Bush Committee approved of literature, distributed by the Ohio Republican state party, which contained Horton's photograph. The Plain Dealer, November 3, 1988; See Attachment 1 at page 6. In fact, Robert Bennett, the state Republican party chairman, specifically states in the article that "the national Bush-Quayle campaign approved of the literature before it was mailed," and that the state committee did not "mail out stuff" without the Bush Committee "knowing about it." Attachment 1 at page 6.[4]

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3. Raiford evidently hired an attorney from the law firm of Nixon, Hargrave, Devans & Doyle to handle the incorporation of Raiford Communications. The author of the article suggested that it was "curious" that Raiford hired that politically active law firm for the incorporation of such a small business. Attachment 1 at page 3.

4. In that article, the Ohio Republican state party chairman Robert Bennett defended the use of that literature, and he claimed it was different from campaign literature distributed in Maryland which also featured Horton's photo. The literature distributed in Maryland apparently contained both the pictures of Dukakis and Horton, and read: "Is this your pro-family team for 1988?" Attachment 1 at page 6. The Ohio literature only contained Horton's photo and read: "Michael Dukakis has said he will do for America what he has done for Massachusetts. Meet Willie Horton." Id. It is unclear whether the literature distributed in Maryland was also approved by the Bush Committee, but, according to this article, the Maryland literature was later denounced by the former chairman of the Bush Committee, James Baker, III. Id.

C. Responses to the Complaint

1. NSPAC's Response

In its response, NSPAC acknowledges that it created and aired the Willie Horton television advertisement and that the ad was a communication which expressly advocated the election of George Bush. Attachment 2 at pages 10 and 12. NSPAC indicates that in June of 1988, Elizabeth Fediay, the Committee's treasurer, personally hired Larry McCarthy to work on the "Americans for Bush" advertising program. Attachment 2 at pages 7 and 35. NSPAC asserts that the Horton/furlough issue was first raised as a potential television campaign theme during a meeting held on August 24, 1988. Id. at pages 17-18. Among those present at that meeting were Fediay, McCarthy and four other persons who were either staff or consultants at NSPAC. Attachment 2 at pages 35-36. At that meeting, McCarthy agreed to write scripts for several different themes, including the Horton theme, and sometime later, McCarthy agreed to produce a "spot" or advertisement on the Horton theme, as well as another crime spot. Id. at page 10.[5]

The decision to use the Horton theme was, according to NSPAC, made without any input or coordination from the Bush campaign or its agents. Attachment 2 at page 18. Moreover, NSPAC asserts, the Horton/furlough issue was so widely reported that it was well known even among the general public before NSPAC's meeting on August 24, 1988. Id. at pages 8, 9, 16. In fact,

5. McCarthy conducted the production of the Horton ad on his own, with the assistance of Jesse Raiford, whom he retained for technical and accounting services. Attachment 2 at page 10. The Horton ad was produced, beginning on September 2, 1988 and it was completed on September 5, 1988. The Horton ad was then broadcast on cable television from September 21, 1988 through October 4, 1988. Id. at page 27.

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NSPAC contends that by mid-June 1988, George Bush was "specifically referring to the Willie Horton case in attacking the policies of Mr. Dukakis." Id. at page 9, citing, Germond and Witcover, Whose Broad Stripes and Bright Stars?, Warner Books, Inc. 1989, at page 162. These Respondents have attached to their response an extensive list of newspaper articles which discuss the Horton issue, and, they assert, with all this publicity, "it did not require a covert political message to be issued by the Bush-Quayle '88 Committee for any political operative to realize that this was a very hot political issue which should be capitalized upon for the benefit of the Bush campaign." Attachment 2 at pages 16-17.[6]

NSPAC asserts that neither McCarthy nor Raiford were "simultaneously" employed by NSPAC and Bush or Ailes/ACI and that the mere fact that they were both previously employed by Ailes/ACI does not amount to any "per se impropriety" relative to their subsequent employment. Attachment 2 at page 13.[7] Moreover, NSPAC contends that at the time that Raiford and McCarthy were employed by Ailes/ACI, Bush had not yet retained Ailes/ACI. Id.

Ms. Fediay states under oath that she informed McCarthy, and all the other NSPAC employees and consultants, that the activities of NSPAC's proposed media campaign on behalf of Bush were to

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6. NSPAC attached a copy of the July, 1988 issue of Reader's Digest, which contains a detailed account of the Horton story, and a brief history of the furlough program in effect in Massachusetts. See Attachment 2 at pages 30-33.

7. NSPAC also asserts that there was no allegation that McCarthy and Raiford were employed by ACI while they were also under contract with NSPAC. Attachment 2 at page 13. However, the Complainants did in fact make that specific allegation in their complaint. See Attachment 1 at page 1.

qualify as independent expenditures, and she avers that each one assured her that "none individually or through their businesses, had any contracts, activities, communications, or consultations with the Bush Campaign or any of its agents." Attachment 2 at pages 35-36. Ms. Fediay also "advised them that by accepting a consulting position with NSPAC, [she] expected them not to subsequently accept a position, coordinate or consult with the Bush campaign or any of its agents." Attachment 2 at page 36.

In his affidavit, McCarthy avers that he left the employ of Ailes in January of 1987, but that, subsequent to his departure, he conducted projects for Ailes on a contractual basis until December of 1987, when he began to work for the Dole for President Committee. Attachment 2 at page 23. McCarthy also avers that when he was retained by NSPAC, he informed Ms. Fediay that he was not, nor had he "previously been retained by the Bush Committee directly or indirectly," and that in the future neither he nor his agents would have any contact with the Bush Committee, Ailes or ACI. Attachment 2 at pages 24-25.[8]

McCarthy acknowledges that he received a phone call from Ailes in June of 1988, during which Ailes indicated that prior to learning of his relationship with NSPAC, he had considered hiring McCarthy for the Bush campaign. Attachment 2 at page 25. McCarthy avers, however, that during that phone call he informed Ailes that he could not discuss any matters pertaining to the campaign, including media and strategy, because he was on retainer

8. In addition, McCarthy avers that Raiford, whom he hired, assured him that he understood the context of independent expenditures and that he informed Raiford "that there could not be any consultation or coordination with [the] Bush campaign or any of its agents." Attachment 2 at page 28.

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with NSPAC. Id. McCarthy also acknowledges that he had other contacts with Ailes, but, he contends, all but one of those contacts were of a passing social nature. The exception was when McCarthy interviewed Ailes in October of 1988 on behalf of the Gannett Journal. Attachment 2 at page 24. McCarthy also avers that during that interview, nothing was discussed relative to NCPAC nor any of the media spots which he produced for NSPAC, nor any of the ACI or the Bush for President campaign activities anticipated for the balance of the 1988 election cycle. Attachment 2 at page 24.

2. Bush/Ailes Response

According to these Respondents, "[n]either Bush-Quayle '88 nor its agent Ailes Communications had any prior knowledge of the production of [the Horton ads] nor any direction or influence over their creation or broadcast." Attachment 3 at page 3.[9] These Respondents further assert that the Bush Committee has long objected to and denounced NSPAC's activities, and they point to various actions they have taken to demonstrate their disapproval.

First, the Bush Committee filed a complaint with the Commission "requesting a review of NSPAC's compliance with federal law in connection with its activities under its fundraising designation 'Americans for Bush.'" Id. at page 9; See MUR 2638.[10] Then the Bush campaign wrote letters to the national networks

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9. Sometime in 1987, the Bush Committee retained Ailes/ACI "to provide advice and assistance concerning political communications and advertising" throughout the 1988 Presidential election cycle. Attachment 3 at page 15.

10. The complaint in MUR 2638 challenged NSPAC's failure to disclose that its project "Americans for Bush" was not authorized by the Bush Committee. The complaint did not involve the "Willie Horton" advertisement.

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informing them that the "Willie Horton" advertisements were not paid for, authorized or approved by Bush-Quayle '88. Attachment 3 at page 9. Finally, James Baker, III, the former Chairman of Bush-Quayle '88, sent a letter to NSPAC requesting it cease its alleged misrepresentations. Id. at page 10. Copies of these letters have been attached to the response. See Attachment 3 at pages 21-26. Respondents state that the only action not taken by the Bush campaign, namely requesting that NSPAC cease using the Willie Horton advertisements, "was perceived by the campaign as legally dangerous, as it might raise a presumption that NSPAC's activities were coordinated with the campaign, if NSPAC complied with the request." Attachment 3 at page 8.

Like NSPAC, the Bush Committee asserts that "there was public awareness of the 'Willie Horton' issue without need for 'inside' information from the Bush campaign." Attachment 3 at page 11. As evidence for their assertion that there was no coordination between the Bush Committee and NSPAC, these Respondents submit the affidavit of Roger Ailes. See Attachment 3 at pages 15-20. Ailes avers that neither he nor any agent or employee of ACI "ever communicated in any way with any independent expenditures committee, or employee or agent thereof, including but not limited to Larry McCarthy or Jesse Raiford, regarding any independent expenditures programs of any kind, including but not limited to the specific 'Willie Horton' advertisement." Attachment 3 at page 15.

Ailes contends that he first became aware of the Horton issue during the spring of 1988, through press accounts, including the Reader's Digest article previously mentioned, and during the

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Democratic debates, when Albert Gore criticized the furlough program that was once in effect in Massachusetts. Attachment 3 at pages 15-16. Ailes acknowledges that the Bush Committee representatives mentioned Horton during the campaign, but he asserts, Bush-Quayle '88 "made a conscious decision not to utilize Horton's image in such television advertisements because of the potential for a negative impact on the campaign." Attachment 3 at page 16. He further contends that as "a general matter" he believes "independent expenditures have the potential to disrupt and injure the candidate on whose purported behalf they are made," that such independent ads might tar the campaign or candidate, and he surmises that this "is what happened with NSPAC's 'Willie Horton' piece." Id. at pages 17-18.

Ailes acknowledges that both Larry McCarthy and Jesse Raiford are former employees of ACI. Attachment 3 at pages 18-19. He indicates that McCarthy left ACI in January of 1987, and Raiford left on January 1, 1988. Id. He further states that when McCarthy left ACI he had a consulting contract with Ailes' firm to assist in the Danforth campaign, but that the contract was terminated once McCarthy became a consultant for the Dole for President campaign. Attachment 3 at page 18. Ailes also indicates that after Raiford left ACI, "he was in a pool of persons who were, on occasion, sub-contracted" by ACI to "set up shoots" or "to film specific scenes," but that neither Larry McCarthy or Jesse Raiford ever returned to ACI. Id. at pages

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19-20.[11] Furthermore, Ailes avers that the inclusion of Jesse Raiford as a "contact person" for Ailes in the February 1990 edition of Campaigns & Elections was inaccurate and reflects information several years out of date. Id. at page 20.

With respect to his communication with Larry McCarthy, Ailes acknowledges that he has a "general recollection" that he had called McCarthy in June of 1988, when he learned that his former employee had produced a biography of George Bush for NSPAC. Attachment 3 at page 19. Ailes indicates that he was "upset by that piece" because he felt it was "inferior" to his own biography of Bush, and might be confused with his work. Id. at page 16. Nevertheless, Ailes contends he called McCarthy after viewing NSPAC's Bush biography to tell McCarthy that the "Bush campaign had considered using" him for some "comparative advertising," but "that was now absolutely impossible" because McCarthy had worked for NSPAC. Id. at page 19.

Finally, the response contains an affidavit of Robert T. Bennett, Chairman of the Ohio Republican Party. Attachment 3 at page 12 and 27. In his affidavit, Bennett acknowledges that a campaign mailer distributed by the state party committee contained a picture of Horton. Bennett avers, however, that he never had any contact with NSPAC, and has no knowledge of any coordination between Bush-Quayle '88 and NSPAC, and he does not know of any connection whatsoever between the state party's mailer and the Horton advertisement produced by NSPAC. Id. at page 27.

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11. Respondents also state that, given the limited number of people providing political media services, "it is not surprising that the persons hired by NSPAC had past ties to Ailes Communications, a leading firm in the field ." Id. at page 13.

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Respondents also point out that the campaign flyer was apparently not produced until over a month after the airing of the Horton commercials. Id. at page 12.

3. Raiford Response

In his response, Raiford states that he left Ailes in January of 1988, before the NSPAC commercials were made, that he thereafter free-lanced for several clients until forming Raiford Communications in September of 1988, and that he "never communicated with Roger Ailes, his staff or clients, directly or indirectly, in any way, by any means, at any time," regarding any of his work with NSPAC. Attachment 4 at pages 1 and 3. Raiford indicates that he is not involved in political consulting or strategy, and that he provides only "technical" services. Id. at page 3. Raiford also states that he opened his own office and incorporated to better serve his non-political clients, that he sought the services of Nixon, Hargrave because his roommate was employed by that firm, and that the listing in Campaigns and Elections which contained his name was inaccurate. Id. at pages 2-3. He also indicates that has never been a "contact" person for ACI. Raiford does not acknowledge that he was in the pool of persons whom ACI would use for technical assistance, as Ailes has stated in his affidavit. Finally, Raiford states that, to his knowledge, "there was absolutely no communication or coordination between anyone associated with [NSPAC] and Roger Ailes, his staff, or clients, regarding the NSPAC commercials." Id. at page 3.

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D. Analysis

Under the Commission's regulations, the independence of NSPAC's expenditures may be impaired by various factors. First, the expenditures will be presumed to be coordinated if they are made by any person who is, or has been, receiving any form of compensation from the candidate, the candidate's committee or agent. See 11 C.F.R. § 109.1(b)(4)(i)(B). Secondly, the expenditures will be presumed to be coordinated if they are based on information about the candidate's plans, projects or needs provided to the expending person by the candidate, the candidate's committee or agent, with a view towards having an expenditure made. See 11 C.F.R. § 109.1(b)(4)(i)(A). Moreover, under the Act, the independence of NSPAC's expenditures will be negated if there is evidence of actual coordination between the person or committee making the expenditures and the candidate or any agent or authorized committee of such candidate. 2 U.S.C. § 431(17). 11 C.F.R. § 109.1(b)(4)(i)(B).

1. Vendor Relationship

In his affidavit, Ailes states that ACI was retained by the Bush Committee in 1987 to provide advice and assistance for the campaign. Attachment 3 at page 15. While Ailes does not specify the month in which he was retained by Bush, we do know that Raiford was employed by ACI throughout 1987, and that McCarthy had "conducted projects with ACI" on a contractual basis, and therefore was presumably receiving compensation from the firm, until December of 1987. See Attachment 2 at page 23; Attachment 3 at page 18; and Attachment 4 at page 3. Hence, the facts here disclose that both McCarthy and Raiford appear to have had a

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working relationship with ACI at the same time that ACI was Bush's agent.[12] Therefore, the expenditures for the "Willie Horton" ad appear to have been "made by or through" persons who had been receiving compensation from ACI at the same time ACI was Bush's agent.

The Respondents have presented evidence in an effort to counter the allegation that McCarthy and Raiford were employed by the Candidate's vendor, ACI, at the same time they were under contract with NSPAC. The responses indicate that both McCarthy and Raiford had left ACI prior to June of 1988, the time when McCarthy began his relationship with NSPAC. Attachment 2 at page 23; Attachment 4 at page 3. McCarthy avers that he told Ms. Fediay that he had not been previously "retained by the Bush Committee, directly or indirectly, including but not limited to Mr. Ailes or ACI." Attachment 2 at page 25. Raiford states that he "never communicated with Roger Ailes, his staff or clients, directly or indirectly," regarding any of his work for NSPAC. Attachment 4 at page 3. Ailes' affidavit is consistent with these responses from McCarthy and Raiford. See Attachment 3 at pages 15-20.[13]

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12. NSPAC mistakenly asserts in its response that at the time McCarthy and Raiford were employed by ACI, neither ACI or Ailes were employed by the Bush Committee. See Attachment 2 at page 13.

13. Raiford's response fully explains any of the ambiguities surrounding his resume, the incorporation of his firm, and the listing of his name as a contact for ACI. Attachment 3 at page 20; Attachment 4. Additionally, the affidavits submitted with NSPAC's response demonstrate that Ms. Fediay was assured by those that she hired to work on the "Americans for Bush" campaign, that they did not have any relationship at that time with the Bush Committee and that she was assured that these employees would not coordinate or consult with the Bush Committee, Bush-Quayle-'88 or any of its agents. Attachment 2 at pages 35-36.

Although McCarthy and Raiford have presented evidence that they were not simultaneously employed by ACI and NSPAC, that they did not consult with the Bush campaign while they were employed or retained by NSPAC, and that McCarthy never worked on the Bush campaign, directly or indirectly, the responses nevertheless disclose that Raiford and McCarthy's working relationship with ACI overlapped that firm's relationship with the Candidate. In addition, the responses fail to disclose whether the former Ailes' employees were exposed to or had access to any aspect of the Bush Committee's campaign strategy or media program during their employment with ACI. Moreover, Mr. Raiford does not indicate whether he assisted the firm on any aspect of the Bush Committee's campaign while he was employed at ACI. Such information is crucial because the independence of NSPAC's expenditures would be tainted if those expenditures were made by or through persons who had access to the Candidate's campaign strategy or media program by virtue of their employment by the Candidate's agent within the very same election cycle. See 11 C.F.R. § 109.1(b)(4)(i)(B).

2. Expenditures Based Upon Candidate's Needs and Plans

Certain information at hand suggests that NSPAC employees or agents received information from the Candidate's agent about the Bush Committee's needs, plans and projects. 11 C.F.R. § 109.1(b)(4)(i)(A). Ailes called McCarthy in June of 1988, shortly after he viewed NSPAC's biography of Bush, a positive piece. By informing him that the Bush Committee would have hired him to do comparative/negative ads, Ailes communicated to McCarthy, whom he knew was working for NSPAC, "information about the candidate's plans, projects or needs." Moreover, it would

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appear that Ailes' statement in June of 1988 concerning the Bush Committee's apparent need for comparative/negative advertising may have in fact influenced NSPAC's media campaign strategy, if not specifically its decision to produce and release the Willie Horton ad. In any event, the information provided to McCarthy by Ailes was no doubt valuable to NSPAC when it was determining what type of ads would be most effective for its Bush media campaign.

The facts presented also call into question Ailes' alleged reason for communicating with McCarthy. It seems unusual that Roger Ailes, a person who is well aware of the requirements for independent expenditures, would call McCarthy at a time when he was well aware that his former employee was being retained by "Americans for Bush" for no other reason than to tell him he would not be offering him a job with the Bush campaign. Attachment 1 at page 5; Attachment 2 at page 25; Attachment 3 at pages 16-19. In addition, given that Ailes believed NSPAC's Bush biography was inferior to his own, and that the biography "upset" him, it is curious that Ailes would call McCarthy to tell him he had considered offering him a job. Attachment 3 at pages 16 and 19.

The responses also disclose that Ailes was interviewed by Larry McCarthy, the person primarily responsible for the Horton advertisement, just a few days after the October 13, 1988 Presidential debate. While this interview occurred a couple of weeks after NSPAC's "Horton" spot had aired, it was within the period when Ailes' furlough ad, the "revolving jailhouse door," was being aired. See Attachment 5 at pages 5-9. Moreover, although it is unclear whether McCarthy was still on retainer with NSPAC at the time of the interview, we do know that the interview

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preceded the general election; therefore, it would appear that McCarthy may have breached his agreement with Ms. Fediay not to have any contact with the Bush campaign nor any of its agents, including Mr. Ailes and AIC. Attachment 2 at page 25.[14]

From information published in the Gannett Journal and in the New Republic, it appears that, prior to the election, McCarthy had an extraordinary "awareness" of the Bush Committee's campaign strategy. For example, in the introduction to the interview in the Gannett Journal, McCarthy notes that: "a basic question that faced the Bush campaign" was "to what degree could the Horton case be exploited before it started to backfire?" Attachment 5 at page 6. Then, in the New Republic article, McCarthy said that while he was planning NSPAC's media campaign, he tried to "spare" Ailes from doing certain negative things, and that he planned on leading Ailes in his negative ads by a couple of weeks. Attachment 1 at page 5. By these statements, McCarthy seems to acknowledge that he was aware of the Bush Committee's plans prior to the production of the Horton ad, prior to the release of Ailes' furlough ad and prior to the election. In addition, McCarthy

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14. The substance of McCarthy's interview of Ailes, which appeared in the Gannett Journal, reveals that there was a sharing of ideas between the agents of the two Committees. See Attachment 5 at pages 5-9. The interview involves a discussion about the effectiveness of the Bush Committee's "furlough" ad, and a broader discussion about the effectiveness of particular advertisements of both the Bush and Dukakis campaigns. Id. The portion of the interview published indicates that Ailes told McCarthy the type of media campaign which was most effective for Bush, thereby conveying to McCarthy information which could assist McCarthy/NSPAC in determining the Candidate's future "plans" and "needs." See Attachment 5 at pages 5-9. It is unclear whether the information conveyed to McCarthy during the Gannett interview was used by NSPAC in making additional expenditures on behalf of the Bush Committee in the weeks just prior to the general election.

states that he "figured" precisely when the Bush campaign would go negative, and he arranged to have NSPAC's Horton ad aired just a few weeks before the Bush Committee's own furlough spots. Id. at pages 4-5. It appears that McCarthy's experience at Ailes/ACI together with communications with his former employer, enabled him to predict with precision the campaign strategy of the Bush campaign.[15]

There is additional information in media reports that suggests that the Bush Committee communicated its support and encouragement to NSPAC during the campaign. To begin with, shortly before the election, Ms. Fediay stated that: "Officially ... the [Bush] campaign has to disavow themselves from me. Unofficially, I hear that they're thrilled about what we're doing." See Attachment 5 at page 2, New York Times, November 3, 1988 at page 27.[16] Moreover, it is reported that in a letter written to NSPAC, dated October 22, 1988, Vice Presidential Candidate Dan Quayle thanked the Committee for a copy of another

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15. Since McCarthy interviewed Ailes it appears that the communications/contacts between these two agents during the pre-election period may have been more extensive than acknowledged. At the very least, these Respondents probably contacted or met to arrange the Gannett interview.

16. Although the Bush/Ailes response indicates that the Bush Committee did not request that NSPAC cease using the Horton advertisements because such a request might be legally dangerous, we note that a representative of the Committee's did in fact send NSPAC a letter which stated that Bush-Quayle '88 did not approve of NSPAC's activities. See Attachment 3 at page 21. This letter was sent shortly before the Horton ad was scheduled to cease airing. NSPAC apparently interpreted the Bush Committee's long silence as approval of its activities. In reference to the Bush Committee's late response to NSPAC's offer to cease using the Horton commercial, NSPAC's media consultant Anthony Fabrizio said: "If they were really interested in stopping this, do you think they would have waited so long to send the letter." See Attachment 5 at page 2. New York Times, November 3, 1988, at page 28.

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videotaped attack on Mr. Dukakis that was financed by NSPAC, and that he called NSPAC's efforts "a source of real encouragement as well as a great boon to our efforts." Attachment 5 at page 2, New York Times, November 3, 1988, at page 28.

With respect to Ms. Fediay's comments, it is unclear who within the Bush Committee expressed their approval and support for NSPAC's activities, and whether those comments were made prior to the production or broadcast of the "Willie Horton" ad or any other of NSPAC's "Americans for Bush" ads. With respect to Quayle's comments, it is unclear what videotape he had received from NSPAC, but it is apparent that there had been communication and/or contact between Quayle/the Bush campaign and NSPAC at some additional point prior to October 22, 1988, when Quayle is alleged to have written or signed the letter.[17] Thus, it appears that through Roger Ailes, and through other undisclosed persons within the Bush campaign, NSPAC had access to information about the Bush Committee's plans, projects and needs, and that such information may have been used to determine the direction of the "Americans for Bush" media campaign. See 11 C.F.R. § 109.1(b)(4)(i)(A).

Finally, as the Complainants have stated, there appears to be a "similarity in the themes" of the ads of NSPAC and the Bush Committee. In their responses, the Committees have minimized the significance of any similarities between the ads of the two Committees, asserting that the Horton issue was so widely publicized that any similarities is scant evidence for a finding of coordination. The Respondents have taken an overly narrow view

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17. It is unclear whether the videotape referenced in that report was a copy of NSPAC's "Willie Horton" ad, and if so, whether the Bush Committee used that videotape.

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of the complaint: the allegations are not merely that the ads of the two Committees focused on similar issues, but that there was an overlapping employment relationship between the agents of the two Committees and that there were specific communications between those very persons. Moreover, in other matters involving allegations of coordination, the similarity of advertisements and other promotional materials has been examined. For example, in Federal Election Commission v. National Conservative Political Action Committee, 647 F. Supp. 987 (S.D.N.Y. 1986), the finding of coordination was based, in part, on the fact that the campaign materials of two committees discussed the same issues and candidate positions using very similar language.

E. Conclusion

In sum, the information at hand indicates that both McCarthy and Raiford had worked for Ailes/ACI for more than 6 years, that neither was simultaneously employed by both NSPAC and the Bush campaign, but that both appear to have been compensated by ACI while ACI was retained by the Bush Committee. We also know that Ailes called McCarthy in June of 1988, before the Horton ad was produced, allegedly for no other reason than to tell his former employee, whom he knew was working for NSPAC, that he could not hire him to do negative ads for the Bush campaign. It also appears that McCarthy interviewed Ailes before the election, and that during that interview they discussed the furlough ad and the Bush campaigns' media strategy when perhaps McCarthy was still on retainer with NSPAC.

The facts at hand also indicate that some person or persons within Bush-Quayle '88 may have communicated support and

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encouragement for NSPAC's campaign activities to NSPAC's Chairman Elizabeth Fediay, and that the Bush Committee received copies of a NSPAC videotape, although it is unclear whether NSPAC's ads were included on that tape. In addition, there appears to be similarities between NSPAC's "Horton" ad and Ailes' "Revolving Jailhouse Door" ad, although without actual copies of the scripts and tapes it is not possible to evaluate the degree of that similarity.

The evidence presently available appears to provide a sufficient basis that there was "cooperation and/or consultation" between NSPAC and the Bush campaign with respect to the Willie Horton ad to warrant an investigation in this matter. If the investigation discloses that there was coordination between NSPAC and the Bush Committee, then NSPAC's expenditures would appear to have been excessive contributions to the Bush Committee, in violation of Section 441a(a), and the Bush Committee would appear to have accepted prohibited contributions in violation of 26 U.S.C. § 9003(b). It also appears that both the Bush Committee and NSPAC would have been required to report these contributions, and that they did not file such reports, in violation of 2 U.S.C. § 434(b). Accordingly, the Office of General counsel recommends that the Commission find reason to believe that National Security Political Action Committee, and Elizabeth Fediay, as treasurer, violated 2 U.S.C. §§ 441a(a) and 434(b). In addition, the Office of General Counsel recommends that the Commission find reason to believe that Bush-Quayle '88 and Stanley Huckaby, as treasurer, violated 26 U.S.C. § 9003(b) and 2 U.S.C. § 434(b). This Office also recommends that the Commission take no action at this time against

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Roger Ailes/Ailes Communications, Larry McCarthy and Jesse T. Raiford, who at this time appear to have been acting only as agents for the other Respondents in this matter.

III. DISCOVERY PLAN

Many questions, ambiguities and inconsistencies are presented in this matter which will require investigation. The Office of General Counsel intends to seek documents relating to the advertisements at issue to determine their degree of similarity, and copies of documents exchanged between NSPAC and the Bush campaign, including pertinent correspondence and the alleged videotapes. This Office will also send questions probing the nature and extent of communications between the representatives of the two Committees.

IV. RECOMMENDATIONS

1. Find reason to believe that the National Security Political Action Committee, and Elizabeth Fediay, as treasurer, violated 2 U.S.C. §§ 441a(a) and 434(b).

2. Find reason to believe Bush-Quayle '88 and Stanley Huckaby, as treasurer, violated 26 U.S.C. § 9003(b) and 2 U.S.C. § 434(b).

3. Take no action at this time against Roger Ailes/Ailes Communications, Larry McCarthy, or Jesse T. Raiford.

4. Approve the attached Factual and Legal Analyses (2).

5. Approve the appropriate letters.

4/26/91

Lawrence M. Noble
General Counsel

Attachments
1. Complaint
2. Response from NSPAC with Affidavits and News Reports
3. Response from Bush-Quayle '88
4. Response from Raiford
5. News Reports and Ailes' Interview
6. Factual and Legal Analyses (2)

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FEDERAL ELECTION COMMISSION
WASHINGTON DC 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/DELORES HARRIS
COMMISSION SECRETARY

DATE: MAY 2, 1991

SUBJECT: MUR 3069 - FIRST GENERAL COUNSEL'S REPORT
DATED APRIL 26, 1991

The above-captioned document was circulated to the Commission on Monday, April 29, 1991 at 4:00 p.m.

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

Commissioner Aikens	XXX
Commissioner Elliott	XXX
Commissioner Josefiak	XXX
Commissioner McDonald	XXX
Commissioner McGarry	
Commissioner Thomas	XXX

This matter will be placed on the meeting agenda for TUESDAY, MAY 7, 1991.

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

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 3069
Bush-Quayle '88, and Stanley Huckaby, as treasurer;	)	
National Security Political Action Committee, and Elizabeth I. Fediay, as treasurer;	)	
Roger Ailes;	)	
Ailes Communications;	)	
Larry McCarthy;	)	
Jesse T. Raiford.	)	

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CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on June 11, 1991, do hereby certify that the Commission decided by a vote of 4-2 to take the following actions in MUR 3069:

1. Find reason to believe that the National Security Political Action Committee, and Elizabeth Fediay, as treasurer, violated 2 U.S.C. §§ 441a(a) and 434(b).

2. Find reason to believe Bush-Quayle '88 and Stanley Huckaby, as treasurer, violated 26 U.S.C. § 9003(b) and 2 U.S.C. § 434(b).

3. Take no action at this time against Roger Ailes/Ailes Communications, Larry McCarthy, or Jesse T. Raiford.

(continued)

4. Direct the Office of General Counsel to amend the Factual and Legal Analyses as discussed in the Commission meeting and circulate them for Commission approval.

5. Direct the Office of General Counsel to prepare appropriate letters pursuant to the actions noted above and the meeting discussion and circulate them for Commission approval.

6. Direct the Office of General Counsel to act as expeditiously as possible in this matter and to give the Commission a status report on MUR 3069 at the Commission executive session of July 23, 1991.

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

Attest:

6-14-91
Date

Marjorie W. Emmons
Secretary of the Commission

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 29, 1991

MEMORANDUM

TO: The Commission

FROM: Lawrence M. Noble
General Counsel

SUBJECT: MUR 3069, National Security Political Action Committee, Bush-Qualye '88

Pursuant to instructions at the Executive Session of June 11, 1991, attached for the Commission's review and approval are revised Factual and Legal Analyses, Subpoenas and notification letters. The definitional section to accompany the subpoenas will specify the 1988 election cycle as the relevant time period for the production requests.

RECOMMENDATIONS

1. Approve the attached Factual and Legal Analyses.
2. Approve the attached Subpoenas.
3. Approve the attached letter.

Attachments
1. Factual and Legal Analysis (2)
2. Subpoenas (3)
3. Letters (2)

Staff Member: Xavier McDonnell

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 3069
Bush-Quayle '88 and	)	
Stanley Huckaby, as	)	
treasurer.	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on July 10, 1991, the Commission decided by a vote of 4-2 to take the following actions in MUR 3069:

1. Approve the Factual and Legal Analyses, as recommended in the General Counsel's memorandum dated June 29, 1991.

2. Approve the Subpoenas, as recommended in the General Counsel's memorandum dated June 29, 1991.

(continued)

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3. Approve the letter, as recommended in the General Counsel's memorandum dated June 29, 1991.

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

Attest:

7-10-91
Date

Marjorie W. Emmons
Secretary of the Commission

Received in the Secretariat: Friday, June 28, 1991 4:07 p.m.
Circulated to the Commission: Monday, July 1, 1991 11:00 a.m.
Deadline for vote: Wednesday, July 3, 1991 11:00 a.m.
At the time of the deadline, 4 affirmative votes had not been received.
Final vote received: Wednesday, July 10, 1991 11:40 a.m.

dh

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 18, 1991

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Paul E. Sullivan
Wunder, Ryan, Cannon & Thelen
1615 L Street, N.W., Suite 650
Washington, D.C. 20036

RE: MUR 3069
National Security Political
Action Committee, and
Elizabeth I. Fediay, as treasurer,
Larry McCarthy

Dear Mr. Sullivan:

On June 6, 1990, the Federal Election Commission notified National Security Political Action Committee ("NSPAC" or "Committee") and Elizabeth I. Fediay, as treasurer (the "Respondents") and Larry McCarthy (collectively "your clients") of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). Copies of the complaint were provided to your clients at that time. On August 10, 1990, you submitted a response to the complaint.

Upon further review of the allegations contained in the complaint, and information supplied by your clients, the Commission, on June 11, 1991, found that there is reason to believe NSPAC and Elizabeth I. Fediay, violated 2 U.S.C. § 434(b) and 2 U.S.C. § 441a(a), provisions of the Act. The Factual and Legal Analysis, which formed a basis for the Commission's findings, is attached for your information.

Pursuant to its investigation of this matter, the Commission has issued the attached subpoenas which require your clients to produce documents and which require Elizabeth I. Fediay and Larry McCarthy to appear and give sworn testimony, which will assist the Commission in carrying out its statutory duty of supervising compliance with the Act. Details pertaining to the depositions are provided in the attached subpoenas.

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Under the Act, you have an opportunity to demonstrate that no action should be taken against the Respondents. You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Statements should be submitted under oath. All responses to the enclosed Subpoena to Produce Documents must be submitted to the General Counsel's Office within 15 days of your receipt of this letter. Any additional materials or statements you wish to submit should accompany the response to the subpoena.

Pursuant to 11 C.F.R. § 111.14, a witness summoned by the Commission shall be paid $30.00 plus mileage. Your clients will be given checks for the witness fee and mileage. The Commission desires to resolve this matter expeditiously. To that end, the Commission intends to give this matter its utmost attention. Your cooperation during the discovery process will be appreciated, and will facilitate the resolution of this matter.

Within three days of your receipt of this notification, please confirm the scheduled appearance with Xavier K. McDonnell, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

John Warren McGarry
Chairman

Attachments
Subpoena
Attachment to Subpoena
Factual and Legal Analysis

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 3069

SUBPOENA

TO: Elizabeth I. Fediay
c/o Paul E. Sullivan
Wunder, Ryan, Canon & Thelen
1615 L Street, Suite 650
Washington, D.C. 20036

Pursuant to 2 U.S.C. § 437d(a)(3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby subpoenas you to appear for deposition with regard to MUR 3069. Notice is hereby given that the deposition is to be taken on August 23, 1991, in the Conference Room on the sixth floor at the Offices of the General Counsel, 999 E Street, N.W., Washington, D.C. 20463, beginning at 10:00 a.m. and continuing each day thereafter as necessary.

Further, pursuant to 2 U.S.C. § 437d(a)(3), you are hereby subpoenaed to produce the documents listed on the attachment to this subpoena. Legible copies which, where applicable, show both sides of the documents, may be substituted for originals. The documents must be submitted to the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, within 15 days of your receipt of this subpoena.

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WHEREFORE, the Chairman of the Federal Election Commission has hereunto set hand at Washington, D.C., this 18th day of July, 1991.

John Warren McGarry
Chairman
Federal Election Commission

ATTEST:

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

Attachments
Definitions/Instructions
Document Request Page

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DEFINITIONS

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

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

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

INSTRUCTIONS

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

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

Unless otherwise indicated, the discovery request shall refer to the year 1988.

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

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ATTACHMENT TO SUBPOENA

Please provide:

1. Copies of all documents/correspondence between you (NSPAC and/or Elizabeth Fediay) and Bush-Quayle '88, the Bush for President Committee or any of its agents or employees, including but not limited to the following:

a) Copies of letter(s) from Lee Atwater, James Baker, III, and Jan Baran, including those which are referenced in the Factual and Legal Analysis.

b) Copies of letter(s) from Dan Quayle, including the letter dated October 22, 1988, which is referenced in the Factual and Legal Analysis.

c) Copies of letter(s) from Ms. Fediay/NSPAC which were sent or delivered to Bush-Quayle '88 or its agents, including the letter alleged to have been hand-delivered to James Baker, III, on the day NSPAC announced the airing of the Willie Horton advertisement.

d) Copies of videotape(s) which NSPAC and/or its agents provided to Dan Quayle or any agents of Bush-Quayle '88, including the videotape which is referenced in the Factual and Legal Analysis.

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

MUR: 3069

RESPONDENTS: National Security
Political Action Committee, and
Elizabeth I. Fediay, as treasurer

I. GENERATION OF MATTER

The Ohio Democratic Party and James M. Ruvolo, as chairman, and the Black Elected Democrats of Ohio, and Ray Miller, as president, (collectively "Complainants") have filed a complaint alleging that during the 1988 presidential election cycle Bush-Quayle '88 (or the "Bush Committee" or the "Bush campaign") and its agent, Roger Ailes, coordinated, cooperated or consulted with National Security Political Action Committee ("NSPAC"), and its agents, ("Respondents") with respect to the "Willie Horton" television advertisements. If these allegations prove accurate, NSPAC's expenditures would not be independent and would be deemed to be excessive contributions to the Bush Committee, in violation of 2 U.S.C. § 441a(a), and the Bush Committee's acceptance of such contributions would be in violation of 26 U.S.C. § 9003(b).

II. FACTUAL AND LEGAL ANALYSIS

A. APPLICABLE LAW

The Federal Election Campaign Act of 1971, as amended, (the "Act") requires each political committee to submit reports to the Commission which disclose all contributions or expenditures. 2 U.S.C. § 434(b). The Act limits contributions made by persons and political committees. 2 U.S.C. § 441a(a). Independent expenditures are not limtied by the Act. Buckley v. Valeo, 424

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U.S. 1, 39 (1976). An independent expenditures is defined as:

> an expenditure by a person expressly advocating the election or defeat of a clearly identified candidate which is made without cooperation or consultation with any candidate, or any authorized committee or agent of such candidate, and which is not made in concert with, or at the request or suggestion of, any candidate or agent of such candidate. 2 U.S.C. § 431(17); 11 C.F.R. § 109.1(a).

Expenditures made by any person in cooperation, consultation or concert with, or at the request or suggestion of, a candidate, his authorized political committees, or their agents, shall be considered to be a contribution to such candidate. 2 U.S.C. § 441a(a)(7)(B)(i). The Commission's regulations further provide that expenditures are not independent when they are made by: "any arrangement, coordination, or direction by the candidate or his or her agent prior to the publication, distribution, display, or broadcast of the communication." 11 C.F.R. § 109.1(b)(4)(i). Under Commission regulation 11 C.F.R. § 109.1(b)(4)(i), an expenditure will be presumed to be so made when it is

> (A) Based on information about the candidate's plans, projects, or needs provided to the expending person by the candidate, or by the candidate's agents, with a view toward having an expenditure made;
>
> (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.

B. SUMMARY OF ALLEGATIONS

During the 1988 election cycle, as part of its independent expenditure project called "Americans for Bush", NSPAC created and

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aired a television advertisement which featured a photograph of Willie Horton.[1] According to the Complainants, "the 'Willie Horton' theme was a widely-announced, integral, and approved part of Bush-Quayle '88's campaign program," and there was a similarity in the themes of the two Committees' campaign advertisements. The Complainants also allege that the two persons responsible for preparing NSPAC's ads, Larry McCarthy and Jesse T. Raiford, either worked for Roger Ailes, the chief media advisor to George Bush (the "Candidate") and Bush-Quayle '88, "at the time they made the ads or had quit only shortly before." The Complainants cite information published in certain magazine and newspaper articles to support their contention that the Willie Horton ads "were prepared and aired by arrangement, coordination, or direction of Roger Ailes and/or other agents of Bush-Quayle '88."

One of the articles enclosed with the complaint discloses that Larry McCarthy, who produced the Willie Horton ad, has close ties with Ailes and his firm, Ailes Communications ("ACI"). In fact, McCarthy was formerly senior vice president of ACI, where he was employed for six years. Schram, "The Making of Willie Horton," The New Republic, May 29, 1990, at page 17. Moreover, that article indicated that Ailes called McCarthy shortly after the latter began working for NSPAC to say that it was "too bad" he was working for NSPAC, because he "wanted to hire" his former employee for the Bush campaign "to do negative spots." The

1. Horton is a convicted murderer who fled from Massachusetts to Maryland while on a weekend furlough. In Maryland, Horton committed more crimes, including rape, kidnaping and attempted murder.

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article suggests that Ailes' comments during that telephone call could have been "just the hint McCarthy needed to get the notion that he could help Ailes and Bush by making his own negative ads."

In reference to his work for NSPAC, McCarthy said: "I just tried to run it as if I were Roger [Ailes]. I tried to spare him [Ailes] from doing some of these things." McCarthy also said he "figured" the Bush campaign would go negative and begin attacking Dukakis in their ads by mid-September, so his plan was to "lead" Ailes and the Bush Committee in airing negative ads by a couple of weeks. In addition, it is reported that when the Horton ad was first released, NSPAC allegedly announced that it would "yank" the ad off the air if the Bush campaign's former Chairman, James A. Baker, III, formally requested. According to this article, Mr. Baker made such a request, but not until three days before the ad was scheduled to stop running.

The New Republic article also indicates that a couple of weeks after NSPAC released its Horton ad, "Ailes aired his own campaign classic: the revolving jailhouse door," an ad that apparently was also critical of the furlough program, but which never showed Horton's photo or mentioned his name. Ailes reportedly said that the Bush Committee "very carefully elected not to show him [Horton] or mention him because we knew we'd be hit with racism."

Mr. Raiford, who assisted McCarthy on the Willie Horton ad, also worked for Ailes/ACI for six years. In fact, the article attached to the Complaint suggests that it is unclear whether Raiford had actually left Ailes Communications at the time the

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Horton commercials were produced. Conason "Roger and He," The New Republic, May 29, 1990 at page 18. That article indicates that, although Raiford's resume and an executive at Ailes Communications both state that Raiford left that corporation in January of 1988, Raiford did not open his own office until August of 1988, the same month that the Horton commercials were produced. Moreover, Raiford's production firm, Raiford Communications, was not incorporated until September 2, 1988, a few days after the Horton commercial was completed.[2] In addition, the February 1990 edition of Campaigns & Elections, lists Raiford as a contact for Ailes Communications, which suggests Raiford has an ongoing affiliation with his former employer.

The third article attached to the Complaint indicates that the Bush Committee approved of literature, distributed by the Ohio Republican state party, which contained Horton's photograph. The Plain Dealer, November 3, 1988. In fact, Robert Bennett, the state Republican party chairman, specifically states in the article that "the national Bush-Quayle campaign approved of the literature before it was mailed," and that the state committee did not "mail out stuff" without the Bush Committee "knowing about it." Attachment 1 at page 6.

C. RESPONSES TO THE COMPLAINT

In its response, NSPAC acknowledges that it created and

2. Raiford evidently hired an attorney from the law firm of Nixon, Hargrave, Devans & Doyle to handle the incorporation of Raiford Communications. The author of the article suggested that it was "curious" that Raiford hired that politically active law firm for the incorporation of such a small business.

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aired the Willie Horton television advertisement and that the ad was a communication which expressly advocated the election of George Bush. NSPAC indicates that in June of 1988, Elizabeth Fediay, the Committee's treasurer, personally hired Larry McCarthy to work on the "Americans for Bush" advertising program. NSPAC asserts that the Horton/furlough issue was first raised as a potential television campaign theme during a meeting held on August 24, 1988. Among those present at that meeting were Fediay, McCarthy and four other persons who were either staff or consultants at NSPAC. At that meeting, McCarthy agreed to write scripts for several different themes, including the Horton theme, and sometime later, McCarthy agreed to produce a "spot" or advertisement on the Horton theme, as well as another crime spot.[3]

According to NSPAC, the decision to use the Horton theme was made without any input or coordination from the Bush campaign or its agents. Moreover, NSPAC asserts, the Horton/furlough issue was so widely reported that it was well known even among the general public before NSPAC's meeting on August 24, 1988. In fact, NSPAC contends that by mid-June 1988, George Bush was "specifically referring to the Willie Horton case in attacking the policies of Mr. Dukakis." Citing Germond and Witcover, Whose Broad Stripes and Bright Stars?, Warner Books, Inc. 1989, at page 162. These Respondents have attached to their response an

3. McCarthy conducted the production of the Horton ad on his own, with the assistance of Jesse Raiford, whom he retained for technical and accounting services. The Horton ad went into production on September 2, 1988 and it was completed on September 5, 1988. The Horton ad was broadcast on cable television from September 21, 1988 through October 4, 1988.

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extensive list of newspaper articles which refer the Horton issue, and, they assert, with all this publicity, "it did not require a covert political message to be issued by the Bush-Quayle '88 Committee for any political operative to realize that this was a very hot political issue which should be capitalized upon for the benefit of the Bush campaign."

Ms. Fediay states under oath that she informed McCarthy, and all the other NSPAC employees and consultants, that the activities of NSPAC's proposed media campaign on behalf of the Bush campaign were to qualify as independent expenditures. Ms. Fediay also "advised them that by accepting a consulting position with NSPAC, [she] expected them not to subsequently accept a position, coordinate or consult with the Bush campaign or any of its agents."

NSPAC also asserts that neither McCarthy nor Raiford were "simultaneously" employed by NSPAC and the Bush campaign or Ailes/ACI and that the mere fact that they were both previously employed by Ailes/ACI does not amount to any "per se impropriety" relative to their subsequent employment. Moreover, NSPAC contends that at the time that Raiford and McCarthy were employed by Ailes/ACI, the Bush campaign had not yet retained Ailes/ACI.

In his affidavit, McCarthy avers that he left the employ of Ailes in January of 1987, but that, subsequent to his departure, he conducted projects for Ailes on a contractual basis until December of 1987, when he began to work for the Dole for President Committee. McCarthy acknowledges that he received a phone call from Ailes in June of 1988, during which Ailes indicated that

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prior to learning of his relationship with NSPAC, he had considered hiring McCarthy for the Bush campaign. McCarthy avers, however, that during that phone call he informed Ailes that he could not discuss any matters pertaining to the campaign, including media and strategy. McCarthy also acknowledges that he interviewed Ailes in October of 1988 on behalf of the Gannett Journal.

D. ANALYSIS

Under the Commission's regulations, the independence of expenditures may be impaired by various factors. First, the expenditures will be presumed to be coordinated if they are made by any person who is, or has been, receiving any form of compensation from the candidate, the candidate's committee or agent. See 11 C.F.R. § 109.1(b)(4)(i)(B). Secondly, the expenditures will be presumed to be coordinated if they are based on information about the candidate's plans, projects or needs provided to the expending person by the candidate, the candidate's committee or agent, with a view towards having an expenditure made. See 11 C.F.R. § 109.1(b)(4)(i)(A). Moreover, under the Act, the independence of expenditures will be negated if there is evidence of actual coordination between the person or committee making the expenditures and the candidate or any agent or authorized committee of such candidate. 2 U.S.C. § 431(17). 11 C.F.R. § 109.1(b)(4)(i)(B).

(i) Vendor Relationship

The responses disclose that Ailes/ACI was retained by the Bush Committee sometime in 1987 to provide advice and assistance

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for the campaign. While we do not know the month in which Ailes/ACI was retained by the Bush campaign, it appears that McCarthy had "conducted projects with ACI" on a contractual basis, and therefore was presumably receiving compensation from the firm, until December of 1987. Hence, the facts here disclose that McCarthy had a working relationship with ACI at the same time that ACI was the Bush campaign's agent. Thus the expenditures for the "Willie Horton" ad appear to have been "made by or through" a person who had been receiving compensation from ACI at the same time ACI was the Bush campaign's agent.

The response also indicates that McCarthy had left ACI prior to June of 1988, the time when McCarthy began his relationship with NSPAC, and therefore it does not appear that McCarthy was employed by the Candidate's vendor, ACI, at the same time he was retained by NSPAC. In addition, McCarthy has stated that he told Ms. Fediay that he had not been previously "retained by the Bush Committee, directly or indirectly, including but not limited to Mr. Ailes or ACI." The fact remains, however, that McCarthy appears to have been compensated by ACI at the same time that firm was retained by the Bush Committee. Mr. McCarthy, unlike Mr. Raiford, was involved in political consulting and the responses do not disclose whether McCarthy was exposed to any of ACI's campaign strategy or plans for the Bush Committee while he was being compensated by that firm during 1987. Clarification on this point is crucial because the independence of NSPAC's expenditures would be tainted if those expenditures were made by or through persons who had access to the Candidate's campaign

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strategy or media program by virtue of their employment by the Candidate's agent within the very same election cycle. See 11 C.F.R. § 109.1(b)(4)(i)(B).[4]

(ii) Expenditures Based Upon Candidate's Needs and Plans

The Respondents have produced affidavits and other materials to clarify and rebut many of the facts and allegations presented in the complaint. However, the responses have not explicitly addressed some of the information published in media reports. First of all, McCarthy indicated in The New Republic article that while he was planning NSPAC's media campaign, he tried to "spare" Ailes from doing certain negative things. McCarthy also stated in that article that he planned on leading Ailes in his negative ads by a couple of weeks, and the responses disclose that NSPAC's Horton ad did air just a few weeks before the Bush Committee's own furlough spot. The responses do not disclose how Mr. McCarthy was aware that the Bush campaign planned to go negative, and, moreover, that they would do so by mid-September of 1988. Nor do the responses explain why McCarthy wished to "spare" Ailes from producing the Horton ad. All in all, McCarthy's statements suggest that he was cognizant of the Bush Committee's plans prior

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4. The vendor relationship at issue in this matter is distinguishable from that in MUR 2766 (the "Auto Dealers"). In that matter, the independent group retained the same vendor as the candidate's committee, but only for expenditures made outside of the candidate's state. The independent group retained a different vendor for expenditures made within the candidate's state. Here, both the vendor for the independent group and the candidate's vendor were making expenditures on behalf of the same candidate. Moreover, here there is more than just the "opportunity" for coordination, there is evidence that there were communications between the two Committees. See infra Section II.D(ii).

to the production and airing of the Horton ad, and yet, at this time, the source of his knowledge has not been disclosed.[5]

There is additional information in media reports which indicates that there were communications between the Bush campaign and NSPAC. To begin with, shortly before the election, Ms. Fediay stated that: "Officially ... the [Bush] campaign has to disavow themselves from me. Unofficially, I hear that they're thrilled about what we're doing." See Attachment. Moreover, it is reported that in a letter written to NSPAC, dated October 22, 1988, Vice Presidential Candidate Dan Quayle thanked the Committee for a copy of another videotaped attack on Mr. Dukakis that was financed by NSPAC, and that he called NSPAC's efforts "a source of real encouragement as well as a great boon to our efforts." See Attachment.

With respect to Ms. Fediay's comments, it is unclear whether someone within the Bush Committee actually expressed their approval and support for NSPAC's activities, and, if so, whether those comments were made in reference to, and prior to or during the production or broadcast of the "Willie Horton" ad. With respect to Quayle's comments, it is unclear what videotape he received from NSPAC, but it appears that there had been communication and/or contact between Quayle/the Bush campaign and NSPAC at some additional point prior to October 22, 1988, when

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5. The responses disclose that McCarthy interviewed Ailes in October of 1988 for the Gannett Journal. It would appear that arranging the interview would itself require that the agents of the two Committees communicate, and that such communications may have occurred before or during the time when NSPAC's Horton spot aired, which was in late September through early October of 1988.

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Quayle is alleged to have written and/or signed the letter.

Media reports also indicate that on the day that NSPAC announced the 28-day run of the Willie Horton ad, Elizabeth Fediay had a letter hand-delivered to James A. Baker, III, in which she offered to call off the airing of the Willie Horton advertisements if the Bush Committee so requested. NSPAC has not produced nor disclosed the contents of these letters, nor has it explained the purpose of its communication with the Bush Committee. The responses and media reports also reference a letter, dated May 4, 1988, in which Jan W. Baran, General Counsel for the Bush Committee, conveyed to Elizabeth Fediay that it disapproved of NSPAC's activities. Finally, there is a reference to a letter written by Lee Atwater, in which he allegedly made it clear to NSPAC that the Bush Committee opposed its efforts. These alleged written communications and documents sent between the Committees and the other information within the media reports cited raise an inference that NSPAC's employees or agents may have received information from the Candidate's agents or employees about the Bush Committee's needs, plans and projects, and that such information may have been used to determine the direction of the "Americans for Bush" media campaign. 11 C.F.R. § 109.1(b)(4)(i)(A).

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E. CONCLUSION

The information at hand raises certain questions about the relationship and the communications between the two Committees and their agents. Although the Respondents have presented affidavits and other evidence to counter and clarify many of the allegations,

there is sufficient unrebutted evidence which gives rise to an inference of coordination. Accordingly, there is reason to believe that National Security Political Action Committee, and Elizabeth Pediay, as treasurer, violated 2 U.S.C. §§ 441a(a) and 434(b) by making excessive contributions to the Bush Committee and for failing to report those contributions.

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Horton Ad's Creators Claim Quiet Backing of Bush Staff

The following article is based on reporting by Richard L. Berke, Michael Wines and Stephen Engelberg and was written by Mr. Engelberg.

Special to The New York Times

WASHINGTON, Nov. 2 — The political commercial that raised some of the strongest doubts about Gov. Michael S. Dukakis's record on crime seems certain to win a place in the annals of campaign advertising.

The commercial appeared nationally on cable television for 28 days this fall. It featured a police photograph of a glowering Willie Horton, a convicted murderer who, after escaping while on a weekend pass from a Massachusetts prison, raped a Maryland woman and stabbed her fiancé.

Although disavowed by the campaign of Vice President Bush, the commercial is the work of an advertising team with long-standing ties to the Republican Party. It was filmed by a former employee of Roger Ailes, the Bush expert on the communications media. And now, in the waning days of the Presidential race, leaders of the National Security Political Action Committee, the independent group that sponsored the advertisement, are declaring that they have the tacit support of senior officials in the Bush campaign.

The group's activities are a case study in how independent political committees can have a major impact on a national campaign and provide a vehicle for carrying out attacks with which a campaign organization cannot be associated. And the controversy that has evolved over the group's role also illustrates the competition and sometimes outright hostility between campaigns and political action committees as they vie for contributions.

A Letter of Praise

Senior Bush campaign officials have used strong language to disclaim any connection to the National Security Political Action Committee, which raised some of its money with mailings sent out under the banner of "Americans for Bush." The general counsel to the Bush campaign, Jan W. Baran, has called the group "bloodsuckers," while Mr. Ailes has said of such independent expenditure groups, "I hate them."

As for the Vice President himself, a May 4, 1988, letter that the campaign sent to the committee says the candi-

Continued on Page B20, Column 4



A campaign ad featuring a convicted murderer who raped a woman after escaping while on a weekend pass from a Massachusetts prison.

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Continued From Page 1

date "does not endorse nor support your activities."

The committee's principals say they have complied with Federal election law, which bars independent organizations from coordinating their spending activities with Presidential campaigns, but they argue that the Bush camp protests too much. They say an Oct. 22 letter of praise over the signature of Mr. Bush's running mate, Senator Dan Quayle, is evidence of what they call the campaign's true sentiments toward their activities.

In the letter, Mr. Quayle offered thanks for a copy of another videotaped attack on Mr. Dukakis that was financed by the committee, and called its efforts "a source of real encouragement as well as a great boon to our efforts."

A spokesman for the Senator said that he knew nothing about the letter and that it had been written by an intern who, the spokesman said, signed it with an automatic pen.

But Elizabeth L. Fediay, the committee's 34-year-old founder, said in an interview today that she believed the letter was genuine. "Officially," she said, "the campaign has to disavow themselves from me. Unofficially, I hear that they're thrilled about what we're doing."

Surge From Obscurity

Ms. Fediay, who has no significant previous experience in political fund raising, runs the committee from one windowless room in a downtown office building.

In the past two years, that committee has emerged from obscurity to become the biggest spender among independent political organizations. The Bush campaign charges in a complaint filed with the Federal Election Commission that the committee has misrepresented itself as an arm of the campaign and has thus sought to benefit financially. Most of the committee's vendors are several companies controlled by a group of Virginia-based direct mail specialists.

Ms. Fediay said she met Ronald Kanfer, one of the principals in these companies, nearly 10 years ago, when he was a copywriter at a Washington fund-raising concern and she was working for the Institute of American Relations, a conservative organization directed by her father, a former aide to two conservative Republican senators — Jesse Helms of North Carolina and Strom Thurmond of South Carolina. She said the idea to form the committee came to her suddenly in 1988, after she had consulted with several friends on Capitol Hill.

Mr. Kanfer said in an interview that his companies were but contractors for Ms. Fediay and other political experts who run the day-to-day operations of the political action committee. "We do the job she tells us to do," he said. "We have no say in their commercials, where they run, their grass-roots operations or any of that."

A 30-Second Ad on Crime

Special to The New York Times

WASHINGTON, Nov. 2 — "Weekend Passes" is the title of the 30-second advertisement about Willie Horton.

As side-by-side photographs of Vice President Bush and Gov. Michael S. Dukakis flash on the screen, an announcer says, "Bush and Dukakis on crime."

Flash to a picture of Mr. Bush.

"Bush supports the death penalty for first-degree murderers."

Then a picture of Mr. Dukakis.

"Dukakis not only opposes the death penalty, he allowed first-degree murderers to have weekend passes from prison."

Flash to a mugshot of a glaring Willie Horton.

"One was Willie Horton, who murdered a boy in a robbery, stabbing him 19 times."

Flash to another blurred black-and-white photograph of the convict, looking like he is being arrested by a police officer.

"Despite a life sentence, Horton received 10 weekend passes from prison," the announcer says. "Horton fled, kidnapped a young couple, stabbing the man and repeatedly raping his girlfriend." As the announcer gives these details, the words "kidnapping," "stabbing" and "raping" flash on the screen.

The last photo is of Mr. Dukakis. The announcer says: "Weekend prison passes. Dukakis on crime."

The latest Federal records show that the National Security Political Action Committee has spent $7.832 million on behalf of Mr. Bush's candidacy, of which $2.4 million has been paid to companies owned by Mr. Kanfer and his partner David Keaton.

Using telephone banks and letters to an array of potential contributors culled from conservative donor lists and other sources, the group has raised about $9 million since its founding in the spring of 1988. All but about $1 million has been raised in the last 10 months, mostly in donations of less than $50.

A Letter to Baker

There is no evidence that the committee, in devising the Horton commercial, received any direction from the Bush campaign. Kathleen Hall Jamieson, professor of communications at the University of Texas, said the Vice President could have suffered a backlash had his organization sponsored such an advertisement.

"To have Willie Horton's picture in the Bush ad would have been extraordinarily damaging to Bush," she said. "It would have raised much earlier the question of 'Is this a negative ad?' "

Democrats have asserted that the Horton commercial has racist overtones, partly because it includes the photograph of Mr. Horton, who is black.

Lee Atwater, the Bush campaign manager, said in an interview today that the campaign had "a firm policy not to use Willie Horton in any of our ads." Asked if the National Security Political Action Committee's use of the Horton commercial was beneficial to Mr. Bush, he said, "We have no way of evaluating that."

The Bush campaign does appear to have passed up a chance to remove the Horton advertisement from the cable airwaves.

On the day that Ms. Fediay announced the 28-day run for the commercial, she had a letter hand-delivered to James A. Baker 3d, chairman of the Bush campaign, offering to call it off, according to Tony Fabrizio, a Washington-based media buyer who helped plan the advertisement and buy the television time.

Mr. Baker responded with a letter three days before the commercials were to conclude their scheduled run with a letter that recounted Mr. Bush's earlier expressions of disapproval.

"If they were really interested in stopping this, do you think they would have waited that long to send us a letter?" asked Floyd Brown, the group's political consultant.

Mr. Atwater said today that he wrote the committee "a very strongly worded letter" months ago, making clear that he opposed its efforts. "I don't know what else we could do," he said. "Everybody involved knows that they didn't have our approval in any shape, form or fashion."

The Campaign's Decision

Bush campaign strategists decided as early as last spring that the Horton case would be a potent weapon against Mr. Dukakis. By focusing on this failure of the Massachusetts furlough program, campaign officials believed they could raise fears that Mr. Dukakis was soft on crime.

Polls show that this decision was one of the most important in the campaign and that the sharp rise in Mr. Dukakis's negative ratings after the Democratic National Convention in July resulted, in part, from the effective exploitation of the furlough issue.

The television advertisement that followed from the National Security Political Action Committee was produced by Larry McCarthy, who had been an aide in Senator Bob Dole's Presidential campaign and who was once an employee of Roger Ailes's company.

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 3069
)

SUBPOENA

TO: Larry McCarthy
c/o Paul E. Sullivan
Wunder, Ryan, Canon & Thelen
1615 L Street, Suite 650
Washington, D.C. 20036

Pursuant to 2 U.S.C. § 437d(a)(3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby subpoenas you to appear for deposition with regard to MUR 3069. Notice is hereby given that the deposition is to be taken on August 21, 1991, in the Conference Room on the sixth floor at the Offices of the General Counsel, 999 E Street, N.W., Washington, D.C. 20463, beginning at 10:00 a.m. and continuing each day thereafter as necessary.

Further, pursuant to 2 U.S.C. § 437d(a)(3), you are hereby subpoenaed to produce the documents listed on the attachment to this subpoena. Legible copies which, where applicable, show both sides of the documents, may be substituted for originals. The documents must be submitted to the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, within 15 days of your receipt of this subpoena.

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WHEREFORE, the Chairman of the Federal Election Commission has hereunto set hand at Washington, D.C., this 18th day of July, 1991.

John Warren McGarry
Chairman
Federal Election Commission

ATTEST:

Marjorie W. Emmons
Secretary to the Commission

Attachment
Definitions/Instructions
Document Request Page

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DEFINITIONS

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

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

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

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INSTRUCTIONS

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

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

Unless otherwise indicated, the discovery request shall refer to the year 1988.

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

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ATTACHMENT TO SUBPOENA

Please provide:

1. Copies of all documents which relate or refer to any communications, or meetings between you and Roger Ailes prior to your interview of Ailes for the Gannett Journal.

2. Copies of all documents/correspondence for the year 1988 between you (or NSPAC) and Bush-Quayle '88, the Bush for President Committee or any of its agents or employees during 1988, including but not limited to the following:

a) Copies of letter(s) from Lee Atwater, James Baker, III and Jan Baran, including the letters which are referenced in the Factual and Legal Analysis.

b) Copies of letter(s) received from Dan Quayle, including the letter dated October 22, 1988, which is referenced in the Factual and Legal Analysis.

c) Copies of videotape(s) which NSPAC and/or its agents provided to Dan Quayle or any other agents of Bush-Quayle '88, including the videotape which is referenced in the Factual and Legal Analysis.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 18, 1991

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

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

RE: MUR 3069
Bush-Quayle '88, and
Stanley Huckaby, as treasurer,
Roger Ailes

Dear Mr. Baran and Mr. Potter:

On June 6, 1990, the Federal Election Commission notified Bush-Quayle' 88, (the "Committee") and Stanley Huckaby, as treasurer (the "Respondents") and Roger Ailes (collectively "your clients") of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act") and Chapters 95 and 96 of Title 26, U.S. Code. Copies of the complaint were provided to your clients at that time. On July 16, 1990, you submitted a response to the complaint.

Upon further review of the allegations contained in the complaint, and information supplied by your clients, the Commission, on June 11, 1991, found that there is reason to believe the Committee and Stanley Huckaby, as treasurer, violated 2 U.S.C. § 434(b) and 26 U.S.C. § 9003(b), provisions of the Act and Title 26. The Factual and Legal Analysis, which formed a basis for the Commission's findings, is attached for your information.

Pursuant to its investigation of this matter, the Commission has issued the attached Subpoena which requires your clients to produce documents and which requires Roger Ailes to appear and give sworn testimony which will assist the Commission in carrying out its statutory duty of supervising compliance with the Act, and Chapters 95 and 96 of Title 26, U.S. Code. Details regarding the deposition are provided on the attached Subpoena.

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Under the Act, you have an opportunity to demonstrate that no action should be taken against the Respondents. You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Statements should be submitted under oath. All responses to the enclosed Subpoena to Produce Documents must be submitted to the General Counsel's Office within 15 days of your receipt of this letter. Any additional materials or statements you wish to submit should accompany the response to the subpoena.

Pursuant to 11 C.F.R. § 111.14, a witness summoned by the Commission shall be paid $30.00 plus mileage. Your client will be given a check for the witness fee and mileage. The Commission desires to resolve this matter expeditiously. To that end, the Commission intends to give this matter its utmost attention. Your cooperation during the discovery process will be appreciated and will facilitate the resolution of this matter.

Within three days of your receipt of this notification, please confirm the scheduled appearance with Xavier K. McDonnell, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

John Warren McGarry
Chairman

Attachments
Subpoena
Attachment to Subpoena
Factual and Legal Analysis

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 3069)

SUBPOENA

TO: Roger Ailes
Bush-Quayle'88, and
Stanley Huckaby, as treasurer
c/o Jan W. Baran
Wiley, Rein & Fielding
1776 K Street, N.W.
Washington, D.C. 20006

Pursuant to 2 U.S.C. § 437d(a)(3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby subpoenas Roger Ailes to appear for deposition with regard to MUR 3069. Notice is hereby given that the deposition is to be taken on August 27, 1991, in the Conference Room on the sixth floor of the Office of the General Counsel, 999 E Street, N.W., Washington, D.C. 20463, beginning at 10:00 a.m. and continuing each day thereafter as necessary.

Further, pursuant to 2 U.S.C. § 437d(a)(3), you are hereby subpoenaed to produce the documents listed on the attachment to this subpoena. Legible copies which, where applicable, show both sides of the documents, may be substituted for originals. The documents must be submitted to the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, within 15 days of your receipt of this subpoena.

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WHEREFORE, the Chairman of the Federal Election Commission has hereunto set hand at Washington, D.C., this 18th day of July, 1991.

John Warren McGarry
Chairman
Federal Election Commission

ATTEST:

Marjorie W. Emmons
Secretary to the Commission

Attachments
Definitions/Instructions
Document Request Page

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DEFINITIONS

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

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

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

INSTRUCTIONS

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

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

Unless otherwise indicated, the discovery request shall refer to the year 1988.

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

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ATTACHMENT TO SUBPOENA

Please provide:

1. Copies of all documents which relate or refer to any communications or meetings between you and Larry McCarthy prior to your interview with Larry McCarthy for the Gannett Journal.

2. Copies of all documents/correspondence between you (Roger Ailes, Ailes Communications, the Bush-Quayle '88, the Bush for President Committee or any of its agents or employees) and NSPAC or any of its agents during the year of 1988, including but not limited to the following:

a) Copies of letter(s) from Lee Atwater, James Baker, III and Jan Baran, including those which are referenced in the Factual and Legal Analysis.

b) Copies of letter(s) to NSPAC/Ms. Fediay from the Bush Committee which contained the signature of Dan Quayle, including the letter dated October 22, 1988, which is referenced in the Factual and Legal Analysis.

c) Copies of letter(s) from Ms. Fediay/NSPAC to Bush-Quayle '88 or its agents, including the letter alleged to have been hand-delivered to James Baker, III, on the day NSPAC announced the airing of the Willie Horton advertisement.

d) Copies of videotape(s) which NSPAC provided to Dan Quayle or any employee or agent of Bush-Quayle '88, including the videotape which is referenced in the Factual and Legal Analysis.

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

MUR 3069

RESPONDENTS: Bush-Quayle '88, and
Stanley Huckaby, as treasurer

I. GENERATION OF MATTER

The Ohio Democratic Party and James M. Ruvolo, as chairman, and the Black Elected Democrats of Ohio, and Ray Miller, as president, (collectively "Complainants") have filed a complaint alleging that during the 1988 presidential election cycle Bush-Quayle '88 (or the "Bush Committee" or the "Bush campaign") and its agent, Roger Ailes, coordinated, cooperated or consulted with National Security Political Action Committee ("NSPAC"), and its agents, (collectively "Respondents") with respect to the "Willie Horton" television advertisements. If these allegations prove accurate, NSPAC's expenditures would not be independent and would be deemed to be excessive contributions to the Bush Committee, in violation of 2 U.S.C. § 441a(a), and the Bush Committee's acceptance of such contributions would be in violation of 26 U.S.C. § 9003(b).

II. FACTUAL AND LEGAL ANALYSIS

A. APPLICABLE LAW

The Federal Election Campaign Act of 1971, as amended, (the "Act") requires each political committee to submit reports to the Commission which disclose all contributions or expenditures. 2 U.S.C. § 434(b). The Act limits contributions made by persons and political committees. 2 U.S.C. § 441a(a). Independent

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expenditures are not limited by the Act. Buckley v. Valeo, 424 U.S. 1, 39 (1976). An independent expenditures is defined as:

> an expenditure by a person expressly advocating the election or defeat of a clearly identified candidate which is made without cooperation or consultation with any candidate, or any authorized committee or agent of such candidate, and which is not made in concert with, or at the request or suggestion of, any candidate or agent of such candidate. 2 U.S.C. § 431(17); 11 C.F.R. § 109.1(a).

Expenditures made by any person in cooperation, consultation or concert with, or at the request or suggestion of, a candidate, his authorized political committees, or their agents, shall be considered to be a contribution to such candidate. 2 U.S.C. § 441a(a)(7)(B)(i). The Commission's regulations further provide that expenditures are not independent when they are made by: "any arrangement, coordination, or direction by the candidate or his or her agent prior to the publication, distribution, display, or broadcast of the communication." 11 C.F.R. § 109.1(b)(4)(i). Under Commission regulation 11 C.F.R. § 109.1(b)(4)(i), an expenditure will be presumed to be so made when it is

> (A) Based on information about the candidate's plans, projects, or needs provided to the expending person by the candidate, or by the candidate's agents, with a view toward having an expenditure made;
>
> (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.

Under the Presidential Election Campaign Fund Act (the "Fund

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Act"), a Presidential candidate may elect to receive public financing. To become eligible to receive public funds, the candidates of a major party must certify to the Commission, under penalties of perjury, that no contributions to defray qualified campaign expenses have been or will be accepted by such candidates or any of their authorized committees except under certain limited circumstances. 26 U.S.C. § 9003(b)(2).

B. SUMMARY OF ALLEGATIONS

During the 1988 election cycle, as part of its independent expenditure project called "Americans for Bush", NSPAC created and aired a television advertisement which featured a photograph of Willie Horton.[1] According to the Complainants, "the 'Willie Horton' theme was a widely-announced, integral, and approved part of Bush-Quayle '88's campaign program," and there was a similarity in the themes of the two Committees' campaign advertisements. The Complainants also allege that the two persons responsible for preparing NSPAC's ads, Larry McCarthy and Jesse T. Raiford, either worked for Roger Ailes, the chief media advisor to George Bush (the "Candidate") and Bush-Quayle '88, "at the time they made the ads or had quit only shortly before." The Complainants cite information published in certain magazine and newspaper articles to support their contention that the Willie Horton ads "were prepared and aired by arrangement, coordination, or direction of Roger Ailes and/or other agents of Bush-Quayle '88."

1. Horton is a convicted murderer who fled from Massachusetts to Maryland while on a weekend furlough. In Maryland, Horton committed more crimes, including rape, kidnaping and attempted murder.

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One of the articles enclosed with the complaint discloses that Larry McCarthy, who produced the Willie Horton ad, has close ties with Ailes and his firm, Ailes Communications ("ACI"). In fact, McCarthy was formerly senior vice president of ACI, where he was employed for six years. Schram, "The Making of Willie Horton," The New Republic, May 29, 1990, at page 17. Moreover, that article indicated that Ailes called McCarthy shortly after the latter began working for NSPAC to say that it was "too bad" he was working for NSPAC, because he "wanted to hire" his former employee for the Bush campaign "to do negative spots." The article suggests that Ailes' comments during that telephone call could have been "just the hint McCarthy needed to get the notion that he could help Ailes and Bush by making his own negative ads."

In reference to his work for NSPAC, McCarthy said: "I just tried to run it as if I were Roger [Ailes]. I tried to spare him [Ailes] from doing some of these things." McCarthy also said he "figured" the Bush campaign would begin attacking Dukakis by mid-September, so his plan was to "lead" Ailes and the Bush Committee in airing negative ads by a couple of weeks. When the Horton ad was first released, NSPAC allegedly announced that it would "yank" the ad off the air if the Bush campaign's former Chairman, James A. Baker, III formally requested. According to this article, Mr. Baker made such a request, but not until three days before the ad was scheduled to stop running.

The New Republic article also indicates that a couple of weeks after NSPAC released its Horton ad, "Ailes aired his own campaign classic: the revolving jailhouse door," an ad that

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apparently was also critical of the furlough program, but which never showed Horton's photo or mentioned his name. Ailes reportedly said that the Bush Committee "very carefully elected not to show him [Horton] or mention him because we knew we'd be hit with racism."

Mr. Raiford, who assisted McCarthy on the Willie Horton ad, also worked for Ailes/ACI for six years. In fact, the article attached to the Complaint suggests that it is unclear whether Raiford had actually left Ailes Communications at the time the Horton commercials were produced. Conason "Roger and He," The New Republic, May 29, 1990 at 18. That article indicates that, although Raiford's resume and an executive at Ailes Communications both state that Raiford left that corporation in January of 1988, Raiford did not open his own office until August of 1988, the same month that the Horton commercials were produced. Moreover, Raiford's production firm, Raiford Communications, was not incorporated until September 2, 1988, a few days after the Horton commercial was completed.[2] In addition, the February 1990 edition of Campaigns & Elections, lists Raiford as a contact for Ailes Communications, which suggests Raiford has an ongoing affiliation with his former employer.

The third article attached to the Complaint indicates that the Bush Committee approved of literature, distributed by the Ohio

2. Raiford evidently hired an attorney from the law firm of Nixon, Hargrave, Devans & Doyle to handle the incorporation of Raiford Communications. The author of the article suggested that it was "curious" that Raiford hired that politically active law firm for the incorporation of such a small business.

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Republican state party, which contained Horton's photograph. The Plain Dealer, November 3, 1988. In fact, Robert Bennett, the state Republican party chairman, specifically states in the article that "the national Bush-Quayle campaign approved of the literature before it was mailed," and that the state committee did not "mail out stuff" without the Bush Committee "knowing about it."

C. RESPONSES TO THE COMPLAINT

According to the Respondents, "[n]either Bush-Quayle '88 nor its agent Ailes Communications had any prior knowledge of the production of [the Horton ads] nor any direction or influence over their creation or broadcast."[3] These Respondents further assert that the Bush Committee has long objected to and denounced NSPAC's activities, and they point to various actions they have taken to demonstrate their disapproval.

First, the Bush Committee filed a complaint with the Commission "requesting a review of NSPAC's compliance with federal law in connection with its activities under its fundraising designation 'Americans for Bush.'" Then the Bush campaign wrote letters to the national networks informing them that the "Willie Horton" advertisements were not paid for, authorized or approved by Bush-Quayle '88. Finally, James Baker, III, the former Chairman of Bush-Quayle '88, sent a letter to NSPAC requesting it cease its alleged misrepresentations. Copies of these letters

3. Sometime in 1987, the Bush Committee retained Ailes/ACI "to provide advice and assistance concerning political communications and advertising" throughout the 1988 Presidential election cycle.

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have been attached to the response. Respondents state that the only action not taken by the Bush campaign, namely requesting that NSPAC cease using the Willie Horton advertisements, "was perceived by the campaign as legally dangerous, as it might raise a presumption that NSPAC's activities were coordinated with the campaign, if NSPAC complied with the request."

The Bush Committee asserts that "there was public awareness of the 'Willie Horton' issue without need for 'inside' information from the Bush campaign." As evidence for their assertion that there was no coordination between the Bush Committee and NSPAC, these Respondents submit the affidavit of Roger Ailes. Ailes avers that neither he nor any agent or employee of ACI "ever communicated in any way with any independent expenditures committee, or employee or agent thereof, including but not limited to Larry McCarthy or Jesse Raiford, regarding any independent expenditures programs of any kind, including but not limited to the specific 'Willie Horton' advertisement."

Ailes contends that he first became aware of the Horton issue during the spring of 1988, through press accounts, including the Reader's Digest article previously mentioned, and during the Democratic debates, when Albert Gore criticized the furlough program that was once in effect in Massachusetts. Ailes acknowledges that the Bush Committee representatives mentioned Horton during the campaign, but he asserts, Bush-Quayle '88 "made a conscious decision not to utilize Horton's image in such television advertisements because of the potential for a negative impact on the campaign." He further contends that as "a general

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matter" he believes "independent expenditures have the potential to disrupt and injure the candidate on whose purported behalf they are made," that such independent ads might tar the campaign or candidate, and he surmises that this "is what happened with NSPAC's 'Willie Horton' piece."

Ailes acknowledges that both Larry McCarthy and Jesse Raiford are former employees of ACI. He indicates that McCarthy left ACI in January of 1987, and Raiford left on January 1, 1988. He further states that when McCarthy left ACI he had a consulting contract with Ailes' firm to assist in the Danforth campaign, but that the contract was terminated once McCarthy became a consultant for the Dole for President campaign. Ailes also indicates that after Raiford left ACI, "he was in a pool of persons who were, on occasion, sub-contracted" by ACI to "set up shoots" or "to film specific scenes," but that neither Larry McCarthy or Jesse Raiford ever returned to ACI. Furthermore, Ailes avers that the inclusion of Jesse Raiford as a "contact person" for Ailes in the February 1990 edition of Campaigns & Elections was inaccurate and reflects information several years out of date.

With respect to his communication with Larry McCarthy, Ailes acknowledges that he has a "general recollection" that he had called McCarthy in June of 1988, when he learned that his former employee had produced a biography of George Bush for NSPAC. Ailes indicates that he was "upset by that piece" because he felt it was "inferior" to his own biography of George Bush, and might be confused with his work. Nevertheless, Ailes contends he called McCarthy after viewing NSPAC's George Bush biography to tell

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McCarthy that the "Bush campaign had considered using" him for some "comparative advertising," but "that was now absolutely impossible" because McCarthy had worked for NSPAC.

Finally, the response contains an affidavit of Robert T. Bennett, Chairman of the Ohio Republican Party. In his affidavit, Bennett acknowledges that a campaign mailer distributed by the state party committee contained a picture of Horton. Bennett avers, however, that he never had any contact with NSPAC, and has no knowledge of any coordination between Bush-Quayle '88 and NSPAC, and he does not know of any connection whatsoever between the state party's mailer and the Horton advertisement produced by NSPAC. Respondents also point out that the campaign flyer was apparently not produced until over a month after the airing of the Horton commercials.

D. ANALYSIS

Under the Commission's regulations, the independence of expenditures may be impaired by various factors. First, the expenditures will be presumed to be coordinated if they are made by any person who is, or has been, receiving any form of compensation from the candidate, the candidate's committee or agent. See 11 C.F.R. § 109.1(b)(4)(i)(B). Secondly, the expenditures will be presumed to be coordinated if they are based on information about the candidate's plans, projects or needs provided to the expending person by the candidate, the candidate's committee or agent, with a view towards having an expenditure made. See 11 C.F.R. § 109.1(b)(4)(i)(A). Moreover, under the Act, the independence of NSPAC's expenditures will be negated if

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there is evidence of actual coordination between the person or committee making the expenditures and the candidate or any agent or authorized committee of such candidate. 2 U.S.C. § 431(17). 11 C.F.R. § 109.1(b)(4)(i)(B).

(i) Vendor Relationship

In his affidavit, Ailes states that ACI was retained by the Bush Committee in 1987 to provide advice and assistance for the campaign. While Ailes does not specify the month in which he was retained by the Bush campaign, we do know that McCarthy had "conducted projects with ACI" on a contractual basis, and therefore was presumably receiving compensation from the firm, until December of 1987. Hence, the facts here disclose that McCarthy had a working relationship with ACI at the same time that ACI was the Bush campaign's agent. Therefore, the expenditures for the "Willie Horton" ad appear to have been "made by or through" a person who had been receiving compensation from ACI at the same time ACI was the Bush campaign's agent.

The responses also indicate that McCarthy had left ACI prior to June of 1988, the time when McCarthy began his relationship with NSPAC. Therefore, it does not appear that McCarthy was employed by the Candidate's vendor, ACI, at the same time he was retained by NSPAC. The fact remains, however, that McCarthy appears to have been compensated by ACI at the same time that firm was retained by the Bush campaign. McCarthy, unlike Raiford, was involved in political consulting and the responses do not disclose whether McCarthy was exposed to any of ACI's campaign strategy or plans for the Bush Committee while he was being compensated by

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that firm during 1987. Clarification on that point is crucial because the independence of NSPAC's expenditures would be tainted if those expenditures were made by or through persons who had access to the Candidate's campaign strategy or media program by virtue of their employment by the Candidate's agent within the very same election cycle. See 11 C.F.R. § 109.1(b)(4)(i)(B).[4]

(ii) Expenditures Based Upon Candidate's Needs and Plans

The Respondents have produced an affidavit and other evidence to clarify and rebut many of the facts and allegations presented in the complaint. However, the responses have not explicitly addressed some of the information published in media reports. First of all, McCarthy indicated in The New Republic article that while he was planning NSPAC's media campaign, he tried to "spare" Ailes from doing certain negative things. McCarthy also stated in that article that he planned on leading Ailes in his negative ads by a couple of weeks, and the responses disclose that NSPAC's Horton ad did air just a few weeks before the Bush Committee's own furlough spot. The responses, however, do not disclose how Mr. McCarthy was aware that the Bush campaign planned to go negative, and, moreover, that they would do so by

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4. The vendor relationship at issue in this matter is distinguishable from that in MUR 2766 (the "Auto Dealers"). In that matter, the independent group retained the same vendor as the candidate's committee, but only for expenditures made outside of the candidate's state. The independent group retained a different vendor for expenditures made within the candidate's state. Here, both the vendor for the independent group and the candidate's vendor were making expenditures on behalf of the same candidate. Moreover, here there was more than just the "opportunity" for coordination, there is evidence that there were communications between the two Committees. See infra Section II.D(ii).

mid-September of 1988. Nor do the responses explain why McCarthy wished to "spare" Ailes from producing the Willie Horton ad. All in all, McCarthy's statements suggest that he was cognizant of the Bush Committee's plans prior to the production and airing of the Horton ad, and yet, at this time, the source of his knowledge has not been disclosed.[5]

There is additional information in media reports which indicates that there were communications between the Bush campaign and NSPAC. To begin with, shortly before the election, Ms. Fediay stated that: "Officially ... the [Bush] campaign has to disavow themselves from me. Unofficially, I hear that they're thrilled about what we're doing." See Attachment. Moreover, it is reported that in a letter written to NSPAC, dated October 22, 1988, Vice Presidential Candidate Dan Quayle thanked the Committee for a copy of another videotaped attack on Mr. Dukakis that was financed by NSPAC, and that he called NSPAC's efforts "a source of real encouragement as well as a great boon to our efforts." See Attachment.

With respect to Ms. Fediay's comments, it is unclear whether someone within the Bush Committee actually expressed their approval and support for NSPAC's activities, and, if so, whether those comments were made in reference to, and before or during the production and broadcast of, the "Willie Horton" ad. With respect

5. The responses disclose that McCarthy interviewed Ailes in October of 1988 for the Gannett Journal. It would appear that arranging the interview would itself require that the agents of the two Committees communicate, and that such communications may have occurred before or during the time when NSPAC's Horton spot aired, which was in late September through early October of 1988.

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to Quayle's comments, it is unclear what videotape he received from NSPAC, but it appears that there had been communication and/or contact between Quayle/the Bush campaign and NSPAC at some additional point prior to October 22, 1988, when Quayle is alleged to have written and/or signed the letter.

The media reports also indicate that on the day that NSPAC announced the 28-day run of the Willie Horton ad, Elizabeth Fediay had a letter hand-delivered to James A. Baker, III, in which she offered to call off the airing of the Willie Horton advertisements if the Bush Committee so requested. In fact, a letter produced by the Bush Committee, dated September 27, 1988 and signed by Mr. Baker indicates that it is in response to Fediay's letter of September 8, 1988. The Bush Committee, however, has not produced nor disclosed the contents of Ms. Fediay's letter, and has not explained why it elected to respond to NSPAC's letter when it did. The responses and media reports also reference a letter, dated May 4, 1988, in which Jan W. Baran, General Counsel for the Bush Committee, conveyed to Elizabeth Fediay that it disapproved of NSPAC's activities.[6] Finally, there is a reference to a letter written by Lee Atwater, in which he allegedly made it clear to NSPAC that the Bush Committee opposed its efforts. These alleged written communications between the Committees and the other information within the media reports cited raise an inference that NSPAC's employees or agents may have received information from the

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6. Mr. Baran's letter of May 4, 1988, also appears to be referenced in Mr. Baker's letter to NSPAC, dated September 27, 1988.

Candidate's agents or employees about the Bush Committee's needs, plans and projects, and that such information may have been used to determine the direction of the "Americans for Bush" media campaign. 11 C.F.R. § 109.1(b)(4)(i)(A).

B. CONCLUSION

The information at hand raises certain questions about the relationship and the communications between the two Committees and their agents. Although the Respondents have presented an affidavit and other evidence to counter and clarify many of the allegations, there is sufficient unrebutted evidence which gives rise to an inference of coordination. Accordingly, there is reason to believe that Bush-Quayle '88 and Stanley Huckaby, as treasurer, violated 26 U.S.C. § 9003(b) and 2 U.S.C. § 434(b).

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Horton Ad's Creators Claim Quiet Backing of Bush Staff

The following article is based on reporting by Richard L. Berke, Michael Wines and Stephen Engelberg and was written by Mr. Engelberg.

Special to The New York Times

WASHINGTON, Nov. 2 — The political commercial that raised some of the strongest doubts about Gov. Michael S. Dukakis's record on crime seems certain to win a place in the annals of campaign advertising.

The commercial appeared nationally on cable television for 28 days this fall. It featured a police photograph of a glowering Willie Horton, a convicted murderer who, after escaping while on a weekend pass from a Massachusetts prison, raped a Maryland woman and stabbed her fiancé.

Although disavowed by the campaign of Vice President Bush, the commercial is the work of an advertising team with long-standing ties to the Republican Party. It was filmed by a former employee of Roger Ailes, the Bush expert on the communications media. And now, in the waning days of the Presidential race, leaders of the National Security Political Action Committee, the independent group that sponsored the advertisement, are declaring that they have the tacit support of senior officials in the Bush campaign.

The group's activities are a case study in how independent political committees can have a major impact on a national campaign and provide a vehicle for carrying out attacks with which a campaign organization cannot be associated. And the controversy that has evolved over the group's role also illustrates the competition and sometimes outright hostility between campaigns and political action committees as they vie for contributions.

A Letter of Praise

Senior Bush campaign officials have used strong language to disclaim any connection to the National Security Political Action Committee, which raised some of its money with mailings sent out under the banner of "Americans for Bush." The general counsel to the Bush campaign, Jan W. Baran, has called the group "bloodsuckers," while Mr. Ailes has said of such independent expenditure groups, "I hate them."

As for the Vice President himself, a May 4, 1988, letter that the campaign sent to the committee says the candi-

Continued on Page B20, Column 4



A campaign ad featuring a convicted murderer who raped a woman after escaping while on a weekend pass from a Massachusetts prison.

ATTACHMENT
Page 1 of 2

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date "does not endorse nor approve of your activities."

The committee's principals say they have complied with Federal election law, which bars independent organizations from coordinating their spending activities with Presidential campaigns, but they argue that the Bush camp protests too much. They say an Oct. 22 letter of praise over the signature of Mr. Bush's running mate, Senator Dan Quayle, is evidence of what they call the campaign's true sentiments toward their activities.

In the letter, Mr. Quayle offered thanks for a copy of another videotaped attack on Mr. Dukakis that was financed by the committee, and called its efforts "a source of real encouragement as well as a great boon to our efforts."

A spokesman for the Senator said that he knew nothing about the letter and that it had been written by an intern who, the spokesman said, signed it with an automatic pen.

But Elizabeth L. Fediay, the committee's 34-year-old founder, said in an interview today that she believed the letter was genuine. "Officially," she said, "the campaign has to disavow themselves from me. Unofficially, I hear that they're thrilled about what we're doing."

Surge From Obscurity

Ms. Fediay, who has no significant previous experience in political fund raising, runs the committee from one windowless room in a downtown office building.

In the past two years, that committee has emerged from obscurity to become the biggest spender among independent political organizations. The Bush campaign charges in a complaint filed with the Federal Election Commission that the committee has misrepresented itself as an arm of the campaign and has thus sought to benefit financially. Most of the committee's vendors are several companies controlled by a group of Virginia-based direct mail specialists.

Ms. Fediay said she met Ronald Kanfer, one of the principals in these companies, nearly 10 years ago, when he was a copywriter at a Washington fund-raising concern and she was working for the Institute of American Relations, a conservative organization directed by her father, a former aide to two conservative Republican senators — Jesse Helms of North Carolina and Strom Thurmond of South Carolina. She said the idea to form the committee came to her suddenly in 1986, after she had consulted with several friends on Capitol Hill.

Mr. Kanfer said in an interview that his companies were but contractors for Ms. Fediay and other political experts who run the day-to-day operations of the political action committee. "We do the job she tells us to do," he said. "We have no say in their commercials, where they run, their grass-roots operations or any of that."

A 30-Second Ad on Crime

Special to The New York Times

WASHINGTON, Nov. 2 — "Weekend Passes" is the title of the 30-second advertisement about Willie Horton.

As side-by-side photographs of Vice President Bush and Gov. Michael S. Dukakis flash on the screen, an announcer says, "Bush and Dukakis on crime."

Flash to a picture of Mr. Bush.

"Bush supports the death penalty for first-degree murderers."

Then a picture of Mr. Dukakis.

"Dukakis not only opposes the death penalty, he allowed first-degree murderers to have weekend passes from prison."

Flash to a mugshot of a glaring Willie Horton.

"One was Willie Horton, who murdered a boy in a robbery, stabbing him 19 times."

Flash to another blurred black-and-white photograph of the convict, looking like he is being arrested by a police officer.

"Despite a life sentence, Horton received 10 weekend passes from prison," the announcer says. "Horton fled, kidnapped a young couple, stabbing the man and repeatedly raping his girlfriend." As the announcer gives these details, the words "kidnapping," "stabbing" and "raping" flash on the screen.

The last phase is of Mr. Dukakis. The announcer says: "Weekend prison passes. Dukakis on crime."

The latest Federal records show that the National Security Political Action Committee has spent $7.882 million on behalf of Mr. Bush's candidacy, of which $2.4 million has been paid to companies owned by Mr. Kanfer and his partner David Kimbo.

Using telephone banks and letters to an array of potential contributors culled from conservative donor lists and other sources, the group has raised about $9 million since its founding in the spring of 1986. All but about $1 million has been raised in the last 10 months, mostly in donations of less than $50.

A Letter to Baker

There is no evidence that the committee, in devising the Horton commercial, received any direction from the Bush campaign. Kathleen Hall Jamieson, professor of communications at the University of Texas, said the Vice President could have suffered a backlash had his organization sponsored such an advertisement.

"To have Willie Horton's picture in the Bush ad would have been extraordinarily damaging to Bush," she said. "It would have raised much earlier the question of 'Is this a negative ad?' "

Democrats have asserted that the Horton commercial has racist overtones, partly because it includes the photograph of Mr. Horton, who is black.

Lee Atwater, the Bush campaign manager, said in an interview today that the campaign had "a firm policy not to use Willie Horton in any of our ads." Asked if the National Security Political Action Committee's use of the Horton commercial was beneficial to Mr. Bush, he said, "We have no way of evaluating that."

The Bush campaign does appear to have passed up a chance to remove the Horton advertisement from the cable airwaves.

On the day that Ms. Fediay announced the 28-day run for the commercial, she had a letter hand-delivered to James A. Baker 3d, chairman of the Bush campaign, offering to call it off, according to Tony Fabrizio, a Washington-based media buyer who helped plan the advertisement and buy the television time.

Mr. Baker responded with a letter three days before the commercials were to conclude their scheduled run with a letter that recounted Mr. Bush's earlier expressions of disapproval.

"If they were really interested in stopping this, do you think they would have waited that long to send us a letter?" asked Floyd Brown, the group's political consultant.

Mr. Atwater said today that he wrote the committee "a very strongly worded letter" months ago, making clear that he opposed its efforts. "I don't know what else we could do," he said. "Everybody involved knows that they didn't have our approval in any shape, form or fashion."

The Campaign's Decision

Bush campaign strategists decided as early as last spring that the Horton case would be a potent weapon against Mr. Dukakis. By focusing on this failure of the Massachusetts furlough program, campaign officials believed they could raise fears that Mr. Dukakis was soft on crime.

Polls show that this decision was one of the most important in the campaign and that the sharp rise in Mr. Dukakis's negative ratings after the Democratic National Convention in July resulted, in part, from the effective exploitation of the furlough issue.

The television advertisement that followed from the National Security Political Action Committee was produced by Larry McCarthy, who had been an aide in Senator Bob Dole's Presidential campaign and who was once an employee of Roger Ailes's company.

ATTACHMENT —
Page 1 of 2

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 3069
Bush Quayle '88, et al.	)	

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on July 23, 1991, do hereby certify that the Commission decided by a vote of 5-0 to direct the Office of General Counsel to give a status report on MUR 3069 at the executive session of August 27, 1991.

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

Attest:

7-24-91
Date

Marjorie W. Emmons
Secretary of the Commission

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 5, 1991

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

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

RE: MUR 3069
Roger Ailes

Dear Mr. Baran:

This letter is to inform you that, at your request, the deposition of Roger Ailes in the above-captioned matter has been rescheduled for Thursday, August 29, 1991, at 10:00 a.m. The deposition will be held in the Conference Room at the Office of the General Counsel, 999 E Street, N.W. Washington, D.C. If you have any questions, please call me at (202) 376-8200.

Sincerely,

Xavier K. McDonnell

Xavier K. McDonnell
Attorney

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OGC 2187

WILEY, REIN & FIELDING

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

August 8, 1991

JAN WITOLD BARAN
(202) 429-7330

FACSIMILE
(202) 429-7049
TELEX 248348 WYRN UR

John Warren McGarry
Chairman
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

RE: MUR 3069

Attn: Xavier K. McDonnell, Esq.

Dear Mr. Chairman:

We represent Bush-Quayle '88 and J. Stanley Huckaby, as Treasurer, Respondents in Matter Under Review 3069 ("MUR 3069"). On July 25, 1991, we received your letter dated July 18, 1991, and its attached Subpoena requiring Respondents in this Matter, and Roger Ailes, to produce certain documents within fifteen days of receipt of that letter.

Our clients, Bush-Quayle '88 and J. Stanley Huckaby, as Treasurer, have reviewed their files and produced herewith, in response to Section 2 of the Subpoena, copies of the following documents/correspondence:

1. Letter dated May 4, 1988 from Jan W. Baran, General Counsel, George Bush for President, Inc. to Ms. Elizabeth I. Fediay, Chairman, National Security Political Action Committee, with attachments;

2. Letter dated May 26, 1988 addressed to Jan W. Baran, Esquire from Paul E. Sullivan, Esquire, of the law firm of Wunder & Diefenderfer;

3. Letter dated May 31, 1988 from Jan W. Baran to Paul E. Sullivan, Esquire;

4. Letter dated July 18, 1988 addressed to Jan W. Baran, Esquire from Paul E. Sullivan, Esquire;

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RECEIVED
FEDERAL ELECTION COMMISSION
SECRETARIAT

5. Letter dated August 9, 1988 addressed to Lee Levine, Esquire of the law firm of Ross, Dixon & Masback [counsel for George Bush for President, Inc.] from Paul E. Sullivan, Esquire;

6. Letter dated August 25, 1988 addressed to Mr. Lee Atwater, Bush for President, Inc. from Elizabeth I. Fediay;

7. Letter dated September 8, 1988 addressed to The Honorable James A. Baker, III, Chairman, Bush for President from Elizabeth I. Fediay;

8. Letter dated September 12, 1988 addressed to Ms. Elizabeth I. Fediay from Lee Atwater;

9. Letter dated September 22, 1988 addressed to Jim Nathanson, Bush-Quayle '88, 43 1/2 East Gay Street, Columbus, Ohio from Elizabeth I. Fediay;

10. Letter dated September 22, 1988 addressed to Mr. Steve Schwartz, Bush-Quayle '88, 200 West Morgan Street, Raleigh, N.C. from Elizabeth I. Fediay;

11. Letter dated September 27, 1988 addressed to Ms. Elizabeth I. Fediay from James A. Baker, III;

12. Unsigned letter dated October 22, 1988, addressed to Elizabeth I. Fediay, drafted for Senator Dan Quayle's signature [Respondents are providing this document to the Commission because it may be the document referenced in the General Counsel's Factual and Legal Analysis and at Section 2(b) of the Attachment to the Subpoena. Respondents note that this document, which Respondents obtained from the Senate Office of then-Senator Dan Quayle, is unsigned and not on any letterhead. Respondents were not provided by the Commission with a copy of any signed version referred to in the Subpoena, so Respondents do not know whether this is the letter referenced therein. It is, however, the only such document Respondents have located in their files].

This Office spoke with Xavier McDonnell of the Commission's Office of the General Counsel on July 8, 1991, seeking information which would assist Respondents and Roger Ailes in complying with Section 1 of the Attachment to Subpoena in this Matter.

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Specifically, the Commission has requested "copies of all documents which relate or refer to any communications or meetings between you and Larry McCarthy prior to your interview with Larry McCarthy for the Gannett Journal." The General Counsel's Factual and Legal Analysis (at footnote 5, page 12) states that "The responses disclose that McCarthy interviewed Ailes in October of 1988 for the Gannett Journal." We informed Mr. McDonnell that we could find no reference in Respondent's Response of July 30, 1990, or in Mr. Ailes' Affidavit attached thereto, to any such interview.

Mr. McDonnell stated that the reference in the General Counsel's Factual and Legal Analysis was to a response submitted to the Commission by another Respondent in this Matter, and that he was unable at this time to provide us with any information concerning this Response or the article referenced in the Subpoena. Mr. McDonnell did, however, state that the Commission has a copy of the article, which it had obtained directly from the Gannett Journal's offices in New York, and he suggested that we might be able to obtain a copy from the same source.

We have discussed Section 1 of the Attachment to Subpoena with our clients and with Mr. Ailes' office. Respondents and Mr. Ailes' office are currently examining their files to determine whether they have any documents concerning the arrangements for an interview by Mr. McCarthy in the Fall of 1988. If any such documents are so located, they will be provided to the Commission.

Sincerely,

Jan Witold Baran

JWB/smr
Attachments

cc: J. Stanley Huckaby
Treasurer, Bush-Quayle '88, Inc.

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WILEY, REIN & FIELDING

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

JAN W BARAN
202 429 7330

May 4, 1988

Ms. Elizabeth I. Fediay, Chairman
National Security Political Action Committee
3200 Morrison Street, N.W. #420
Washington, D.C. 20015

Dear Ms. Fediay:

Enclosed please find a check in the amount of $3,000 to the National Security Political Action Committee ("NSPAC") which represents a refund for contributions of $1,000 made to George Bush for President, Inc. ("the Committee") on September 4, 1987, October 30, 1987, and December 15, 1987 according to our records. Your contribution of March 29, 1988 is also being returned to you uncashed.

While the Committee recognizes your constitutional right to participate in the electoral process and to legitimately support the campaign of George Bush, it disapproves of the manner by which you conduct NSPAC. First, the Committee objects to NSPAC misrepresenting itself as "Americans for Bush", actively leading those who receive your solicitations to believe that they are being solicited by George Bush for President, Inc., the only authorized committee of the Vice President. Second, while NSPAC is organized as an independent expenditures committee, there is no evidence that you are engaging in the express advocacy for which you have organized. Rather, NSPAC's publicly filed campaign finance reports indicate that NSPAC spends the majority of its money for fundraising and operating costs. Third, the Committee cannot tolerate the manner by which NSPAC preys on the elderly, in many cases forcing them to go to their local post office in order to obtain a copy of one of your fundraising solicitations sent by certified mail. Victimizing the elderly serves only to detract from the electoral process and does not advance the values which you espouse.

The Vice President has asked me to tell you that he does not endorse nor approve of your activities. The Vice President requests that you and NSPAC immediately cease using his name, the name "Americans for Bush," and any other name that suggests his association with you or NSPAC.

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Furthermore, please be advised that the Committee is going to file formal complaints with both the Federal Election Commission and the Internal Revenue Service regarding your activities.

Sincerely,

Jan W. Baran
General Counsel
George Bush for President, Inc.

JWB/slg
Enclosures
Check No. 9177 and 1218
bcc: Edith E. Holiday, Esq.
J. Stanley Huckaby

22040384307

GEORGE BUSH FOR PRESIDENT
733 - 15TH STREET, N.W.
WASHINGTON, D.C. 20005

SOVRAN BANK DC NATIONAL

9177

28 APRIL 1988

15-429/540 D

PAY THREE THOUSAND---------- DOLLARS $**3000.00**

TO THE ORDER OF
NATIONAL SECURITY P.A.C.
3200 MORRISON STREET, NW
WASHINGTON, DC 20015

⑈009177⑈ ⑆054001204⑆ ⑈762754 5⑈

DETACH AND RETAIN THIS STATEMENT
THE ATTACHED CHECK IS IN PAYMENT OF ITEMS DESCRIBED BELOW
IF NOT CORRECT PLEASE NOTIFY US IMMEDIATELY. NO RECEIPT DESIRED

GEORGE BUSH FOR PRESIDENT

DELUXE - FORM WVO-4 V-2

DATE	DESCRIPTION	AMOUNT
01/19/88	CONTRIBUTION REFUND 6005	$3000.00

92040384308

NATIONAL SECURITY POLITICAL ACTION COMMITTEE
3200 MORRISON STREET, N.W.
WASHINGTON, DC 20015

1218

15-3/540

3/29 1988

PAY TO THE ORDER OF George Bush for President $ 1,000-

One Thousand & ^0/100— DOLLARS

The RIGGS NATIONAL BANK
of WASHINGTON D.C.

FOR _____

⑈001218⑈ ⑆054000301⑆ 08-08539959⑈

LAW OFFICES
WUNDER & DIEFENDERFER
1615 L STREET, N. W., SUITE 650
WASHINGTON, D. C. 20036
(202) 659-3005
TELECOPIER: 659-3010

May 26, 1988

Jan Baran, Esquire
Wiley, Rein and Fielding
1776 K Street, N.W.
Washington, DC 20006

Dear Mr. Baran:

Our office has been retained for purposes of responding to your May 4, 1988 letter to Elizabeth I. Fediay, the Chairman and Treasurer of National Security PAC (NSPAC).

First, this letter confirms the receipt of the refund checks which the Bush for President Committee, Inc. (BPC) forwarded to Ms. Fediay. Second, though it is obviously within the discretion of BPC to refuse the acceptance of contributions, NSPAC does take exception to the criticism which you expressed in your letter regarding the activities and the intentions of NSPAC.

NSPAC is dedicated to supporting candidates who will assume the strong foreign policy and national security posture which President Reagan has asserted during his tenure as President. It is the expressed goal of NSPAC that candidates and especially the next President of the United States, carry forward and build upon President Reagan's policy.

Against that basic backdrop, we can turn to the specific issue of "Americans for Bush", the project of NSPAC to which you have voiced objection.

For obvious legal reasons, I do not wish to discuss specifics involving the anticipated independent expenditure program by NSPAC for the election of Vice President Bush. Suffice to say however, that NSPAC strongly believes in supporting the Vice President's election and will continue to play an active and vocal role in that effort.

NSPAC presumes that BPC will accept public funding pursuant to the Presidential Election Campaign Fund Act (26 USC 9002 et. seq.) for purposes of funding the general election. Therefore, millions of the Vice President's supporters throughout the country will be precluded from contributing either directly or

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through in-kind contributions in an attempt to express their support for the election of the Vice President. The independent expenditure program being conducted by NSPAC provides those individuals with an opportunity to voice their support of the Vice President's campaign.

Contrary to the implications of your letter, NSPAC primarily elected to conduct fundraising activities in support of the Vice President through a project entitled "Americans for Bush" (AFB) for purposes of providing notice to the contributors that the funds would be utilized for efforts to support the Vice President's campaign. Had the intent been only to raise funds using the Vice President's name, then the same letter advocating Vice President Bush's election could have been sent without reference or title of AFB. The mere request in the letter to raise funds intended to benefit the Bush campaign would clearly on its own be sufficient from the fundraising perspective. The bottom line is the project format is not a necessity for fundraising - it does however, emphasize that the funds will benefit the Bush campaign. NSPAC considers such notice to contributors to be a benefit for the contributor.

From the legal perspective, NSPAC has functioned in compliance with the FECA. As your are well aware, the Federal Election Commission has previously approved the use of a specific candidate's name for "projects" of political action committees. That position was recently affirmed in Common Cause v. Federal Election Commission 842 F.2d. 436 (D.C. Cir. 1988), overruling 676 F.Supp. 286 (D.D.C. 1986).

In addition, the Commission recently ruled on a similar type of matter in MUR 2372. In that case, the Commission found no reason to believe and closed the matter on the issue of use of a candidate's name in a fundraising project for a political committee.

Therefore, with regard to the FECA, the activities of NSPAC appear to be clearly permissible.

You also implied in your letter that NSPAC spends the majority of its funds for fundraising and operating expenses rather that the support of candidates. I have personally reviewed the 1987 and 1988 disclosure reports of NSPAC. First, as you are aware, the cost of conducting direct mail advocacy and fundraising is a very costly venture until a substantial house list can be developed.

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A review of the NSPAC reports does indicate that a substantial amount of funds has been spent for list development. However, this is clearly expected in the situation of a relatively new PAC which is attempting to build its house list. As you can appreciate, once the house list is developed and is subsequently mailed, the overhead expenses will drop dramatically. NSPAC has been working toward developing such a list for purposes of timely benefitting the 1988 elections and thus the 1987 overhead expenses were expectedly high.

Secondly, a review of the 1987 NSPAC reports indicates 29.2% of the funds which it raised during 1987 were either directly contributed to candidates or used to make independent expenditures which directly benefitted candidates. I believe if you review the candidate contribution rates of some of the larger non-connected PACs for 1986 and 1987, you will recognize that the percentage of contributions given to candidates is more often than not below this 29% figure for NSPAC. It should also be noted that thus far in 1988, the amount of contributions and independent expenditures made for the benefit of candidates is well over 45% of the funds raised for 1988.

NSPAC has effectively operated on a very tight budget. You will notice from the NSPAC reports that there has been only one paid staff person to date and that at a relatively modest amount. In addition, the PAC's activities have until last week been conducted from the personal residence of the Treasurer in order to avoid the added expense of overhead. This has enabled the committee to reinvest its funds in the development of a list for purposes of raising funds and subsequently contributing them to 1988 candidates.

Thus, contrary to the allegations, I believe NSPAC is one of the more cost efficient political action committees of its type.

In conclusion, it would appear as if NSPAC and BPC share a common goal; the election of George Bush as President of the United States. Upon a review of the activities and procedures of NSPAC, it would also appear as if they are attempting to make a substantial contribution in a most reasonable fashion.

I appreciate the concern which BPC has in regard to the fundraising activities of NSPAC. However, I believe you would concur that its activities have been on compliance with the FECA and they are operating with the legitimate intention of supporting federal candidates, including the Vice President.

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I have set out this detailed explanation in the hope of dissuading BPC from pursuing the filing of complaints with the FEC or the Internal Revenue Service as stated in your letter. Such a course, I believe, would merely detract from our mutual efforts and be a waste of the two committee's time and money.

As the new counsel to the committee, I can assure you that efforts will be made in the future to be sensitive to your concerns and that NSPAC will continue to operate within the statutory constraints which are applicable.

Very truly yours,

Paul E. Sullivan

cc: Elizabeth I. Pediay

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WILEY, REIN & FIELDING

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

JAN W BARAN
202 429-7330

May 31, 1988

Paul E. Sullivan, Esquire
Wunder & Diefenderfer
1615 L Street, N.W.
Suite 650
Washington, D.C. 20036

Dear Mr. Sullivan:

I am in receipt of your letter of May 26, 1988 on behalf of National Security Political Action Committee ("NSPAC").

Although your lengthy letter did not explicitly say so, I assume that your clients refuse to accede to the Vice President's request that they stop using the name "Americans for Bush" or his name for fundraising purposes. Accordingly, appropriate legal action will be taken.

Sincerely,

Jan W. Baran

bcc: Edith E. Holiday, Esquire

22040384313

LAW OFFICES
WUNDER & DIEFENDERFER
1819 L STREET, N. W., SUITE 650
WASHINGTON, D. C. 20036
(202) 659-2008
TELECOPIER: 659-2010

July 18, 1988

Jan W. Baran, Esquire
General Counsel
George Bush for President, Inc.
Wiley, Rein & Fielding
1776 K Street, N.W.
Washington, D.C. 20006

Dear Mr. Baran:

On behalf of the Elizabeth Pediay, I have been requested to contact you in regards to the complaint which you filed with the Federal Election Commission as General Counsel of Bush for President, Inc.

Though Ms. Pediay believes that the accusations in the complaint are baseless, she certainly does not object to your right to file the complaint and we will let the process be the final arbitor of your allegations. However, there are statements in your complaint of which there is no factual basis whatsoever and which are libelous towards Ms. Pediay personally and to her as Chairman and Treasurer of National Security PAC.

In the first full paragraph of page nine of the complaint, you state as follows:

> Finally, NSPAC's reports show that since January of 1987 Ms. Pediay has paid herself over $34,000 in salary. These disclosed payments are exclusive of any consulting agreements Ms. Pediay may have made with the numerous vendors with which NSPAC conducts business on a regular basis to receive a percentage of the business payments she makes to them. In this way, Ms. Pediay can effectively conceal the profit she makes as the Chairman and Treasurer of NSPAC which is her creation.

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> The reports identify several companies with whom Ms. Pediay has ongoing arrangements such as Response Dynamics, the Best Lists, Saturn Corporation, Mid-America Printing and Fulfillment Management Services. Most of these companies have permitted Ms. Pediay to carry a balance of thousands of dollars over several months. (For instance, Ms. Pediay has owed Best List more than $50,000 since November, 1987 and now has a debt of nearly $80,000.)

There is absolutely no truth to your statement, nor are there any facts upon which you could state that Ms. Pediay received undisclosed funds per a secret agreement with the vendors who provide services to NSPAC. The statement that she can effectively conceal profits she makes from these groups is again totally without any factual basis.

It is clear that the implication of this paragraph is that Ms. Pediay is somehow personally profiting from the NSPAC business which she refers to vendors. Such a reckless accusation has no place in the FEC complaint. There is absolutely no basis for that allegation. Ms. Pediay has a very good business and political reputation with numerous vendors, political committees and notable individuals as a result of her activities in NSPAC. An accusation of the nature made in your complaint specifically that she is using NSPAC to receive "under the table" personal profits, damages not only her personal integrity but also that of NSPAC and her business reputation among the various vendors with whom she deals and the candidates NSPAC supports.

As you well know, upon conclusion of this MUR, the FEC will place the complaint on the public record. Ms. Pediay's concern is that the inclusion of this reckless accusation will be made available to the public and damage will be done to her personally, to her business interests, and specifically to National Security PAC. In fact, some damage to Ms. Pediay may have already occurred given the fact that the allegations of your complaint, including those set out above at page 9, have leaked out to the members of the political community in the Washington, D.C. area.

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LAW OFFICES
WUNDER & DIEFENDERFER

Ms. Fediay has requested that you take the following action in order to rectify the situation discussed above. First, withdraw the complaint which you originally submitted to the FEC and submit an amended version deleting the above referenced paragraph at page 9 in the original complaint. Second, Ms. Fediay and National Security PAC will request that the Federal Election Commission delete from the public record the aforementioned paragraph and Ms. Fediay expects you as counsel to Bush for President, Inc. to submit an accompanying letter similarly requesting the Commission delete that provision from the public record. A failure to comply with these two basic requests will leave Ms. Fediay with no alternative but to file an action for damages against yourself, Bush for President, Inc., and Wiley, Rein and Fielding.

I look forward to your immediate response to this matter.

Very truly yours,

Paul E. Sullivan

cc: Elizabeth Fediay

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LAW OFFICES
WUNDER & DIEFENDERFER
1819 L STREET, N.W., SUITE 650
WASHINGTON, D.C. 20036
(202) 659-2008
TELECOPIER (202) 331-3010

August 9, 1988

Lee Levine, Esquire
Ross, Dixon & Masback
Columbia Square
555 Thirteenth Street, N.W.
Washington, D.C. 20004-1109

Re: MUR 2638

Dear Mr. Levine:

On behalf of National Security PAC (NSPAC) and pursuant to our previous discussions, I have set forth below the terms upon which NSPAC will settle this matter.

First, an amended complaint will be filed with the Federal Election Commission deleting from the original complaint, the following items:

1) At page 2, that sentence beginning with, "NSPAC also has a pattern of preying on the elderly. etc." through the end of that paragraph.

2) At page 3, in the first full paragraph deletion of the phrase "of a bold lie told".

3) At page 4, at the top of the page, that phrase beginning with the statement, "not on behalf of an independent expenditure committee, etc." through the end of that sentence.

4) At page 5, beginning with the second full paragraph, commencing with the phrase, "this violation of the law" through the end of that sentence.

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5) At page 8, in the first full paragraph that phrase which states, "truly spends the majority of its money to make money".

6) At page 9, the first full paragraph beginning with, "finally NSPAC's reports show..." through the end of that paragraph.

I believe this reflects those provisions of the complaint which are offensive to NSPAC and for which there is no facutal basis to make the allegation.

Second, a letter to the Federal Election Commission requesting that at the time the MUR is placed on the public record, items 1 through 6 set forth above shall be expunged from the public record.

Third, a letter of apology to Ms. Pediay and to NSPAC stating that there were no grounds whatsoever for alleging those various provisions which have been expunged from the complaint as set forth above.

Fourth, it has come to our attention that several "Americans for Bush" (AFB) contributors have contacted the Bush for President Committee. Apparently, the Legal Division is informing them that AFB is not affiliated with the Bush Committee nor are their activities approved. They are also indicating that the NSPAC is under investigation by the FEC. Though I would agree that the Bush Committee should be informing the contributors that Americans for Bush is not affiliated nor authorized by the Bush for President Committee, I believe the counsel's office is going too far in it's statement that the Committee is under investigation by the FEC. In fact, I believe that action violates 2 U.S.C. 437g(a)(12). NSPAC therefore, would request that the Bush Committee confine its explanation merely to the fact that Americans for Bush is a project of an independent expenditure committee not affiliated, nor authorized with the Bush for President Committee.

Fifth, as we discussed, NSPAC as an entity and Elizabeth I. Pediay as an individual and Chairman of NSPAC, would be willing to sign a release to the Bush for President Committee, Inc., Mr. Baran and Wiley, Rein & Fielding, in the event the terms set out above are fully met.

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LAW OFFICES
WUNDER & DIEFENDERFER

I believe the only item which will require negotiation of any extent will be the letter of apology which will be forthcoming from Mr. Baran and the Bush Committee. Prior approval of the specific language would obviously be required by NSPAC.

I trust that you will present these items to Mr. Baran and I look forward to an immediate resolution of this issue, so that we may all get on with the business of electing George Bush as our next President.

Very truly yours,

Paul E. Sullivan

cc: Elizabeth I. Pediay

22040384319

National Security
Political Action Committee

National Security Advisors
Adm. Thomas Moorer, U.S.N. (ret.), Former Chairman, Joint Chiefs of Staff
Honorable Jeremiah A. Denton, U.S. Senator, 97 - 99th Congresses
Rear Adm. C.A. "Mark" Hill, Jr., U.S.N. (ret.)
Vice Adm. Gerald E. Miller, U.S.N. (ret.)

August 25, 1988

PERSONAL & CONFIDENTIAL

Mr. Lee Atwater
Bush for President, Inc.
733 15th Street, N.W.
Suite 800
Washington, DC 20005

Dear Mr. Atwater:

I am Chairman of National Security PAC and Americans for Bush, a special independent expenditure project of National Security PAC (NSPAC). As you are likely aware, your legal counsel Mr. Baran, has recently filed a complaint against Americans for Bush with the Federal Election Commission.

That complaint contained unsubstantiated comments alleging that I was receiving undisclosed funds from various vendors and was conducting the activities of Americans for Bush in a fraudulent manner.

On July 18, 1988 my legal counsel wrote to Mr. Baran stating that there was no basis for any of the allegations in the complaint and that I was distressed by the damage that the allegations would have towards myself personally and towards the PAC. (See attachment A).

Mr. Baran in turn, apparently hired Mr. Lee Levine of the law firm of Ross, Dixon and Masback to negotiate a settlement of this matter. My counsel on August 9, 1988 forwarded a letter to Mr. Levine setting out the four items which I believe would settle the concerns I have.

The reason I am writing to you is in an attempt to move the negotiations off center.

On August 12, 1988 Mr. Baran, on behalf of the Bush for President Committee, filed an amended complaint with the FEC which only deleted one of the references which we requested of Mr. Levine in our August 9, 1988 letter. (See Attachment B).

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As you can appreciate, this entire matter will go on he public record once the FEC has concluded its investigation. Worst of all however, is the fact this matter has already hit the "Washington grapevine" and I have had to go to great lengths to dispel the allegations which were included in the original complaint.

I am only looking for a letter of apology stating that there were no grounds for the various allegations contained in the complaint and get the FEC to expunge the public record of the offensive language. This I am demanding, in order that other vendors or contributors who want an explanation will have that explanation directly from the Bush for President Committee. Though in other situations this activity by your counsel would warrant a lawsuit, that would not give Americans for Bush the remedy we need; namely, to restore our credibility nor would it do any good for Bush for President.

I would appreciate whatever assistance you can provide to get the lawyers moving and settle this matter in a way that will do justice.

As you may know from the public record, Americans for Bush has already sent out over 7 million bumper stickers, 200,000 Action Kits which contain yard signs, bumper stickers and instructions on how to organize events in the neighborhood for Bush for President, produced a 20 minute video tape which has been getting strong demands throughout the country and purchased over half a million dollars in T.V. time to air a 60 second pro-George Bush commercial. Our goal is similar to yours, that being the election of George Bush as the next President.

I regret that these type of legal complications interfere with our respective time and monies. I still do not comprehend why your counsel filed this complaint in the first place, though my interest now is only to move forward and promote the candidacy of George Bush.

Lastly, it has come to my attention that some members of the Bush Campaign are stating a lawsuit has been filed by the Bush Committee Against Americans for Bush. I would appreciate it if you would correct this misinformation since no lawsuit has been filed. Again, this is only adding fuel to this bushfire.

2204038432 1

I would like to conclude this matter as soon as possible and any assistance you could provide towards that end would be greatly appreciated. I look forward to meeting you after the election and our independent expenditure efforts - let's keep the lawyers happy.

Very truly yours,

Elizabeth I. Pediay
Chairman
National Security PAC

cc: Paul E. Sullivan

22040884322

National Security
Political Action Committee

National Security Advisors
Adm. Thomas Moorer, U.S.N. (ret.) Former Chairman, Joint Chiefs of Staff
Honorable Jeremiah A. Denton, U.S. Senator, 97 - 99th Congresses
Rear Adm. C.A. "Mark" Hill, Jr. U.S.N. (ret.)
Vice Adm. Gerald E. Miller, U.S.N. (ret.)

September 8, 1988

The Honorable James A. Baker, III
Chairman, Bush for President
733 15th Street, NW, 8th Floor
Washington, D.C. 20005

Dear Mr. Baker:

It has recently come to my attention that our independent effort to support the election of Vice President George Bush to the Presidency of the United States has caused concern among some middle-level staffers within the Bush campaign.

It is not our intention to impede in any way or obstruct the election of the Vice President.

Presently, we are the single largest independent group effort that supports the election of George Bush. To date, as public records show, we have spent in excess of three million dollars of which over ninety percent has gone directly into voter contact programs supporting the candidacy of the Vice President. This has included $800,000 in television air time and $400,000 in political action kits.

While we have heard the grumblings of some middle-level staffers in the Bush campaign, senior advisors such as yourself have remained silent. In fact, I find it hard to believe that anyone at the Bush campaign would oppose an independent group exercising its First Amendment rights to support the Vice President.

However, as Chairman of the Vice President's campaign, we would be interested in your wishes with regard to independent public advocacy of George Bush for President.

I anxiously await your reply.

Yours for a greater America, I am

Sincerely,

Elizabeth Fediay
Chairman

1919 Pennsylvania Avenue, N.W. • Suite 300 • Washington, D.C. 20006

2040384323

Bush 88 Quayle

733 15th Street, N.W.
Suite 800
Washington, D.C. 20005
202/842-1988

September 12, 1988

Ms. Elizabeth I. Fediay
Chairman
National Security Political
Action Committee
3200 Morrison Street, N.W.
Washington, D.C. 20015

22040384324

Dear Ms. Fediay:

I have received your letter dated August 25, 1988, concerning the administrative complaint recently filed by George Bush for President, Inc. (the "Committee") concerning the activities of the National Security Political Action Committee ("NSPAC"). As you know, the Committee filed this complaint following NSPAC's refusal to accede to the Vice President's express request that NSPAC cease using his name in connection with its fundraising activities.

The Committee has received numerous expressions of deep concern and irritation from the public about NSPAC and its fundraising activities. Indeed, there is substantial evidence that NSPAC'S tactics have in fact misled members of the public and particularly senior citizens into believing that they are being solicited by the Vice President's official campaign committee. In addition, the Committee is troubled by

substantial evidence, contained in the NSPAC'S own FEC reports, concerning the amount of money paid by NSPAC to you and its vendors, in proportion to payments made to the candidates and causes NSPAC claims to support. The potential for abuse of the public trust inherent in such activity cannot reasonably be disputed; nor can the Committee's right to express its concerns about such matters to appropriate regulatory authorities. The Committee will continue to take such actions of this kind should it again become appropriate to do so.

It is my understanding that your lawyer has been in touch with our counsel and has discussed your concerns with him at great length. I would appreciate it if, in the future, you would address any further comments you care to make to Lee Levine, Esquire at Ross, Dixon & Masback 555 13th Street, N.W. Suite 1300 East, Washington D.C. 20004-1109.

Yours sincerely,

Lee Atwater

2204038843325

National Security
Political Action Committee

National Security Advisors
Adm. Thomas Moorer, U.S.N. (ret.) Former Chairman, Joint Chiefs of Staff
Honorable Jeremiah A. Denton, U.S. Senator, 97th - 98th Congresses
Rear Adm. C.A. "Mark" Hill, Jr., U.S.N. (ret.)
Vice Adm. Gerald E. Miller, U.S.N. (ret.)

September 22, 1988

Jim Nathanson
Bush-Quayle '88
43 1/2 East Gay Street
Columbus, OH 43215

Dear Mr. Nathanson:

You may have heard some rumors recently involving the activities of Americans for Bush, a special project of the National Security Political Action Committee. I am writing to you today to set the record straight.

Americans for Bush was the first and is now the largest independent expenditure established to support to the candidacy of George Bush. To date, we have raised more than $3 million through our fundraising efforts, all of which is being channeled into our campaign on behalf of the Vice President.

Our most recent effort has been a $500,000 nationwide TV advertising campaign, in which our spots will be shown a total of 592 times, reaching more than 80 million people.

We've concentrated our efforts on motivating the many thousands of supporters George Bush who strongly want to become active in the political campaign.

In July, Americans for Bush spent $300,000 to air a profile spot of George Bush, highlighting his military record. This spot including a toll-free 800 number, with which viewers could call to receive free action kits. From this ad alone, we received more than 80,000 requests for the kits, and the requests keep rolling in.

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1919 Pennsylvania Avenue, N.W. • Suite 300 • Washington, D.C. 20006

These kits allow supporters in "grassroots" America to become more involved in the political process, as they included yard signs, bumper stickers, fact sheets, and "how-to" materials on registering voters and generating support for the Bush campaign. (See enclosed material.)

Thus far, Americans for Bush has mailed out more than 200,000 action kits. The results are already evident, as people with Americans for Bush signs are showing up at Bush rallies (and Dukakis rallies as well), and cars with our bumper stickers have been spotted across the nation.

It is this "grassroots" support that we hope will give the Vice President the boost he may need to win a very close election in November.

Since Americans for Bush was organized earlier this year, we've been very careful to keep our activities separate from those of the Bush campaign, as required by law. Nevertheless, some have expressed concern that people might confuse the two organizations. While we hope that would not be the case, we will accommodate anyone who mistakenly contacted the wrong organization.

Our goal is the same as yours -- to ensure that George Bush is elected President on Nov. 8, 1988.

I hope this settles any confusion you might have about Americans for Bush.

Sincerely,

Elizabeth Fediay
Chairman, Americans for Bush

C20403843227

National Security
Political Action Committee

National Security Advisors
Adm. Thomas Moorer, U.S.N. (ret.), Former Chairman, Joint Chiefs of Staff
Honorable Jeremiah A. Denton, U.S. Senator, 97 - 99th Congresses
Rear Adm. C.A. "Mark" Hill, Jr., U.S.N. (ret.)
Vice Adm. Gerald E. Miller, U.S.N. (ret.)

September 22, 1988

Mr. Steve Schwartz
Bush-Quayle '88
200 West Morgan Street
Raleigh, NC 27601

Dear Mr. Schwartz:

You may have heard some rumors recently involving the activities of Americans for Bush, a special project of the National Security Political Action Committee. I am writing to you today to set the record straight.

Americans for Bush was the first and is now the largest independent expenditure established to support to the candidacy of George Bush. To date, we have raised more than $3 million through our fundraising efforts, all of which is being channeled into our campaign on behalf of the Vice President.

Our most recent effort has been a $500,000 nationwide TV advertising campaign, in which our spots will be shown a total of 592 times, reaching more than 80 million people.

We've concentrated our efforts on motivating the many thousands of supporters George Bush who strongly want to become active in the political campaign.

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2204084328

1919 Pennsylvania Avenue, N.W. • Suite 300 • Washington, D.C. 20006

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It is this "grassroots" support that we hope will give the Vice President the boost he may need to win a very close election in November.

Since Americans for Bush was organized earlier this year, we've been very careful to keep our activities separate from those of the Bush campaign, as required by law. Nevertheless, some have expressed concern that people might confuse the two organizations. While we hope that would not be the case, we will accommodate anyone who mistakenly contacted the wrong organization.

Our goal is the same as yours -- to ensure that George Bush is elected President on Nov. 8, 1988.

I hope this settles any confusion you might have about Americans for Bush.

Sincerely,

Elizabeth Fediay
Chairman, Americans for Bush

9204038843329

Bush & Quayle

September 27, 1988

Ms. Elizabeth Fediay
National Security Political
Action Committee
3200 Morrison Street, N.W.
#420
Washington, D.C. 20015

Dear Ms. Fediay:

This responds to your letter of September 8, 1988.

You have expressed an interest in my "wishes" regarding the activities of National Security Political Action Committee. You further suggest that "senior advisors" such as myself "have remained silent" on this subject. I don't believe that is accurate.

On May 4, 1988, Mr. Jan W. Baran, General Counsel and a member of the senior staff of this campaign, wrote to you and conveyed the disapproval of the Vice President of NSPAC's activities, particularly with respect to a fundraising project which you call "Americans for Bush." Mr. Baran also stated the following:

> The Vice President has asked me to tell you that he does not endorse nor approve of your activities. The Vice President requests that you and NSPAC immediately cease using his name, the name "Americans for Bush," and any other name that suggests his association with you or NSPAC.

According to published reports and continuing complaints to this campaign from supporters of the Vice President, you have not consented to the Vice President's request. I and all of us at the campaign concur with the Vice President's sentiments and renew his request that you cease using his name, the name "Americans for Bush" and any other name that suggests his or this campaign's association with you or NSPAC.

733 15th Street, N.W. Suite 800 Washington, D.C. 20005 202/842-1988

Paid for by Bush-Quayle

9204084330

In light of the fact that this campaign has filed a formal complaint against NSPAC with the Federal Election Commission, please direct any future correspondence or inquiries to the Legal Department of Bush-Quayle 88, Inc.

Sincerely,

James A. Baker III

cc: Jan W. Baran, Esquire

9204038843331

October 22, 1988

Elizabeth Fediay
1919 Pennsylvania Avenue, NW
Suite 300
Washington, D.C. 20006

Dear Elizabeth:

Thank you for the exciting and inspirational video tape on George Bush.

The support, encouragement, and effort we've gotten from private organizations and individuals such as yourself has been a source of real encouragement as well as a great boon to our efforts.

Again, thank you for the video tape. Keep up the great work, and we'll march on to victory in November!

Sincerely,

Dan Quayle,
U.S. Senator

DQ/dh

22040384332

AMERICANS FOR BUSH
VOTER CONTACT EXPENDITURES

Television buy for George Bush "Profile" spot	$300,000
Television buy for Bush vs. Dukakis comparison spots	$500,000
Video production costs	$100,000
Action kits	$400,000
Bumper strips	$180,000
T-shirts, yard signs, buttons, brochures	$50,000
TOTAL =	$1,530,000

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 16, 1991

Paul E. Sullivan, Esquire
Wunder, Ryan, Cannon & Thelen
1615 L Street, N.W.
Washington, D.C. 20036

RE: MUR 3069
National Security Political
Action Committee and
Elizabeth I. Fediay, as treasurer
Larry McCarthy

Dear Mr. Sullivan:

This letter is to confirm the arrangements we made during our telephone conversation on August 14, 1991. At your request, this Office agreed to reschedule the deposition of Elizabeth I. Fediay for Tuesday, August 27, 1991, at 10:00 a.m. We also agreed that the deposition of Larry McCarthy shall be held as originally scheduled on Wednesday August 21, 1991 at 10:00 a.m. Finally, you informed me that you would provide this Office with the documents requested in the Commission's subpoena by today, Friday, August 16, 1991.

Thank you for your cooperation in this matter.

Sincerely,

Xavier K. McDonnell

Xavier K. McDonnell
Attorney

9204038843334

DBC 2238

LAW OFFICES
WUNDER, DIEFENDERFER, RYAN, CANNON & THELEN
1615 L STREET, N.W., SUITE 650
WASHINGTON, D. C. 20036

(202) 659-2008
FACSIMILE: (202) 659-2010

August 19, 1991

91 AUG 19 PM 12:29

RECEIVED
FEDERAL ELECTION COMMISSION
SECRETARIAT

Xavier K. McDonnell, Esq.
General Counsel Office
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

HAND DELIVERED

RE: MUR 3069 - Document Production

Dear Mr. McDonnell:

Pursuant to the subpoena issued to Ms. Elizabeth Fediay please find enclosed the documentation required to be produced in the above referenced matter.

There are two documents which have been withheld from production on attorney-client privilege, they are:

(1) A June 3, 1988 letter from myself to Elizabeth Fediay at the National Security PAC. This was a cover letter transmitting to Ms. Fediay a document from Mr. Baran to myself.

(2) A June 6, 1988 letter from myself to Ms. Fediay transmitting a copy of a letter sent to Mr. Baran from myself.

All other documents provided to me have been forwarded to you. The video tape enclosed is the last copy which Ms. Fediay has in her possession and she has requested it be returned as soon as possible.

Thank you for your time and attention to this matter. Should you have any questions, please contact me at your convenience.

Very truly yours,

Paul E. Sullivan

cc: Ms. Elizabeth Fediay

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WILEY, REIN & FIELDING

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

JAN W. BARAN
(202) 429-7330

May 4, 1988

Ms. Elizabeth I. Fediay, Chairman
National Security Political Action Committee
3200 Morrison Street, N.W. #420
Washington, D.C. 20015

Dear Ms. Fediay:

Enclosed please find a check in the amount of $3,000 to the National Security Political Action Committee ("NSPAC") which represents a refund for contributions of $1,000 made to George Bush for President, Inc. ("the Committee") on September 4, 1987, October 30, 1987, and December 15, 1987 according to our records. Your contribution of March 29, 1988 is also being returned to you uncashed.

While the Committee recognizes your constitutional right to participate in the electoral process and to legitimately support the campaign of George Bush, it disapproves of the manner by which you conduct NSPAC. First, the Committee objects to NSPAC misrepresenting itself as "Americans for Bush", actively leading those who receive your solicitations to believe that they are being solicited by George Bush for President, Inc., the only authorized committee of the Vice President. Second, while NSPAC is organized as an independent expenditures committee, there is no evidence that you are engaging in the express advocacy for which you have organized. Rather, NSPAC's publicly filed campaign finance reports indicate that NSPAC spends the majority of its money for fundraising and operating costs. Third, the Committee cannot tolerate the manner by which NSPAC preys on the elderly, in many cases forcing them to go to their local post office in order to obtain a copy of one of your fundraising solicitations sent by certified mail. Victimizing the elderly serves only to detract from the electoral process and does not advance the values which you espouse.

The Vice President has asked me to tell you that he does not endorse nor approve of your activities. The Vice President requests that you and NSPAC immediately cease using his name, the name "Americans for Bush," and any other name that suggests his association with you or NSPAC.

22040384336

Furthermore, please be advised that the Committee is going to file formal complaints with both the Federal Election Commission and the Internal Revenue Service regarding your activities.

Sincerely,

Jan W. Baran
General Counsel
George Bush for President, Inc.

JWB/slg
Enclosures
Check No. 9177 and 1218

9204038843337

LAW OFFICES
WUNDER & DIEFENDERFER
1615 L STREET, N.W., SUITE 650
WASHINGTON, D.C. 20036
(202) 659-2008
TELECOPIER: 659-2010

May 26, 1988

Jan Baran, Esquire
Wiley, Rein and Fielding
1776 K Street, N.W.
Washington, DC 20006

Dear Mr. Baran:

Our office has been retained for purposes of responding to your May 4, 1988 letter to Elizabeth I. Pediay, the Chairman and Treasurer of National Security PAC (NSPAC).

First, this letter confirms the receipt of the refund checks which the Bush for President Committee, Inc. (BPC) forwarded to Ms. Pediay. Second, though it is obviously within the discretion of BPC to refuse the acceptance of contributions, NSPAC does take exception to the criticism which you expressed in your letter regarding the activities and the intentions of NSPAC.

NSPAC is dedicated to supporting candidates who will assume the strong foreign policy and national security posture which President Reagan has asserted during his tenure as President. It is the expressed goal of NSPAC that candidates and especially the next President of the United States, carry forward and build upon President Reagan's policy.

Against that basic backdrop, we can turn to the specific issue of "Americans for Bush", the project of NSPAC to which you have voiced objection.

For obvious legal reasons, I do not wish to discuss specifics involving the anticipated independent expenditure program by NSPAC for the election of Vice President Bush. Suffice to say however, that NSPAC strongly believes in supporting the Vice President's election and will continue to play an active and vocal role in that effort.

NSPAC presumes that BPC will accept public funding pursuant to the Presidential Election Campaign Fund Act (26 USC 9002 et. seq.) for purposes of funding the general election. Therefore, millions of the Vice President's supporters throughout the country will be precluded from contributing either directly or

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through in-kind contributions in an attempt to express their support for the election of the Vice President. The independent expenditure program being conducted by NSPAC provides those individuals with an opportunity to voice their support of the Vice President's campaign.

Contrary to the implications of your letter, NSPAC primarily elected to conduct fundraising activities in support of the Vice President through a project entitled "Americans for Bush" (AFB) for purposes of providing notice to the contributors that the funds would be utilized for efforts to support the Vice President's campaign. Had the intent been only to raise funds using the Vice President's name, then the same letter advocating Vice President Bush's election could have been sent without reference or title of AFB. The mere request in the letter to raise funds intended to benefit the Bush campaign would clearly on its own be sufficient from the fundraising perspective. The bottom line is the project format is not a necessity for fundraising - it does however, emphasize that the funds will benefit the Bush campaign. NSPAC considers such notice to contributors to be a benefit for the contributor.

From the legal perspective, NSPAC has functioned in compliance with the FECA. As your are well aware, the Federal Election Commission has previously approved the use of a specific candidate's name for "projects" of political action committees. That position was recently affirmed in Common Cause v. Federal Election Commission 842 F.2d. 436 (D.C. Cir. 1988), overruling 676 F.Supp. 286 (D.D.C. 1986).

In addition, the Commission recently ruled on a similar type of matter in MUR 2372. In that case, the Commission found no reason to believe and closed the matter on the issue of use of a candidate's name in a fundraising project for a political committee.

Therefore, with regard to the FECA, the activities of NSPAC appear to be clearly permissible.

You also implied in your letter that NSPAC spends the majority of its funds for fundraising and operating expenses rather that the support of candidates. I have personally reviewed the 1987 and 1988 disclosure reports of NSPAC. First, as you are aware, the cost of conducting direct mail advocacy and fundraising is a very costly venture until a substantial house list can be developed.

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A review of the NSPAC reports does indicate that a substantial amount of funds has been spent for list development. However, this is clearly expected in the situation of a relatively new PAC which is attempting to build its house list. As you can appreciate, once the house list is developed and is subsequently mailed, the overhead expenses will drop dramatically. NSPAC has been working toward developing such a list for purposes of timely benefitting the 1988 elections and thus the 1987 overhead expenses were expectedly high.

Secondly, a review of the 1987 NSPAC reports indicates 29.2% of the funds which it raised during 1987 were either directly contributed to candidates or used to make independent expenditures which directly benefitted candidates. I believe if you review the candidate contribution rates of some of the larger non-connected PACs for 1986 and 1987, you will recognize that the percentage of contributions given to candidates is more often than not below this 29% figure for NSPAC. It should also be noted that thus far in 1988, the amount of contributions and independent expenditures made for the benefit of candidates is well over 45% of the funds raised for 1988.

NSPAC has effectively operated on a very tight budget. You will notice from the NSPAC reports that there has been only one paid staff person to date and that at a relatively modest amount. In addition, the PAC's activities have until last week been conducted from the personal residence of the Treasurer in order to avoid the added expense of overhead. This has enabled the committee to reinvest its funds in the development of a list for purposes of raising funds and subsequently contributing them to 1988 candidates.

Thus, contrary to the allegations, I believe NSPAC is one of the more cost efficient political action committees of its type.

In conclusion, it would appear as if NSPAC and BPC share a common goal; the election of George Bush as President of the United States. Upon a review of the activities and procedures of NSPAC, it would also appear as if they are attempting to make a substantial contribution in a most reasonable fashion.

I appreciate the concern which BPC has in regard to the fundraising activities of NSPAC. However, I believe you would concur that its activities have been on compliance with the FECA and they are operating with the legitimate intention of supporting federal candidates, including the Vice President.

22040884340

I have set out this detailed explanation in the hope of dissuading BPC from pursuing the filing of complaints with the FEC or the Internal Revenue Service as stated in your letter. Such a course, I believe, would merely detract from our mutual efforts and be a waste of the two committee's time and money.

As the new counsel to the committee, I can assure you that efforts will be made in the future to be sensitive to your concerns and that NSPAC will continue to operate within the statutory constraints which are applicable.

Very truly yours,

Paul E. Sullivan

cc: Elizabeth I. Pediay

9204038434341

WILEY, REIN & FIELDING

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

JAN W. BARAN
(202) 429-7330

May 31, 1988

Paul E. Sullivan, Esquire
Wunder & Diefenderfer
1615 L Street, N.W.
Suite 650
Washington, D.C. 20036

Dear Mr. Sullivan:

I am in receipt of your letter of May 26, 1988 on behalf of National Security Political Action Committee ("NSPAC").

Although your lengthy letter did not explicitly say so, I assume that your clients refuse to accede to the Vice President's request that they stop using the name "Americans for Bush" or his name for fundraising purposes. Accordingly, appropriate legal action will be taken.

Sincerely,

Jan W. Baran

9204038343442

ATTACHMENT "A"

LAW OFFICES
WUNDER & DIEFENDERFER
1615 L STREET, N.W. SUITE 850
WASHINGTON, D.C. 20036
(202) 659-3005
TELECOPIER: 659-3010

July 18, 1988

Jan W. Baran, Esquire
General Counsel
George Bush for President, Inc.
Wiley, Rein & Fielding
1776 K Street, N.W.
Washington, D.C. 20006

Dear Mr. Baran:

On behalf of the Elizabeth Fediay, I have been requested to contact you in regards to the complaint which you filed with the Federal Election Commission as General Counsel of Bush for President, Inc.

Though Ms. Fediay believes that the accusations in the complaint are baseless, she certainly does not object to your right to file the complaint and we will let the process be the final arbitor of your allegations. However, there are statements in your complaint of which there is no factual basis whatsoever and which are libelous towards Ms. Fediay personally and to her as Chairman and Treasurer of National Security PAC.

In the first full paragraph of page nine of the complaint, you state as follows:

> Finally, NSPAC's reports show that since January of 1987 Ms. Fediay has paid herself over $34,000 in salary. These disclosed payments are exclusive of any consulting agreements Ms. Fediay may have made with the numerous vendors with which NSPAC conducts business on a regular basis to receive a percentage of the business payments she makes to them. In this way, Ms. Fediay can effectively conceal the profit she makes as the Chairman and Treasurer of NSPAC which is her creation.

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> The reports identify several companies with whom Ms. Pediay has ongoing arrangements such as Response Dynamics,the Best Lists, Saturn Corporation, Mid-America Printing and Pulfillment Management Services. Most of these companies have permitted Ms. Pediay to carry a balance of thousands of dollars over several months. (For instance, Ms. Pediay has owed Best List more than $50,000 since November, 1987 and now has a debt of nearly $80,000.)

There is absolutely no truth to your statement, nor are there any facts upon which you could state that Ms. Pediay received undisclosed funds per a secret agreement with the vendors who provide services to NSPAC. The statement that she can effectively conceal profits she makes from these groups is again totally without any factual basis.

It is clear that the implication of this paragraph is that Ms. Pediay is somehow personally profiting from the NSPAC business which she refers to vendors. Such a reckless accusation has no place in the FEC complaint. There is absolutely no basis for that allegation. Ms. Pediay has a very good business and political reputation with numerous vendors, political committees and notable individuals as a result of her activities in NSPAC. An accusation of the nature made in your complaint specifically that she is using NSPAC to receive "under the table" personal profits, damages not only her personal integrity but also that of NSPAC and her business reputation among the various vendors with whom she deals and the candidates NSPAC supports.

As you well know, upon conclusion of this MUR, the FEC will place the complaint on the public record. Ms. Pediay's concern is that the inclusion of this reckless accusation will be made available to the public and damage will be done to her personally, to her business interests, and specifically to National Security PAC. In fact, some damage to Ms. Pediay may have already occurred given the fact that the allegations of your complaint, including those set out above at page 9, have leaked out to the members of the political community in the Washington, D.C. area.

2204038434344

Ms. Pediay has requested that you take the following action in order to rectify the situation discussed above. First, withdraw the complaint which you originally submitted to the FEC and submit an amended version deleting the above referenced paragraph at page 9 in the original complaint. Second, Ms. Pediay and National Security PAC will request that the Federal Election Commission delete from the public record the aforementioned paragraph and Ms. Pediay expects you as counsel to Bush for President, Inc. to submit an accompanying letter similarly requesting the Commission delete that provision from the public record. A failure to comply with these two basic requests will leave Ms. Pediay with no alternative but to file an action for damages against yourself, Bush for President, Inc., and Wiley, Rein and Fielding.

I look forward to your immediate response to this matter.

Very truly yours,

Paul E. Sullivan

cc: Elizabeth Pediay

22040384345

ATTACHMENT "B"

LAW OFFICES
WUNDER & DIEFENDERFER
1615 L STREET, N. W., SUITE 650
WASHINGTON, D. C. 20036
(202) 659-3005
TELECOPIER: 659-3010

August 9, 1988

Lee Levine, Esquire
Ross, Dixon & Masback
Columbia Square
555 Thirteenth Street, N.W.
Washington, D.C. 20004-1109

Re: MUR 2638

Dear Mr. Levine:

On behalf of National Security PAC (NSPAC) and pursuant to our previous discussions, I have set forth below the terms upon which NSPAC will settle this matter.

First, an amended complaint will be filed with the Federal Election Commission deleting from the original complaint, the following items:

1) At page 2, that sentence beginning with, "NSPAC also has a pattern of preying on the elderly. etc." through the end of that paragraph.

2) At page 3, in the first full paragraph deletion of the phrase "of a bold lie told".

3) At page 4, at the top of the page, that phrase beginning with the statement, "not on behalf of an independent expenditure committee, etc." through the end of that sentence.

4) At page 5, beginning with the second full paragraph, commencing with the phrase, "this violation of the law" through the end of that sentence.

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5) At page 8, in the first full paragraph that phrase which states, "truly spends the majority of its money to make money".

6) At page 9, the first full paragraph beginning with, "finally NSPAC's reports show..." through the end of that paragraph.

I believe this reflects those provisions of the complaint which are offensive to NSPAC and for which there is no facutal basis to make the allegation.

Second, a letter to the Federal Election Commission requesting that at the time the MUR is placed on the public record, items 1 through 6 set forth above shall be expunged from the public record.

Third, a letter of apology to Ms. Pediay and to NSPAC stating that there were no grounds whatsoever for alleging those various provisions which have been expunged from the complaint as set forth above.

Fourth, it has come to our attention that several "Americans for Bush" (AFB) contributors have contacted the Bush for President Committee. Apparently, the Legal Division is informing them that AFB is not affiliated with the Bush Committee nor are their activities approved. They are also indicating that the NSPAC is under investigation by the FEC. Though I would agree that the Bush Committee should be informing the contributors that Americans for Bush is not affiliated nor authorized by the Bush for President Committee, I believe the counsel's office is going too far in it's statement that the Committee is under investigation by the FEC. In fact, I believe that action violates 2 U.S.C. 437g(a)(12). NSPAC therefore, would request that the Bush Committee confine its explanation merely to the fact that Americans for Bush is a project of an independent expenditure committee not affiliated, nor authorized with the Bush for President Committee.

Fifth, as we discussed, NSPAC as an entity and Elizabeth I. Pediay as an individual and Chairman of NSPAC, would be willing to sign a release to the Bush for President Committee, Inc., Mr. Baran and Wiley, Rein & Fielding, in the event the terms set out above are fully met.

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LAW OFFICES
WUNDER & DIEFENDERFER

I believe the only item which will require negotiation of any extent will be the letter of apology which will be forthcoming from Mr. Baran and the Bush Committee. Prior approval of the specific language would obviously be required by NSPAC.

I trust that you will present these items to Mr. Baran and I look forward to an immediate resolution of this issue, so that we may all get on with the business of electing George Bush as our next President.

Very truly yours,

Paul E. Sullivan

cc: Elizabeth I. Pediay

2204038434348

National Security
Political Action Committee

National Security Advisors
Adm. Thomas Moorer, U.S.N. (ret.), Former Chairman, Joint Chiefs of Staff
Honorable Jeremiah A. Denton, U.S. Senator, 97 - 99th Congresses
Rear Adm. C.A. "Mack" Hill, Jr., U.S.N. (ret.)
Vice Adm. Gerald E. Miller, U.S.N. (ret.)

August 25, 1988

PERSONAL & CONFIDENTIAL

Mr. Lee Atwater
Bush for President, Inc.
733 15th Street, N.W.
Suite 800
Washington, DC 20005

Dear Mr. Atwater:

I am Chairman of National Security PAC and Americans for Bush, a special independent expenditure project of National Security PAC (NSPAC). As you are likely aware, your legal counsel Mr. Baran, has recently filed a complaint against Americans for Bush with the Federal Election Commission.

That complaint contained unsubstantiated comments alleging that I was receiving undisclosed funds from various vendors and was conducting the activities of Americans for Bush in a fraudulent manner.

On July 18, 1988 my legal counsel wrote to Mr. Baran stating that there was no basis for any of the allegations in the complaint and that I was distressed by the damage that the allegations would have towards myself personally and towards the PAC. (See attachment A).

Mr. Baran in turn, apparently hired Mr. Lee Levine of the law firm of Ross, Dixon and Masback to negotiate a settlement of this matter. My counsel on August 9, 1988 forwarded a letter to Mr. Levine setting out the four items which I believe would settle the concerns I have.

The reason I am writing to you is in an attempt to move the negotiations off center.

On August 12, 1988 Mr. Baran, on behalf of the Bush for President Committee, filed an amended complaint with the FEC which only deleted one of the references which we requested of Mr. Levine in our August 9, 1988 letter. (See Attachment B).

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As you can appreciate, this entire matter will go on he public record once the FEC has concluded its investigation. Worst of all however, is the fact this matter has already hit the "Washington grapevine" and I have had to go to great lengths to dispel the allegations which were included in the original complaint.

I am only looking for a letter of apology stating that there were no grounds for the various allegations contained in the complaint and get the FEC to expunge the public record of the offensive language. This I am demanding, in order that other vendors or contributors who want an explanation will have that explanation directly from the Bush for President Committee. Though in other situations this activity by your counsel would warrant a lawsuit, that would not give Americans for Bush the remedy we need; namely, to restore our credibility nor would it do any good for Bush for President.

I would appreciate whatever assistance you can provide to get the lawyers moving and settle this matter in a way that will do justice.

As you may know from the public record, Americans for Bush has already sent out over 7 million bumper stickers, 200,000 Action Kits which contain yard signs, bumper stickers and instructions on how to organize events in the neighborhood for Bush for President, produced a 20 minute video tape which has been getting strong demands throughout the country and purchased over half a million dollars in T.V. time to air a 60 second pro-George Bush commercial. Our goal is similar to yours, that being the election of George Bush as the next President.

I regret that these type of legal complications interfere with our respective time and monies. I still do not comprehend why your counsel filed this complaint in the first place, though my interest now is only to move forward and promote the candidacy of George Bush.

Lastly, it has come to my attention that some members of the Bush Campaign are stating a lawsuit has been filed by the Bush Committee Against Americans for Bush. I would appreciate it if you would correct this misinformation since no lawsuit has been filed. Again, this is only adding fuel to this bushfire.

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I would like to conclude this matter as soon as possible and any assistance you could provide towards that end would be greatly appreciated. I look forward to meeting you after the election and our independent expenditure efforts - let's keep the lawyers happy.

Very truly yours,

Elizabeth I. Fediay
Chairman
National Security PAC

cc: Paul E. Sullivan

22040384351

GEORGE BUSH FOR PRESIDENT COMPLIANCE COMMITTEE

September 1, 1988

Alfred M. Nunes
National Security Political Action Committee
1919 Pennsylvania Avenue, N.W
Washington, D.C. 20090

Dear Mr. Nunes:

You are among the many individuals throughout the United States that have been solicited by a group calling itself Americans for Bush. This organization is not, in any way, affiliated or authorized by the official George Bush for President committee.

Americans for Bush is a special project of the National Security PAC. This group has decided, against the Vice President's wishes, to continue soliciting contributions by mail and telephone. Their method of solicitation is very questionable.

We have filed complaints against Americans for Bush with the Federal Election Commission and the Internal Revenue Service. These complaints allege that Americans for Bush have engaged in fraudulent activities and misrepresentations to the public.

In the event that you have made a contribution to this group under the impression that you were supporting the George Bush for President committee, you may receive a refund of this contribution. A letter requesting a refund should be sent to Americans for Bush at 3200 Morrison Street, NW, Washington, DC 20015.

If you would like to contribute to the George Bush for President committee, please make the check payable to the George Bush for President Compliance Committee. The Compliance Committee serves a vital function to the Vice President's campaign as it handles all the legal and accounting compliance procedures required by the Federal Election Commission. Your contribution to the Compliance Committee helps free up general election funds necessary for voter contact programs and critical media buys, which would otherwise be used for the administrative cost of compliance.

Thank you for your support of Vice President George Bush. With supporters such as yourself, we are looking forward to a victory in November.

Sincerely,

Stan Huckaby

Stan Huckaby, Treasurer
George Bush for President

Contributions to this Committee are not deductible for Federal income tax purposes.
Paid for by the George Bush for President Compliance Committee

22040384352

LAW OFFICES
WUNDER & DIEFENDERFER
1615 L STREET, N.W., SUITE 650
WASHINGTON, D.C. 20036
202 659-3005
TELECOPIER: 659-3010

September 7, 1988

Mr. Lee Levine
Ross, Dixon and Masback
Columbia Square
555 Thirteenth Street, N.W.
Washington, D.C. 20004-1109

Dear Mr. Levine:

Enclosed, please find a draft of the proposed letter of explanation from Mr. Baran to Ms. Pediay. Please review and contact me at your earliest convenience regarding its acceptability. I believe it constitutes a fair letter for all parties concerned.

Very truly yours,

Paul B. Sullivan

cc: Elizabeth I. Pediay

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September 7, 1988

Ms. Elizabeth I. Pediay
3200 Morrison Street, N.W.
Washington, DC 20015

Dear Ms. Pediay:

On behalf of the George Bush for President Committee, Inc. (Committee) and myself, I wish to hereby acknowledge that there were no legal or factual grounds upon which to allege in the original complaint I filed with the Federal Election Commission (MUR 2638) that you or National Security PAC (NSPAC) or its special project, Americans for Bush, were receiving undisclosed benefits or compensation of any type from any NSPAC vendor. In addition, upon a further review of the facts, it also appears that any allegation of fraud or misappropriation of funds was also misplaced.

Though the Committee and I disagree with the policy of using Vice President Bush's name for a political committee's project, it does appear that NSPAC and Americans for Bush are operating a legitimate, independent expenditure committee for the benefit of Vice President Bush's presidential campaign.

As you are aware, the Committee has filed an amended complaint with the Federal Election Commission deleting reference to the allegations of any and all fraudulent activities. I regret any inconvenience this may have caused you or NSPAC.

Sincerely,

Jan Baran
Counsel
George Bush for President
Committee, Inc.

2204038435 4

National Security
Political Action Committee

National Security Advisors
Adm. Thomas Moorer, U.S.N. (ret.), Former Chairman, Joint Chiefs of Staff
Honorable Jeremiah A. Denton, U.S. Senator, '67 - '81 Congress
Rear Adm. C.A. "Mark" Hill, Jr., U.S.N. (ret.)
Vice Adm. Gerald E. Miller, U.S.N. (ret.)

September 8, 1988

The Honorable James A. Baker, III
Chairman, Bush for President
733 15th Street, NW, 8th Floor
Washington, D.C. 20005

Dear Mr. Baker:

It has recently come to my attention that our independent effort to support the election of Vice President George Bush to the Presidency of the United States has caused concern among some middle-level staffers within the Bush campaign.

It is not our intention to impede in any way or obstruct the election of the Vice President.

Presently, we are the single largest independent group effort that supports the election of George Bush. To date, as public records show, we have spent in excess of three million dollars of which over ninety percent has gone directly into voter contact programs supporting the candidacy of the Vice President. This has included $800,000 in television air time and $400,000 in political action kits.

While we have heard the grumblings of some middle-level staffers in the Bush campaign, senior advisors such as yourself have remained silent. In fact, I find it hard to believe that anyone at the Bush campaign would oppose an independent group exercising its First Amendment rights to support the Vice President.

However, as Chairman of the Vice President's campaign, we would be interested in your wishes with regard to independent public advocacy of George Bush for President.

I anxiously await your reply.

Yours for a greater America, I am

Sincerely,

Elizabeth Fediay
Chairman

1919 Pennsylvania Avenue, N.W. • Suite 300 • Washington, D.C. 20006

92040384355

Bush 88 Quayle

733 15th Street, N.W.
Suite 800
Washington, D.C. 20005
202/842-1988

September 12, 1988

Ms. Elizabeth I. Fediay
Chairman
National Security Political
Action Committee
3200 Morrison Street, N.W.
Washington, D.C. 20015

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Dear Ms. Fediay:

I have received your letter dated August 25, 1988, concerning the administrative complaint recently filed by George Bush for President, Inc. (the "Committee") concerning the activities of the National Security Political Action Committee ("NSPAC"). As you know, the Committee filed this complaint following NSPAC's refusal to accede to the Vice President's express request that NSPAC cease using his name in connection with its fundraising activities.

The Committee has received numerous expressions of deep concern and irritation from the public about NSPAC and its fundraising activities. Indeed, there is substantial evidence that NSPAC'S tactics have in fact misled members of the public and particularly senior citizens into believing that they are being solicited by the Vice President's official campaign committee. In addition, the Committee is troubled by

substantial evidence, contained in the NSPAC'S own FEC reports, concerning the amount of money paid by NSPAC to you and its vendors, in proportion to payments made to the candidates and causes NSPAC claims to support. The potential for abuse of the public trust inherent in such activity cannot reasonably be disputed; nor can the Committee's right to express its concerns about such matters to appropriate regulatory authorities. The Committee will continue to take such actions of this kind should it again become appropriate to do so.

It is my understanding that your lawyer has been in touch with our counsel and has discussed your concerns with him at great length. I would appreciate it if, in the future, you would address any further comments you care to make to Lee Levine, Esquire at Ross, Dixon & Masback 555 13th Street, N.W. Suite 1300 East, Washington D.C. 20004-1109.

Yours sincerely,

Lee Atwater

9204038357

Bush 88 Quayle

September 27, 1988

Ms. Elizabeth Fediay
National Security Political
Action Committee
3200 Morrison Street, N.W.
#420
Washington, D.C. 20015

Dear Ms. Fediay:

This responds to your letter of September 8, 1988.

You have expressed an interest in my "wishes" regarding the activities of National Security Political Action Committee. You further suggest that "senior advisors" such as myself "have remained silent" on this subject. I don't believe that is accurate.

On May 4, 1988, Mr. Jan W. Baran, General Counsel and a member of the senior staff of this campaign, wrote to you and conveyed the disapproval of the Vice President of NSPAC's activities, particularly with respect to a fundraising project which you call "Americans for Bush." Mr. Baran also stated the following:

> The Vice President has asked me to tell you that he does not endorse nor approve of your activities. The Vice President requests that you and NSPAC immediately cease using his name, the name "Americans for Bush," and any other name that suggests his association with you or NSPAC.

According to published reports and continuing complaints to this campaign from supporters of the Vice President, you have not consented to the Vice President's request. I and all of us at the campaign concur with the Vice President's sentiments and renew his request that you cease using his name, the name "Americans for Bush" and any other name that suggests his or this campaign's association with you or NSPAC.

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In light of the fact that this campaign has filed a formal complaint against NSPAC with the Federal Election Commission, please direct any future correspondence or inquiries to the Legal Department of Bush-Quayle 88, Inc.

Sincerely,

James A. Baker III

cc: Jan W. Baran, Esquire

9204038843359

Bush 88 Quayle

733 15th Street, N.W.
Suite 800
Washington, D.C. 20005
202/842-1988

October 22, 1988

Elizabeth Fediay
1919 Pennsylvania Avenue, NW
Suite 300
Washington, D.C. 20006

Dear Elizabeth:

Thank you for the exciting and inspirational video tape on George Bush.

The support, encouragement, and effort we've gotten from private organizations and individuals such as yourself has been a source of real encouragement as well as a great boon to our efforts.

Again, thank you for the video tape. Keep up the great work, and we'll march on to victory in November!

Sincerely,

Dan Quayle,
U.S. Senator

DQ/dh

92040884360

MUR 3235

LAW OFFICES
WUNDER, DIEFENDERFER, RYAN, CANNON & THELEN
1615 L STREET, N.W., SUITE 650
WASHINGTON, D. C. 20036

(202) 659-3005
FACSIMILE: (202) 659-3010

August 19, 1991

91 AUG 19 AM 10: 14

Xavier K. McDonnell, Esq.
General Counsel Office
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

RE: MUR-3069: Document Production

Dear Mr. McDonnell:

Pursuant to the supoena issued to Mr. Larry McCarthy please find enclosed the documentation required to be produced in the above referenced matter.

Should you have any questions, please contact me at your convenience.

Very truly yours,

Paul E. Sullivan

c: Larry McCarthy

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How Liberal Is Dukakis?

Hard to tell. But not liberal enough for Bush's demonology.

BY JONATHAN ALTER

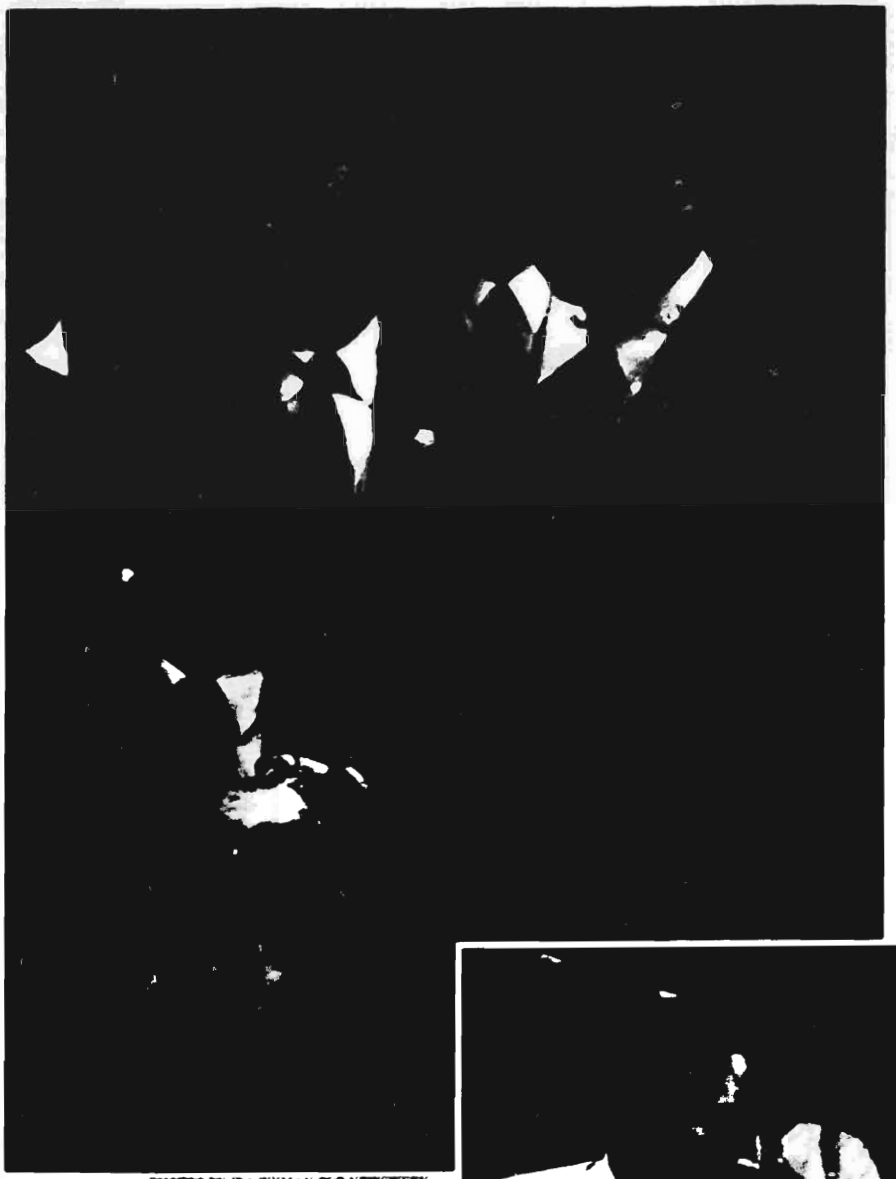
One of Michael Dukakis's favorite slogans is that he'll fight "a real war, not a phony war, against drugs." It especially sounds strong in the South, where he recently posed with police, paid a courtesy call on former Alabama governor George Wallace and otherwise cast himself as a law 'n' order man. But besides restoring funds for the Coast Guard, drug education and local law enforcement cut by Ronald Reagan, Dukakis promises almost no new money with which to fight. His approach rarely varies: sound tough, commit less than is required to meet his broad goals and leave the rest to good "management."

That gives George Bush's team fits. It flies in the face of their game plan, which is to convince the voters that Dukakis is a naive, big-spending social engineer who wants to coddle criminals, raise taxes and disarm America. In other words, a "liberal," the word dripping with contempt. For some time now, the Massachusetts governor has gone to great pains to inoculate himself against that charge, both in his record and in the kind of campaign he has chosen to run. The election could hinge on whether these booster shots work.

The first test will come on taxes. While Dukakis brags of cutting Massachusetts taxes several times in recent years, a $200 million budget shortfall forced him last week to impose a 5 percent sales tax on cigarettes. Bush, swearing an oath against *any* new taxes, immediately seized on that as reflecting a "fundamental difference" between them. The vice president hopes to prove that a Dukakis administration would impose a tax hike as a first resort, not the "last resort" as Dukakis claims.

Look moderate: The governor, determined at all costs to avoid Walter Mondale's 1984 call for a tax increase, will use the Democratic convention to try to reposition himself on this issue. Many Dukakis delegates personally favor soaking the superrich, but they will be forced by their leader to resist Jesse Jackson's proposal to raise taxes on those earning more than $200,000 a year. The same goes for Jackson proposals for cuts in defense spending, a pledge of no first use of nuclear weapons and a Palestinian state. Although Dukakis gave in to Jackson's demand that South Africa be labeled a "terrorist state," he will work hard in Atlanta to look moderate. The specter of Jackson on his left helps in that effort, as it did throughout the primaries.

But even if the "L" word does not pass Dukakis's lips, it's obvious he's some kind of liberal. At a fundamental level, Dukakis believes government should play an activist role in areas where the private sector



PHOTOS BY IRA WYMAN FOR NEWSWEEK

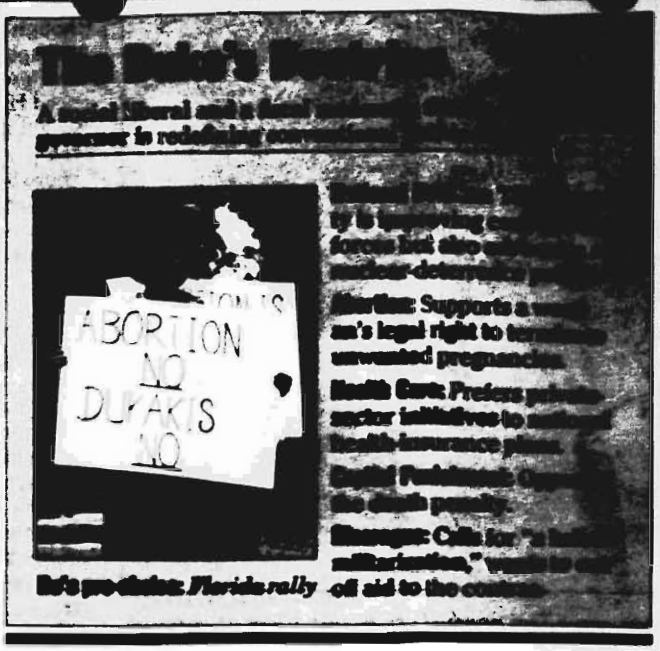
Southern swing: *With Wallace (above) and Tennessee Sen. Albert Gore (right)*



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can't or won't. Many of his positions, from supporting a higher minimum wage to opposing contra aid, are standard liberal fare. And although his campaign makes a fetish of avoiding dollar figures, the long-term costs of his vision (job creation, health care for the uninsured, housing the homeless) will be high for both business and government.

Still, Dukakis is neither a Hubert Humphrey labor Democrat nor a George McGovern peace Democrat (he supported Edmund Muskie over McGovern in 1972). With his background as a state legislator from reform-minded Brookline, Mass., he is considered a "process liberal." Instead of committing himself to the antiwar movement and civil rights—liberal litmus tests at the time—Dukakis spent his early career fighting corruption and advocating no-fault auto insurance. It's no surprise that one of the very few promises he has made this year is for campaign finance reform—a classic "process" issue.



He loses just: As governor, Dukakis has been determined to redefine political labels. The key is avoiding the knee-jerk liberal responses that have doomed Democrats in the past. "He is at once a social liberal and a fiscal moderate, proenvironment and progrowth, an advocate of the poor and a friend of business," writes David Osborne in "Laboratories of Democracy," a new book about innovations in state government. The phrase "public-private partnerships" is a clunky but essential way of understanding Dukakis's approach to economic development. Some old liberal habits die hard; Massachusetts has plenty of bulky new bureaucracies. But in principle, anyway, he sees government as a catalyst for change rather than its architect.

Nationally, Dukakis may be the beneficiary of a political climate where left and right are starting to lose their meaning. Is gun control, which Dukakis favors, "liberal"? Then why are all of those beefy police chiefs for it? Or take education. Bush, the Republican, says he wants $600 million more in federal funding; Dukakis, the frugal Democrat, has committed to only $250 million more. Meanwhile, Bush has to contend with his boss. The "conservative" Reagan is amassing record deficits and warming up to the Soviets. That makes it a lot harder to clobber Dukakis as a big spender who is soft on communism.



Deficits don't matter—at least in this campaign. Dukakis's deficit-reduction plan (based on better tax collection) is implausible. Many experts don't believe it can save big money. But the same goes for Bush's "flexible freeze," which in fact freezes few major expenditures and would be accompanied by tax *cuts*. That means that neither will attack the other's deficit plan.

New Right issues may not work well for Bush either. Dukakis opposes a constitutional amendment banning abortion, but so did Bush before 1980. The governor can say his objections to a mandatory Pledge of Allegiance in public schools (a new Bush charge) grew out of court decisions. And Dukakis has discouraged gay foster care, which makes it hard to stigmatize him on the other homosexual rights he favors.

That leaves crime, where Dukakis is indeed vulnerable. He's against the death penalty and remains on the defensive over his "weekend passes" for prisoners. The Bush campaign has been talking recently about the case of Willie Horton Jr., a convicted murderer who was allowed into a weekend-furlough program while serving a life sentence in a Massachusetts prison. After being released one weekend last year he fled to Maryland, where he committed rape and assault.

Dukakis has an explanation, though it will be hard to summarize in TV ads. He inherited the furlough program from his predecessor and eventually changed it after the outcry grew loud enough. More than 30 states have some kind of furlough system that includes "lifers"; a former California governor named Reagan retained the program even after two inmates committed murder while on furlough in 1972. To move onto the offensive, Dukakis has recently stressed his law-enforcement record in Massachusetts, where crime has dropped sharply.

At odds: Even if crime pays off for Bush, the larger ideological attack might not. In 1980 President Jimmy Carter wanted to demonize Governor Reagan as a right-wing extremist. It didn't work. Reagan's style was genial and unthreatening—at odds with the mad-bomber impression Carter tried to convey. Similarly, the Dukakis style is tough and hardheaded—at odds with the soft and wooly-headed portrait Bush is trying to paint of him. Given that, Dukakis's failure to connect emotionally to voters, usually seen as a liability, may turn out to be an asset in this liberal-baiting game. How can his heart be bleeding if no one's sure it's even beating?

Of course Bush's alternative—projecting a positive image—might not be so easy, either. "What are they going to say, 'It's teatime in America'?" asks David Axelrod, a Democratic consultant, summarizing Bush's preppy problem. All the same, a GOP victory will likely depend on something more uplifting than a Liberal Scare. With the nation at peace and the economy humming, the good news that Bush can trumpet may end up being a lot more effective than trying to hang a big "L" around the neck of Michael Dukakis.



ILLUSTRATION BY GARY HOVLAND

Moral dissonance: *Practices Congress considers normal strike outsiders as corrupt*

Congress Faces an Ethics Gap

On the Hill, the scandal is what isn't scandalous

In 1986 the United Coal Co. invited several congressmen to its headquarters in Bristol, Va. They flew out in the company's corporate jet, toured the company mines, dined with company executives—and were each given $2,000. Assistant Attorney General William Weld, newly arrived in Washington, sent a memo to his staff proposing to indict the congressmen for illegally accepting gratuities. His staff sent a memo back: "Welcome to Washington. Members of Congress are exempt from the antigratuities statute."

In fact, Weld learned, it's perfectly legal for congressmen to accept up to a $2,000 "honorarium"—plus travel and lodging—for merely participating in a discussion. Perfectly ethical too. The ethics committees say so. Weld obviously lacked the sense of moral *complexity* of Washington veterans. He fled town two years later, resigning in protest over the conduct of his boss, Attorney General Edwin Meese III.

But Weld left Washington a gift: the headline-grabbing Pentagon procurement investigation, which he helped supervise. Combine that scandal with the Meese mess and the charges against House Speaker Jim Wright, and you have the makings of a severe case of cultural dissonance between the capital and the rest of the country. Call it the Ethics Gap. Increasingly, conduct that Washington—especially Congress—has deemed normal seems, from an outside perspective, to stink to high heaven.

Take Wright's now famous "book." It is 117 pages long. It was prepared by an aide, published by a friend who received substantial business from Wright's campaign. Wright got an unheard-of 55 percent royalty. The books were bought in bulk by people who might have an interest in funneling Wright money. Some have frankly admitted this was their goal. The Teamsters bought 2,000 copies, which put $6,500 in Wright's pocket. All told, he made $55,000.

Wright says he did "nothing illegal ... nothing violative of the rules of the House." That's true. There is no limit to the income House members can earn from books though there is a ceiling on honoraria). And apart from Common Cause and partisan Republicans, it's hard to find experienced Hill hands genuinely outraged over Wright's conduct. Says a Democratic leadership aide: "The reaction up here is, 'There but for the grace of God go I'."

In fact, Sen. David Durenberger of Minnesota pulled off a more elegant version of the book trick. Durenberger loftily declined royalties for books that, like Wright's, were published by a friend. But his publisher paid him a separate fee of $100,000 to "publicize" his *oeuvre*. "Everything I did was legal and ethical and met the requirements of the Federal Election Commission," Durenberger argues. What are loopholes for, after all? Martin Franks, a lobbyist and former congressional aide, reasons, "Nobody expects you to pay more taxes than you're supposed to. Why should congressmen have to respect a demilitarized zone away from the borderline of the ethics code?"

Hmmmm. As evidence that an Ethics Gap exists, here are some other common Washington practices that are perfectly "legal and ethical":

Working spouses. House Energy and Commerce Committee chairman John Dingell has consistently fought in behalf of the auto industry. His wife works in the Washington office of General Motors. Rep. Norman Lent is ranking member of the Energy and Commerce Committee. His wife, Barbara Morris, is a lobbyist for NYNEX. Even the wife of the Senate's Mr. Clean, William Proxmire, runs an "event-planning company." One of her clients is Merrill Lynch, the Wall Street giant with a direct interest in the bank-reorganization bills under Proxmire's jurisdiction.

Freebies. Congressmen and their aides may not accept gifts worth more than $100. Ah, but under House ethical rules they can accept meals and entertainment from lobbyists and trips to conferences staged in luxurious resorts. True, Rep. Mario Biaggi

Embarrassments: *Biaggi (left) was convicted, Wright found a loophole*

ROBERT MAASS—PHOTOREPORTERS



JIM WELLS—PICTORIAL PARADE



Prison Furloughs in Massachusetts Threaten Dukakis Record on Crime

By ROBIN TONER

Angela and Clifford Barnes, a young couple who live in a picture-book home in a suburb of Washington, say they had no desire to become an issue in the 1988 Presidential campaign.

But what happened to the Barneses on the night of April 3, 1987, is now at the center of the effort by Vice President Bush's campaign to portray Gov. Michael S. Dukakis as soft on crime. On that night William R. Horton, a convicted murderer who had been furloughed from the Massachusetts prison system for a weekend and did not go back, broke into the couple's home, bound and stabbed Mr. Barnes and raped his wife.

"Whoever said I was an acceptable statistic?" Mr. Barnes asked the other day in the living room of the new home the Barneses built recently because they could not bear to spend another night in the house where they were attacked.

For the Dukakis campaign, such comments pose a serious threat. In a series of speeches last month, Mr. Bush has tried to use the Horton case to undermine Mr. Dukakis's claim to being tough on crime. The Massachusetts Governor, on the other hand, presents it as an aberration in a program accepted in correctional systems throughout the country.

The furlough program has long been a source of controversy in Massachusetts. As the Dukakis campaign is quick to note, it began in 1972 under a Republican Governor, Frank Sargent. And the most controversial part of the program, the practice of giving furloughs to first-degree murderers sentenced to life without parole, was the result of a decision by the Supreme Judicial Court of Massachusetts, which held that such inmates were eligible under the 1972 law that created the program because the statute did not exclude them.

For all of that the Dukakis administration long supported, and at times actively defended, the practice of giving furloughs to inmates serving life without parole. In 1976 Mr. Dukakis refused to sign legislation that would have barred such prisoners from receiving furloughs and would have required a number of other restrictions.

The Question of Risk

In the furor over Mr. Horton's arrest, the Dukakis administration stopped giving furloughs to the inmates until the program could be reviewed. But Mr. Dukakis officially changed his stance only last March, at the height of his campaign for the Democratic Presidential nomination, when he was confronted with a resolute Legislature, a public outraged by the Horton case and the strong possibility of being overruled by a ballot initiative this fall.

lough program that outraged many Massachusetts residents in the aftermath of the attack on the Barneses. One of the principle rationales for the furlough program was the gradual "reintegration" of inmates back into society.

Many people in Massachusetts wondered why the state would grant furloughs to any of the 268 inmates serv-

A 1987 attack angers victims and residents.

ing a sentence of life without parole for first-degree murder.

It was a question that haunted Joseph Fournier's family after Mr. Horton escaped. It was Mr. Fournier, a 17-year-old vocational school student, whom Mr. Horton was convicted of murdering.

Mr. Fournier was working the night shift at a service station in Lawrence, Mass., on Oct. 28, 1974, when he was robbed, stabbed 19 times and his body left in a trash barrel. Mr. Horton and two others were arrested and convicted of murder.

'How Could He Be Out?'

The Fournier family was stunned upon learning in a newspaper of Mr. Horton's escape. "We really were kind of confused," said Donna Fournier Cuomo, the victim's sister. "We thought he was sentenced to life without parole. How could he be out on furlough?"

Corrections officials provided an answer that further angered many Massachusetts residents. "Historically, the life-without-parole sentence has been viewed in some cases as the individual eventually being rehabilitated and possibly suitable for a gubernatorial commutation," Dennis Humphrey, an associate commissioner of corrections, said in an interview last week.

The commutation issue quickly became a part of the debate over furloughs last year. "Although there is no death penalty in Massachusetts, citizens are led to believe that life without parole would protect us from convicted murderers," read a statement issued by Citizens Against an Unsafe Society, which was formed to fight furloughs for convicts serving life terms for first-degree murder. "Society as well as the victims' families are told at the time of sentencing that these murderers will never be free to terrorize the public again."

Mr. Humphrey noted that a person can be convicted under the Massachusetts first-degree murder statute when he or she did not actually pull the trigger — for example, a person who drove the getaway car in a bank robbery in which someone was killed. "A number" of commutations have fallen under that category, he said.

Sharp Drop in Commutations

According to the office of the Governor's Counsel, Mr. Dukakis signed 21 commutations for people convicted of first-degree murder in his first term, from 1974 through 1978, when he was defeated in the Democratic primary. That pace dropped sharply when Mr. Dukakis returned to office in 1982; in the six years since then, there have been just seven commutations for first-degree murder, according to his aides.

Mr. Dukakis said he had a backlog of cases in his first term, but added, "I just became a lot tougher — I think most of us have."

The Horton case galvanized public opinion in Massachusetts against granting furloughs to people sentenced to prison for life after being convicted of first-degree murder. Hearings were held in the Legislature, and a petition drive to put the issue on the ballot gathered steam. Mr. Dukakis first put a freeze on the program, and in March he announced that he would not oppose a ban on furloughs for first-degree murderers sentenced to life without parole.

The Dukakis campaign has portrayed the Horton case as a tragic aberration. The campaign says a truer picture of Mr. Dukakis's record on crime emerges from the 13.4 percent decline in the Massachusetts crime rate from 1982 to 1986, and in the fact that the state's homicide rate is now the lowest of any major industrialized state in the nation.

A Question of 'Progress'

"The real test is whether or not someone in my position has really made progress in doing the kinds of things you have to do to make life safer for your citizens," Mr. Dukakis said. "And that we have done."

For all of that, some of those who banded together to fight for a ban on furloughs to first-degree murderers say they are perplexed at why the Dukakis administration supported this policy for so long. Among them is Mr. Barnes, who with his wife recently filed official notification with the state of their intent to sue.

"I'd like to see them start treating all people like Willie Horton differently," Mr. Barnes said. "I don't see how you can work from the assumption that everyone is rehabilitatable."

Mrs. Barnes interjected: "This is not Father Flanagan's Boys Town. There are some bad boys in the world."

clude them."

For all of that the Dukakis administration long supported, and at times actively defended, the practice of giving furloughs to inmates serving life without parole. In 1976 Mr. Dukakis refused to sign legislation that would have barred such prisoners from receiving furloughs and would have required a number of other restrictions.

The Question of Risk

In the furor over Mr. Horton's arrest, the Dukakis administration stopped giving furloughs to the inmates until the program could be reviewed. But Mr. Dukakis officially changed his stance only last March, at the height of his campaign for the Democratic Presidential nomination, when he was confronted with a resolute Legislature, a public outraged by the Horton case and the strong possibility of being overruled by a ballot initiative this fall.

At the heart of the debate over the furlough system in Massachusetts was the question of acceptable risk. Since the program began, 10,836 inmates have participated; 428 of them escaped and 219 returned late, according to the State Department of Corrections. Fourteen of them are still at large.

No more than 55 inmates serving life without parole participated in the furlough program in any given year, according to the state; 11 of them have escaped, including Mr. Horton. Of those 11, 5 were convicted of other crimes committed after they escaped, according to a state legislative report, and one is still at large.

Mr. Horton is now serving two life sentences plus 85 years in Maryland for the attack on the Barnetses.

Escape Rate Has Declined

Massachusetts officials have defended the escape rate, which has declined in recent years as the program has been tightened. They describe the furlough program as a valuable tool to reintegrate prisoners into society, and say that prisoners in the program have a significantly lower recidivism rate than prisoners who are not. But critics say the Horton case proved the risk was too high for prisoners serving a sentence of life without parole.

As Mr. Dukakis has said, furlough programs are widespread in this country and widely accepted.

A 1984 survey by the Corrections Compendium found that 38 states offered some form of home furloughs. A survey this year found that 33 states allow some kind of community release program for prisoners serving a life sentence, according to the compendium, which is published by the Contact Center, a criminal justice information clearinghouse in Lincoln, Neb.

But Massachusetts was the only state to permit furloughs for prisoners serving a sentence of life without parole, the penalty for first-degree murder in that state.

In an interview last week Mr. Dukakis called that a "distinction without a difference." He said that "premeditated murder is premeditated murder," adding that 23 states permit people convicted of first-degree murder to participate in furlough programs.

Still, it was this aspect of the fur-

[redacted] made progress [redacted] things you have [redacted] make life safer for your citizens," Mr. Dukakis said. "And that we have done."

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NATIONAL SECURITY
POLITICAL ACTION COMMITTEE

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June 3, 1988

Mr. Larry McCarthy
108 9th Street, S.E.
Washington, DC 20003

Dear Larry:

It was a pleasure meeting you the other day with Floyd Brown. Enclosed are some mail samples from the Americans for Bush project of the National Security Political Action Committee.

Please keep in mind when developing your proposals that the organization is National Security Political Action Committee and the project is Americans for Bush. As I expressed in our meeting, the tone of the message can be hard hitting, but must retain a "positive" character.

I look forward to our next meeting and to working with you in the future.

Cordially,

Elizabeth I. Fediay

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Mr. Dole talks about his upbringing in Depression-era Kansas, which he said taught him "you can't spend what you don't have." He proposes a constitutional amendment requiring a balanced Federal budget, allowing the President to eliminate individual expenditures, and an across-the-board spending freeze.

The word "tax" is taboo. Even Mr. Morrigan, who wants to have Americans contribute 1 percent to 2 percent of their income to provide collateral for the national debt, insists on calling it a "savings account deposit."

This study on campaign spending underlined an axiom of New Hamp-

Republican candidates have much more money to spend, and so...

ire's Presidential contest: Boston ations are critical.

So far, more than $1 million of the dvertising purchases by Presidenal candidates went to the Boston staons, which are far more expensive 30-second advertisement during Good Morning America" in Portnd, Me., costs $38, compared with 0 on a Boston station.

But there is a political payoff. Acrding to the Arbitron ratings conrn, the Boston stations reach 86 rcent of New Hampshire's regisred voters.

But, because some 80 percent of the tions' viewers live in Massachusts, campaigns can count only a all percentage of the purchases in w Hampshire, which has a spend limit of $444,000.

"All of the campaigns are going to end every allocable penny they can New Hampshire," said David eene, a senior adviser to Mr. Dole. ou work out your formula, but you n't have a rational media buy in w Hampshire without substantial rchases on Boston stations."

By ROBIN TONER

DES MOINES — The audience fell silent as Michael S. Dukakis read from the memoirs of a journalist imprisoned during the rule of Argentina's military Government.

"Listen to these words and understand that nothing justifies the theft of [illegible]," Governor said. "Nothing."

The setting was a forum on aid to the Nicaraguan contras, and Mr. Dukakis held the rapt and ostensibly [illegible] audience of his audiences at Drake University here with an impassioned appeal for a new American emphasis on human rights and democracy throughout the Hemisphere.

"It is a dream our nation can help come true," he said. "Not by cozying up to Latin American dictators as we have so often over the past century, but by demonstrating every day and every week the powerful force of our ideals."

It was a telling snapshot as Mr. Dukakis began the final stretch of his Iowa campaign, with his speeches and his television commercials increasingly focused on such emotional issues as Central America and the cause of the homeless.

No More Revere Bowls

Mr. Dukakis says he has not changed his appeal since his campaign began last spring. "I haven't changed what I believe, but as the campaign has unfolded it's taken on the edge of anxiousness this week. But it is clear that stylistically Mr. Dukakis has moved up the heat — just one aspect of the bullish mood of the Dukakis campaign in Iowa these days.

The shift is perhaps most debatable in the campaign's television commercials. Last fall, for example, the Dukakis campaign was running a [illegible] advertisement on the Massachusetts economic revival, featuring [illegible] image of a Revere bowl being polished by a pair of sooty-mass hands. Now, with the Feb. 8 Iowa precinct caucuses fast approaching, the campaign's commercials show shivering homeless people lying on grates in the nation's capital and mourning victims of civil strife in Central America.

The candidate's oratory has intensified as well. As he campaigned here over the last few days, Mr. Dukakis delivered a series of speeches on United States policy in Central America.

"I hope the Congress will stand with the vast majority of the American people and say 'no,' not one more dollar for contra aid," he said in Des Moines. "Not one more Nicaraguan child killed because we didn't have the courage and the wisdom and the respect for law and life to let the people of Central America determine the future of Central America."

"It reminds you of Vietnam, the more you see of it," he said at another point. "Year after year of a failed policy."

F.B.I. and C.I.A. Criticized

In town after town, he assailed the Federal Bureau of Investigation for its surveillance of American groups opposed to the Reagan Administration's policy in Central America. He said it "struck a nerve" for him and others who came of age in the era of McCarthyism.

And when a peace activist here asked how he would administer the Central Intelligence Agency, he said, "We have to decide in this country whether the C.I.A. is going to be an intelligence agency or an [illegible] agency."

The Reagan Administration's support for the contras, the rebels fighting Nicaragua's ruling Sandinistas, is not an area of disagreement among the Democratic candidates for President; all of them oppose it. Mr. Dukakis said he was emphasizing it on the campaign trail because of the upcoming vote in Congress [illegible] and because he believed it was an important time to speak out.

Aides for many of his rivals say they think he is using the issue because it could appeal to the upscale, urban liberals in Iowa whose support Mr. Dukakis is competing for with Senator Bruce Babbitt of Arizona and Senator Paul Simon of Illinois.

The Dukakis campaign presents a carefully calibrated optimism in these final days before the Iowa caucuses. Dukakis aides are devoted practitioners of the art of managing expectations: "We need to do well in Iowa" is the official line, vague enough to encompass a number of scenarios and give the campaign substantial room to wiggle — on caucus night.

But they say the campaign's internal polls show Mr. Dukakis gaining in Iowa, although Representative Richard A. Gephardt is maintaining his lead. And some aides say Congressman Dukakis is connecting with the state's voters, both on the stump and in his new television commercials, in a way that he was not a few months ago.

In addition, as they look beyond Iowa to the New Hampshire primary on Feb. 16, Dukakis aides contend that Mr. Gephardt's hard-hitting message about job losses to foreign imports — so successful in Iowa in recent weeks — will not play as well in a state where the unemployment rate is low.

At the same time, the campaign has built a formidable organization in Iowa, which nightly confers with supporters from one end of the state to the other.

"A lot of what politics is, at least the way I do it," Mr. Dukakis said one afternoon this week as his van covered the now familiar route from Muscatine to Davenport, "is steady organizing, getting to know people."



Gov. Michael S. Dukakis

DUKAKIS IS TERMED EXTREME LIBERAL

Bush Friends Cite '77 Veto by Governor of a Measure on Pledge of Allegiance

By E. J. DIONNE Jr.
Special to The New York Times

WASHINGTON, May 19 — Some Republican supporters of Vice President Bush, troubled that Gov. Michael S. Dukakis is succeeding in his effort to appear as a moderate, have begun to paint Mr. Dukakis as extremely liberal.

Their first salvo today was to suggest that he had misgivings about the constitutionality of the Pledge of Allegiance to the flag.

Representative Newt Gingrich, a Georgia Republican well known for his gleeful pursuit of Democratic weakness, said today that the Massachusetts Governor, in May 1977, vetoed a bill requiring teachers to lead students in the pledge at the beginning of every school day.

Mr. Gingrich passed around copies of the veto message, in which the Governor said he had obtained an opinion from the Supreme Judicial Court of Massachusetts, the state's highest court, that the bill would violate teachers' First Amendment rights. The United States Supreme Court ruled in 1943 that it is unconstitutional to require someone to recite the pledge. The Legislature overrode the veto.

Mr. Gingrich said he was not questioning motives, but added: "I would just love to see him explain on national television for three or four minutes why a bill requiring the Pledge of Allegiance at the beginning of the school day is unconstitutional. When the country realizes that the lawyers who advised him to veto that bill are the people he'd put on the Supreme Court, we've won the South."

He is one of a number of Republicans who urge the Bush campaign to let them campaign against Mr. Dukakis to dent his public image. Recent polls have shown that most conservatives do not identify Mr. Dukakis as a liberal. To Mr. Gingrich and his allies, that is very dangerous for Mr. Bush.

"If on Election Day this election is between George Bush and someone who is more liberal than George McGovern, we win," Mr. Gingrich said. "If it's an election between two competent leaders, we lose." The latter is true, he said, because lacking a reason not to, "this is a country that always votes for 'new and improved.'"

Mr. Dukakis's Statehouse press secretary, Jim Dorsey, said the Governor had vetoed the Pledge of Allegiance bill, and that the state Attorney General at the time, Francis X. Bellotti, had ruled the bill not enforceable. Mr. Bellotti was elected, not a Dukakis appointee. Mr. Dorsey said, "I would note that the Governor himself always participates in reciting the Pledge of Allegiance at official events whenever it's recited."



Michael S. Dukakis talking to students at Pine Brook School in Manalapan, N.J., as he began campaign for the June 7 primary. Mr. Dukakis hopes to win enough delegates in the June 7 contests in New Jersey, California, New Mexico and Montana to clinch the Democratic Presidential nomination.

Jackson Complaint to Kirk

Special to The New York Times

BAKERSFIELD, Calif., May 19 — The Rev. Jesse Jackson complained today that the Democratic National Committee had failed to notify him and his campaign about a hearing on foreign policy being held Friday as part of the drafting of the party's platform.

Speaking to reporters, he said he had protested to the party chairman, Paul G. Kirk Jr., and that Mr. Kirk had said he did not know why Mr. Jackson had not been notified. "We hope that an error of that magnitude will not occur again," Mr. Jackson said.

Mr. Jackson also said that he had a "casual" telephone conversation today with his Democratic opponent, Gov. Michael S. Dukakis of Massachusetts, about "shared concerns," such as the shape of the party platform. The two men plan to meet later this week while they both campaign here in California, which holds its primary June 7.

Bush as His Own Man: A Minuet on an Uncertain

By GERALD M. BOYD
Special to The New York Times

WASHINGTON, May 19 — With a one-sentence statement in a speech laying out parts of his drug policy, Vice President Bush embarked on a journey that aides today justified as necessary if he is to be elected President.

In the view of White House officials, aides to Mr. Bush and other top Republican consultants, Mr. Bush began a minuet, trying to appear to be his own man while retaining the loyalty of President Reagan and his supporters.

News Analysis

> 'The Vice President is not being disloyal, but he has to spell out what he will do.'

would do, said Peter Teeley, Mr. Bush's chief spokesman. "That has begun."

two principles: not to criticize Ronald Reagan, but to point out what he would do as President."

Republican political consultants said today that it was easy for Mr. Bush to split with the Administration's Panama policy. Many Republicans scorn the notion that the Administration might be negotiating with a man it has portrayed as a drug dealer as evidenced by the bipartisan support of a Senate resolution this week condemning the talks.

Moreover, Mr. Bush would find it impossible this fall to campaign as the candidate who is tougher on combating drugs if it appeared

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Associated Press

Gov. Michael S. Dukakis greeting well-wishers at Indianapolis International Airport where his plane was refueled. He went on to campaign at a coal mine in West Virginia, which holds its primary Tuesday.

Dukakis Loses Plea on Troops

BOSTON, May 6 (AP) — A Federal district judge today rejected a lawsuit filed by Gov. Michael S. Dukakis aimed at preventing Massachusetts National Guard troops from training in Central America.

The judge, Robert Keeton said the Federal authorities have the power to give orders to National Guard troops even when a Governor objects.

Judge Keeton explicitly upheld the constitutionality of the Montgomery Amendment, a 1986 act of Congress that strips Governors of the power to decline assignments for their National Guard troops unless their states are facing an emergency that requires the troops.

Lawyers for the Justice Department had argued that the Constitution gives Congress the final authority over all the nation's military troops.

Attorneys for Mr. Dukakis had asserted that Governors have the authority over their guardsmen.

At issue in the case was the legality of a Pentagon order directing 13 public information officers to take part in training in Panama and Honduras for two weeks in late May and early June.

Mr. Dukakis, a Democratic Presidential candidate who has been a vocal critic of the Reagan Administration's policy in Central American, had opposed the directive.

Gov. Rudy Perpich of Minnesota, joined by Massachusetts and nine other states, challenged the law last year in Federal District Court in St. Paul and lost. That case is now on appeal.

SWIMMING, FISHING, PLAYING:
GIVE TO THE FRESH AIR FUND

Jesse Jackson Urges Drug Users to Get Help

By [redacted] DiL. BERKE

Special to The New York Times

LOS ANGELES, May 6 — As fervent as a faith healer, the Rev. Jesse Jackson today called forth more than 100 high school students who admitted trying illegal drugs.

Standing on a platform in the football field of Fremont High School here, Mr. Jackson concluded his standard remarks but then returned to the microphone with an unusual offer to help free the teen-agers from drugs.

"If you've tried drugs and you know it's wrong and you want to get well, stand," the Democratic Presidential candidate implored the more than 1,000 students in the bleachers. "We're going to change your mind. Come on down. Come down and meet me right here."

Instructing security guards to let the students past steel gates separating them from the field, Mr. Jackson said: "If our children want to be well, let them in. Let them in the gate."

'Change Your Ways'

Some students were a bit hesitant at first, but then they excitedly streamed to the football field under the bright afternoon sun, eager to hear what the preacher from Chicago wanted to tell them.

Not satisfied with the response, Mr. Jackson prodded some more. "Don't lie," he told students still in the bleachers. "Come on down. Change your ways." More students came forward.

To say that Mr. Jackson believes in audience participation would be an understatement. At fund-raising events he often calls contributors to the speakers' platform.

As always at his frequent high schools stops, he asked the Fremont students today to rise if there were dope pushers in their school or neighborhoods, if they knew anyone in jail because of drugs or anyone who was dead because of drugs.

Students Take a Pledge

Each time, as happens everywhere, most of the students stood. But only once before in recent memory, while campaigning at a high school near Detroit in March, did he ask those who have tried drugs to come forward.

"I'm as serious as I can be," Mr. Jackson told the students today, whose school is in a tough neighborhood that has been plagued by youth gangs. "Ending the flow of drugs does not start in Bolivia. It starts in your mind. This will be the beginning of the end of a long night of terror."

As they gathered, he instructed the teen-agers to raise their hands and repeat after him: "I will be sober. And sane. And sensitive. My life will make a difference."

Afterwards, several students said they were uplifted by Mr. Jackson.

'A Lot of Courage and Heart'

"I was locked up for 11 months," said Antonio Medina, a 16-year-old sophomore, explaining that he was released recently from a juvenile detention center where he was sent because of a drug-related offense. "I was under the influence and said PCP to keep away from dru

But, Antonio said, "a lot of courage and down and talk to us."

Ramon Hooks, 17, drugs and appreciated son had to say, "I thi him to come to Fremo



The Rev. Jesse Jac
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Dukakis Seeks to Punch Up His Message With Populist Themes

By KEITH LOVE,
Times Political Writer

MILWAUKEE—Faced with a stiff challenge from the Rev. Jesse Jackson in the upcoming Wisconsin Democratic presidential primary, Massachusetts Gov. Michael S. Dukakis sought Thursday to punch up his message and express more compassion in a new speech stressing populist themes.

The speech could have come from Jackson or former presidential candidate Richard A. Gephardt as it blasted corporate greed, warned that "foreign investors" are buying up America at bargain prices and called for security for the "workingman."

"This Administration has mortgaged our future to a bunch of defense contractors and merger maniacs and sharp operators on Wall Street," Dukakis told a crowd of more than 500 at Serb Hall, a community meeting place on the city's south side, Thursday night.

"They've turned Main Street America into a shopping mall for foreign investors. And now they want a new four-year contract from the American people. Who do they think *they* are and how dumb do they think *we* are?"



Associated Press

Dukakis attacks ice cream cone after speech at Milwaukee's Marquette University.

He Barely Connects

Among the Democratic contenders, Dukakis has raised the most money and put together the best field organization. He has also hired some of the brightest policy thinkers, who have helped him develop his campaign themes of competence and progressive management. But Jackson's victory in Michigan and his strength in Wisconsin, which votes next Tuesday, are underlining a serious problem for Dukakis: compared to Jackson, he barely connects on a visceral level with voters.

One reason is that such a connection is not his goal, as Dukakis somewhat surprisingly acknowledged Wednesday night after a speech at Marquette University.

"My strength is as a doer," Dukakis told reporters. "I have no particular interest in going down in history—if I am elected President—as being the great communicator. I want to be the great builder."

He said he will continue to offer his 10-year record as governor as a example of what he wants to do as President, and said he will not begin attacking Jackson, who has not held elective office.

But the new speech, with its promise to protect average workers during industrial change, signals that Dukakis knows he has to sharpen his appeal.

"We're going to pass a national plant closing law that will give our workers the notice, the benefits and the training they need to find new jobs at good wages," Dukakis said Thursday night, striking a Jackson-like chord.

"We're going to get control of the merger and acquisition binge that's gobbling up capital . . . making millions for a few and leaving the average working men and women of America holding the bag," Dukakis said.

It is not the first time Dukakis has touched on those themes, but suddenly the language is more colorful and the opportunities for strong crowd response more plentiful.

Dukakis campaign manager Susan Estrich denied that the new speech signals a major overhaul in approach after Jackson's landslide victory in Michigan last week.

"There is no panic," she said. "You just keep working, you just keep sharpening your message. I think we're all pleased that this new speech accomplishes that."

Washington media consultant Robert Squier said: "I think this new speech is the Dukakis campaign's sincere answer to the Democratic Party's prayer: 'Give us a little more, Mike.'"

Squier believes the campaign will soon have to "put Mike right in front of the camera." Squier, who is not affiliated with any of the presidential candidates, said Dukakis had a similar problem connecting with Massachusetts voters on the issue of crime when he was running for governor in 1982, after being out of the governor's job for four years.

"Mike talked about how his father, a doctor, had had his office burglarized and how his brother had been killed by a hit and run driver who was never caught," Squier said. "He said he wished that could be conveyed in a TV ad but didn't see how.

"Well, all he had to do was what he eventually did. He just looked right in the camera and described those incidents and said: 'These crimes touched my lives and I want to make sure they don't touch yours.' It was really effective because you felt like Mike Dukakis was not distant from you."

A Matter of Strategy

Whether Dukakis will try something similar now is a matter of strategy that no campaign—especially his own—will discuss.

But Estrich acknowledged that the campaign is aware that things have changed dramatically since the Michigan results raised questions about Dukakis' campaigning abilities.

"There is suddenly a lot of attention to this race now," Estrich said. "The level of interest has increased greatly in recent weeks . . . . What we are doing now is laying out just what is at stake in this election now that people are waking up and taking a look at it."



Paul Simon greets a sup

Rivals Seen Crowd

Simon C

By PATT MORRISON, Ti

GREEN BAY, Wis.—An al
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But prospects for Simon
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national politics expert Mark
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Paul Simon to run. . . . I thin
in Wisconsin."

Rumored 'Stop Jackson' Effort Assailed

Dukakis: Defense Spending About

Candidate Would Halt MX and Midgetman Missiles, Cut Back SDI, Keep Ste

By David S. Broder
Washington Post Staff Writer

BOSTON—Massachusetts Gov. Michael S. Dukakis, who has been criticized for never having met a weapons system he liked or a defense budget he wouldn't cut, says he actually thinks the current level of defense spending is about right.

In an interview with The Washington Post, Dukakis said he would cut some programs but maintain the U.S. defense posture nearly as it is pending further breakthroughs in arms control negotiations with the Soviet Union, which he considers achievable in the next five years.

In the interview, the governor said that, as president, he would scrap the MX and Midgetman missile programs, cut the size of the Navy and eliminate plans for two new aircraft carriers, and scale back research spending on the Strategic Defense Initiative (SDI) to the levels of four years ago.

But Dukakis said he would continue development work on the Stealth bomber and the D5 Trident II submarine-launched ballistic missile; keep the all-volunteer armed forces at current sizes, maintain American troop commitments in Europe and "be very careful about" pressuring Japan and West Germany to expand their military budgets in a "burden-sharing" effort.



GOV. MICHAEL S. DUKAKIS
... Pakistan, South Korea "troubling"

He said the domestic policies of Pakistan and South Korea make U.S. military aid "troubling" and implied that he might favor shifting U.S. troops and bases from South Korea to Japan if the former's human-rights policies do not improve.

Citing the need for increasing the quality and readiness of U.S. conventional forces, Dukakis declined to promise significant reductions in the overall military budget. "There's no way we can deal with this budget deficit without at the very least stabilizing [defense expenditures] where we are," he said. "Whether there can be significant cuts in real terms . . . I think really depends on the progress of negotiations" with the Soviets.

From the time that Dukakis emerged as a major contender for the 1988 nomination, rivals have been questioning his views and credentials on national-security affairs. Sens. Joseph R. Biden Jr. (Del.), Paul Simon (Ill.) and Albert Gore Jr. (Tenn.) have cited their first-hand experience with arms-control and foreign policy issues, implicitly questioning Dukakis' credentials.

Rep. Richard A. Gephardt (Mo.) has launched a more direct attack. He argues that Dukakis makes broadside criticisms of defense programs, while minimizing the contribution military spending has made to his vaunted "Massachusetts miracle" economy. When Dukakis earlier this summer questioned why Gephardt had voted for certain weapons systems, Gephardt told reporters, "I know what the governor is against, but I don't know what he's for."

During the interview, Dukakis said he has been conferring with defense experts and plans to "lay out my views in some detail over the course of the next two or three months." He declined to identify all his advisers, but cited Sen. Carl-

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ONE WEEK ONLY! Sunday 11-6, Mon



THE WASHINGTON POST

nse Spending About Right

Midgetman Missiles, Cut Back SDI, Keep Stealth Bomber



HAEL S. DUKAKIS
South Korea "troubling"

e domestic policies of South Korea make aid "troubling" and e might favor shifting nd bases from South an if the former's hu olicies do not improve. eed for increasing the eadiness of U.S. con ces, Dukakis declined gnificant reductions in military budget. way we can deal with this budget deficit without at the very least stabilizing [defense expenditures] where we are," he said. "Whether there can be significant cuts in real terms . . . I think really depends on the progress of negotiations" with the Soviets.

From the time that Dukakis emerged as a major contender for the 1988 nomination, rivals have been questioning his views and credentials on national-security affairs. Sens. Joseph R. Biden Jr. (Del.), Paul Simon (Ill.) and Albert Gore Jr. (Tenn.) have cited their first-hand experience with arms-control and foreign policy issues, implicitly questioning Dukakis' credentials.

Rep. Richard A. Gephardt (Mo.) has launched a more direct attack. He argues that Dukakis makes broadside criticisms of defense programs, while minimizing the contribution military spending has made to his vaunted "Massachusetts miracle" economy. When Dukakis earlier this summer questioned why Gephardt had voted for certain weapons systems, Gephardt told reporters, "I know what the governor is against, but I don't know what he's for."

During the interview, Dukakis said he has been conferring with defense experts and plans to "lay out my views in some detail over the course of the next two or three months." He declined to identify all his advisers, but cited Sen. Carl Levin (D-Mich.), a member of the Armed Services Committee, and William W. Kaufmann, a former Defense Department official and retired Massachusetts Institute of Technology professor.

Dukakis discounted the U.S. military buildup of the past eight years as a factor in what he, along with many others, hailed as the improved prospects for Soviet-American arms-control breakthroughs. "I do not believe that our rearmament has brought them to the bargaining table," he said, adding, at another point, that if it was a factor at all, "serious Soviet domestic difficulties have been even more important."

Repeatedly, the governor argued that breakthroughs in military technology and weapons offer only an illusion of security. "We're all beginning to realize there is no end to this race," he said. "Each weapon system produces a countersystem . . . . The two superpowers are both being forced to devote more and more resources to the military at a time when there are serious domestic priorities that are going unattended."

"I have serious questions as to whether in the past 6½ years . . . we haven't spent billions and billions on increasingly exotic weapons systems of dubious value, while our conventional capability has been

See DUKAKIS, A9, Col. 1

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Democrats stake out defense spending goals

Front-runners fight charges of being 'soft'

FILE PHOTO/R. NORMAN MATHENY - STAFF

By Peter Grier
Staff writer of The Christian Science Monitor

Washington

Jesse Jackson is fond of saying that the United States has many guided missiles but few guided minds.

If elected, he promises to cut the military budget, make Western Europe pay more for NATO defense, and scrap all new nuclear weapons – including such long-planned systems as the B-2 Stealth bomber.

Michael Dukakis talks of defense as a management problem. He wants stronger conventional armies and less inter-service rivalry – though he is vague on the cost of the first goal and how to accomplish the second.

Both these leading candidates for the Democratic presidential nomination support arms control measures, such as a ban on testing of ballistic missiles, that go beyond previous party positions.

And both make many in their own party worry that the Democratic nominee will be vulnerable to a "soft on defense" charge in the November election.

On security issues "it's going to be awful hard to sell either one to the country," says a leading Democratic politician involved in defense policy.

Defense might not be a major issue in the fall campaign. But if it is, it could play to the advantage of likely GOP nominee George Bush, the Democratic military expert worries.

Already the Rev. Mr. Jackson has had to defend himself on TV talk shows against charges raised by conservatives that he espouses unilateral disarmament.

The issue's political effect would likely depend on which military problem voters judge more important – strength or waste.

Fifty-two percent of respondents to a recent poll by the Daniel Yankelovich Group judged the GOP the party best equipped to maintain a robust national defense. Twenty-six percent picked the Democrats as the party of strength. But half of those polled felt Democrats do a better job of weeding out Pentagon waste. Only 26 percent felt the GOP was more economy minded.

The current third-place runner in the Democratic race, Sen. Albert Gore Jr. of Tennessee, has presented himself as a tougher alternative to Jackson and Governor Dukakis. So far this image has won Mr. Gore few delegates outside the South.

Specific defense stands taken so far by the top two Democratic nominees include:

Dukakis. In position papers, Governor Dukakis maintains that if elected his top national-security priority would be strengthening conventional US forces.

The price tag of such an effort is only vaguely discussed. Among other

Please see GOALS next page

to 4 million people question

GOALS from preceding page

things, Dukakis says he wants to improve NATO forces through "more coordinated planning." But a position paper does say that "some targeted new investments are necessary" for such things as stockpiling artillery shells and trucks.

Dukakis says he opposes the unilateral withdrawal of US troops from Europe. But he says US allies must do more to bear their "fair share" of NATO defense costs – a code phrase that Europeans, rightly or wrongly, often interpret as a threat to bring US soldiers home.

Dukakis would scrap two planned new supercarrier task forces and use money saved for more antisubmarine-warfare weapons and sealift ships.

On nuclear weapons, Dukakis would not revive the dormant Midgetman single-warhead missile. He opposes purchase of more MX missiles. He would continue research on the Stealth bomber and Trident 2 sub-launched missile, but he says he would reserve judgment as to whether to deploy them.

He would reduce "star wars" funding to its 1983 level, returning the program to the status of basic research.

He is for a comprehensive test-ban treaty, and a moratorium on flight tests of ballistic missiles pending a negotiated stop to such research. These arms control efforts, while popular with peace activists, are not all popular with a number of arms control activists. "I don't think a ban on missile flight tests is a good idea," says Jack Mendelsohn, deputy director of the Arms Control Association.

Jackson. Jesse Jackson would freeze defense spending at

fense costs, and might [illegible] a savings of as much as [illegible]0 billion from what otherwise would be spent on the armed forces.

He would kill outright the Midgetman and MX missiles, two aircraft carrier groups, and the Stealth bomber.

His position papers say that he agrees with Henry Kissinger that "Western Europe should be responsible for its own conventional defense," though he implies that US troops would come home as a result of US-Soviet joint reductions.

Jackson says he would stop arms race modernization by an immediate moratorium on nuclear testing and missile flight tests. No new nuclear weapons would be built. Dismantling "star wars" would be one of his first acts as president, he says.

Many defense analysts say some nuclear modernization is a good thing, as it can make the nuclear balance more stable. "I can't imagine why anybody is really against Stealth," Mr. Mendelsohn says.

Conservatives says Jackson would be a defense disaster. "His policy is unilateral disarmament," says James Hackett, military analyst for the Heritage Foundation.

But Jackson advisers retort that staying with the forces left after President Reagan's buildup does not constitute disarmament.

And some old-hand Democrats point out that national security is an area where candidates for president often become more conservative after election day.

Jimmy Carter took office promising to cut $5 billion from the Pentagon and ended up beginning a military buildup, former Democratic Party chairman John White points out.

Second of four articles on the

FILE PHOTO/R. NORMAN MATHIESEN - STAFF

The Washington Post

Three Democratic Candidates Agree on Ha

By James R. Dickinson
Washington Post Staff Writer

Three candidates for the 1988 Democratic presidential nomination, making initial major foreign policy speeches of their campaigns and in agreement on major points, have called for a 50 percent reduction in U.S. and Soviet Union long-range nuclear missile forces, denounced President Reagan's Strategic Defense Initiative (SDI) and advocated putting more emphasis on conventional military forces.

Missouri Rep. Richard A. Gephardt and Massachusetts Gov. Michael S. Dukakis gave their speeches here yesterday, while former Arizona governor Bruce Babbitt delivered his Thursday night in Iowa City.

While each candidate has years of public service experience, each has concentrated primarily on domestic affairs and is just beginning to outline views on foreign policy and defense.

All three listed the prevention of nuclear war as the top priority of U.S. foreign policy and urged aggressive arms-control negotiations with the Soviet Union. They agreed, in Dukakis' words, that "our goal should be to prevent the use of a single nuclear weapon, whether strategic or battlefield . . . by the superpowers, by a regional power or by terrorists."

Gephardt and Dukakis noted that Soviet leader Mikhail Gorbachev offers the United States an opportunity and a challenge.

Gephardt described Gorbachev as "a different leader, speaking in different tones and with remarkable sensitivity to Western public opinion . . . we have to test whether it is real and how far it may reach."

Aware of the Democrats' past vulnerability on appearing to be soft on the Soviets, Gephardt emphasized the need to back negotiations with moral and military strength.

"I stand before you as a member of the party that has won the White House only once in the last five elections—a party that has been equated, fairly or unfairly, with softheadedness and faint-heartedness," he said. "The person Democrats nominate to carry our standard next year must be someone who has the record of resolve . . . to reclaim our rightful position as the party of a strong America."

All three were critical of Reagan's buildup of U.S. strategic missile forces and accused him of measuring national security in dollars spent rather than in the strength of the defense forces.

"Almost $2 trillion later, the nuclear balance of terror is unchanged," Dukakis said. "We do not have the resources to continue throwing money at the Pentagon."

He said the country needs "new leadership that will insist on discipline and accountability . . . that will give us some stability in defense spending . . . that will resist sacrificing military preparedness in order to protect big weapons projects." He promised that in a Dukakis administration, "it will be the commander in c[hief] . . . ral or a [lieu]t[enant] . . . will be accountab[le] . . . security operati[ons] . . . the United St[ates]

Gephardt arg[ued] . . . president should . . . hemisphere global d[e]f[ense] . . . "then buy only . . . needed to suppo[rt] . . . basing defense . . . bitrary goal . . . Navy.

A crucial elem[ent] . . . ing some of the . . . American NATO . . . and Japan, he sai[d]

"They must . . . responsibilities a[s] . . . ileges of the free[dom] . . . said. "We must . . . greater part of t[he] . . . . Something . . . United States is . . . from Japan to pr[o]tect Persian Gul[f] . . . Japan."

Babbitt denoun[ced] . . . also known as th[e]

Kirkpatrick Quiets Speculation on Candida

By Thomas B. Edsall
Washington Post Staff Writer

MANCHESTER, N.H., Sept. 25—Former U.N. ambassador Jeane J. Kirkpatrick tonight dampened the brush fire of speculation in this state that she might enter the Republican presidential race, but she declined to stamp out the embers.

"I have said no, I don't expect to be a candidate," she said at a news conference. But when asked whether there is no possibility that she would enter the race, she said, "I don't answer questions like that. . . . I can conceive of lots of things."

Kirkpatrick, "I have the gut feeling she would make a great president," but added, "she's got to want to run" if she's going to get in the race this late.

Kirkpatrick refused to rate the six Republicans now in the race, contending that she is "a journalist" who should not get into the process of making judgments. She was, however, more than willing to make judgments in response to questions on policy issues, including asserting that the War Powers Resolution is "manifestly unconstitutional," that Supreme Court nominee Robert H. Bork is "a man of great integrity and real intellectual

Kirkpatrick, we welcome you to New Hampshire and you can be sure that many of us will be listening to what you have to say."

Joseph W. McQuaid, vice president and editor-in-chief of the Union Leader, said, "I think she [Kirkpatrick] would beat . . . this group," referring to the six Republican candidates in the race.

Others, however, are less enthusiastic. Gerald Carmen, head of the organization sponsoring Kirkpatrick's visit, Citizens for America, cautiously noted, "I don't think it's too late for someone to get in the race. . . . who has a reason to be in the race."

"She would r[emove] . . . roadblock as La[xalt] . . . anyone left for h[im] . . . said.

Kirkpatrick ga[ined] . . . support for a pr[esidency] . . . the conservative . . . where Ed Fike, c[hairman] . . . page, wrote th[at] . . . campaign "alrea[dy] . . . ing, the way is [open] . . . conservatives . . . alternatives. . . . [She] would provide th[e] . . . servative hope[ful] . . . would inspire arm[y] . . . cinct workers."

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on Halving Strategic Missile Forces

commander in chief—not an admiral or a lieutenant colonel—who will be accountable for the national security operations and policies of the United States."

Gephardt argued that the next president should outline a comprehensive global defense strategy and "then buy only those weapons needed to support it," rather than basing defense spending on an arbitrary goal such as a 600-ship Navy.

A crucial element of this is shifting some of the responsibility to American NATO allies in Europe and Japan, he said.

"They must join in sharing the responsibilities as well as the privileges of the free world," Gephardt said. "We must ask them to bear a greater part of the military burden . . . . Something is wrong when the United States is borrowing money from Japan to pay for ships to protect Persian Gulf oil on its way to Japan."

Babbitt denounced Reagan's SDI, also known as the "Star Wars" program, as "the most reckless act of his presidency" that might be a "perfect, leakproof, foolproof shield against arms control" instead of Soviet nuclear attack.

"Star Wars greatly increases the risk of nuclear war because it provides powerful incentives to strike first," he said. ". . . To planners on either side, in the midst of some spiraling crisis, it might begin to look more rational."

All three advocated a new anti-terrorism strategy, which Dukakis described as "a law enforcement" rather than a political issue.

Gephardt said that if elected he would send his secretary of state or some other top administration official to the Middle East "full time to do the hard work necessary to getting a comprehensive peace plan there." He said he would try to get Jordan or some other nation to recognize Israel and its borders and its "right to survival" as an important part of the process.

Dukakis told his audience that he had had breakfast in Boston with President Oscar Arias of Costa Rica and said the United States "should support his peace plan realistically. It offers the best hope of ending the fiasco of America's illegal policy in Central America."

andidacy

"She would run into the same roadblock as Laxalt—there's hardly anyone left for her to pick up," one said.

Kirkpatrick last Sunday received support for a presidential bid from the conservative San Diego Union where Ed Fike, chief of the editorial page, wrote that with the Kemp campaign "almost hopelessly trailing, the way is now wide open for conservatives to entertain alternatives. . . . [Kirkpatrick] would provide the 1988 race conservative horsepower, and she would inspire armies of zealous precinct workers." The commentary was repeated in part by the Union

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Saturday straw poll, one of four [illegible] straw polls in the 1988 campaign, once [illegible] as a highlight of the 1987 political calendar because of its important role in the 1980 campaign. When all the GOP candidates except Vice President Bush and former evangelist Marion G. (Pat) Robertson declined to participate, however, its status diminished. But that has not stopped the candidates and their operatives from trying to make it more—or less—than it is.

In the boldest move, Robertson's Florida campaign manager conducted a preemptive strike, declaring victory 24 hours before what is almost sure to be a second-place finish behind Bush in the Saturday vote count. David Zachem, the manager, said at a crowded news conference: "We have achieved a victory. In the one area we could compete in, we have won."

Meanwhile Bush forces voiced confidence that they will receive at least 50 percent of the vote, while simultaneously conducting a first strike of their own against the presidential campaign of Sen. Robert J. Dole (Kan.).

Barbara Pardue, spokeswoman for the Bush campaign, said Dole workers have been quietly soliciting votes in the straw poll, despite announcements that they would not participate because they considered the rules "rigged" in favor of Bush.

"Under the cloak of not participating," Pardue said, Dole is attempting to get enough support so that after only a very brief effort, "he can come up in the double digits and get a media hit."

At a brief appearance here, Dole disputed the Bush campaign claims. "We are not participating," he said, adding that delegates for his candidacy have been told they are free to vote for whomever they choose. "I don't have any quarrel with the poll, but I think it's been pretty well discounted," he said.

While Rep. Jack Kemp (N.Y.), Alexander M. Haig Jr. and former Delaware governor Pierre S. (Pete) du Pont IV have all refused to participate in the straw poll, Dole

Dukakis Would Swap SDI for 'Conventional Defen

By Edward Walsh
Washington Post Staff Writer

COLLEGE STATION, Tex., Nov. 13—Massachusetts Gov. Michael S. Dukakis today called for diverting government resources from nuclear weapons to conventional military programs to beef up the nation's forces without a major increase in defense spending.

Beginning a two-day swing across the South, the candidate for the 1988 Democratic presidential nomination pledged that "my top priority as president will be to improve our conventional defense."

Dukakis called for scraping "technological fantasies" such as President Reagan's Strategic Defense Initiative (SDI) and the Midgetman missile and investing in a "conventional defense initiative" (CDI) to improve U.S. military capability in Europe, improve antisubmarine warfare operations and provide additional training and supplies to U.S. forces.

"We may not be able to make nuclear weapons obsolete, but a CDI might be able to make the current generation of Soviet tanks obsolete," he said.

Dukakis made the "conventional defense initiative" proposal in a speech today to the Dallas Democratic Forum before flying to Texas A&M University here for a session with students that was broadcast by satellite television to about 50 other colleges in 25 states.

The Dallas speech was billed as Dukakis' first devoted exclusively to defense policy. And it was no accident that it was delivered in the South, where Dukakis' liberalism and Massachusetts origins are thought to make him suspect to conservative Democrats. Its main purpose appeared to be to demonstrate that Dukakis, while a strong critic of the Reagan administration's nuclear-weapons policies, would not weaken the nation's military posture.

A crowd of about 250 people listened politely to his remarks, applauding only once when he pledged that "in a Dukakis administration, it will be the commander in chief—not an admiral or lieutenant colonel—who will be accountable for the national security and defense policies of the United States."

Gregg A. Cooke, president of the Democratic Forum, an organization of mostly younger business and professional people, said the reception for Dukakis was at least as good as it was for five Democratic rivals who addressed the Democratic Forum earlier.

"Without question, there is going to be some concern about someone from Massachusetts with a name like Dukakis," Cooke said. "To do well in Texas, he will have to convince people he can help carry the state; that he's an asset, not a liability. Initially, I would have said that would be difficult, but he's starting to show support."

Dukakis did not provide any spending figures for his conventional forces proposal, but later said at a Dallas news conference that "I'm not talking about billions and billions. I'm talking about a reasonable amount."

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Robertson's campaign has declared a victory in advance.

paign, said Dole workers have been quietly soliciting votes in the straw poll, despite statements that they would not participate because they considered the rules "rigged" in favor of Bush.

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While Rep. Jack Kemp (N.Y.), Alexander M. Haig Jr. and former Delaware governor Pierre S. (Pete) du Pont IV have all refused to participate in the straw poll, Dole

But the poll has become a crucial battleground for Robertson, who, even if he loses the overall vote as expected, has continued to measure his ability to mobilize

2,485 delegates are made up of 1,438 men and women who were chosen in county caucuses held in August, and the final quota of party and elected officials and major donors to the state GOP.

Among those selected by chairman Zachary showed to "have a hard vote count of over 75%" — a slight majority of the 1,438. Marc Nuttle, Robertson's campaign manager, said the chairman's figures were "inaccurate." Robertson continues to win whatever he has a chance to contest." Nuttle said Zachary counted delegates among the automatically selected officials and donors.

Pete Teeley, director of communications for Bush, contended that Robertson's claim of victory based on discounting party officials represents a major distortion of the political process because the officials are "the core of the Republican Party."

wap SDI for 'Conventional Defense Initiative'

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Dukakis campaign aide James Steinberg said Dukakis thinks that $10 billion to $11 billion a year can be cut from the Reagan defense budget by canceling and curtailing various nuclear programs and that $2 billion to $3 billion of this should be used to beef up conventional forces.

In addition to ending the Midgetman missile and drastically cutting back on SDI, Dukakis suggested that he would cancel the Navy's plans for two more nuclear aircraft carrier task forces, questioning why they should be built "when we don't have enough munitions for the 13 we already have."

Dukakis also said the United States should follow up on Soviet leader Mikhail Gorbachev's call for "reasonable sufficiency" of forces in Europe by seeking to negotiate "a true balance" between NATO and Warsaw Pact forces. But if negotiations failed, he warned, the United States and its allies must "build a conventional military capability that is tough and strong and versatile and equal to the task of defending Europe."

"We need a strong nuclear deterrent," Dukakis said. "We have a strong nuclear deterrent. But we also need strong conventional forces if we are serious about reducing the chance of nuclear war, because conventional weakness invites conventional war, because conflict anywhere potentially is conflict everywhere and because conventional war can escalate into nuclear war."

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END OF TWO CANDIDACIES



Republican Pierre S. (Pete) du Pont IV, left, and Democrat Bruce Babbitt, right, appear before their supporters as they dropped out of the presidential race yesterday. Du Pont said his campaign "lowers its flag, but not 'crusade sentiment'" and Babbitt said, "I'm not withdrawing from the cause . . . that brought me into the political arena. Story on Page A8.

Gore Attacks Rivals in Debate

Senator Tackles Dukakis on Defense, Gephardt on Domestic Issues

By David Maraniss
and Thomas B. Edsall
Washington Post Staff Writers

DALLAS, Feb. 18—The fight for "Super Tuesday" got off to a nasty start tonight when Sen. Albert Gore Jr. (Tenn.) went after the victors of New Hampshire and Iowa, challenging Massachusetts Gov. Michael S. Dukakis' defense credentials and Rep. Richard A. Gephardt's (Mo.) consistency on domestic policies.

Gore, who has staked his campaign on the March 8 voting in Texas and 13 other southern states, but who trails Gephardt in the early polls here, claimed that the Missouri congressman had changed his positions on abortion and taxes. "I'm going to lay it on the line, Dick," he said. "The next president has to be someone who the people believe will stay with his convictions."

Gephardt responded by saying that Gore had undergone his own convenient election-year transformation, moving to the political right after pulling out of Iowa and deciding to concentrate on the South.

"Lately you've been sounding more like Al Haig than Al Gore," Gephardt said.

"That line sounds more like Richard Nixon than Dick Gephardt," Gore shot back.

The debate started with Dukakis facing tough questions on defense issues.

"I'm not squishy soft. I'm very tough," he insisted when moderator Roger Mudd questioned his willingness to stand up for American interests. Dukakis said one way he would show his strength was by "never, ever making concessions to terrorists. No exceptions."

The sharpest exchange on defense issues was between Dukakis and Gore, who said that the Massachusetts governor's statements tonight sounded "a little different than what he said in Iowa on the eve of the Iowa caucuses." According to Gore, Dukakis said in Iowa that he would be willing to accept a Soviet client state in Central America.

"I never, ever said that. Please get your facts straight," Dukakis said. When Gore pursued the question, Dukakis added, "If you're going to be president of the United States, please get your facts straight."

See DEMOCRATS, A8, Col. 1

Dole Outburst Revives Early Political Image

Dukakis, Jackson Offer Spending Plans

By David Hoffman
Washington Post Staff Writer

MUNHALL, Pa. April 23—Massachusetts Gov. Michael S. Dukakis and Jesse L. Jackson tried to outbid each other tonight in proposals for the federal government to revitalize the steel industry and the economy of the Rust Belt.

In a televised debate from Steel Valley High School here, the two remaining active Democratic presidential candidates vied to showcase the ways they would use federal aid to heal the wounds of economic distress in the Monongahela Valley, where 125,000 steel-making and related jobs have been lost in recent years.

Both candidates urged large amounts of new spending on research and development, education, new bridges and other infrastructure projects, environmental cleanup and child care. Jackson pressed Dukakis repeatedly to say whether he would agree to Jackson's bigger spending proposals; Dukakis did not say, but highlighted his own previously announced plans.

Speaking to reporters after the session, in which Jackson had proposed doubling the federal education commitment to $40 billion, Dukakis seemed to sense that the promises had run free.

"Double the education budget in the face of $175 billion deficit?" he asked, referring to Jackson's proposal. "I don't see how you can do that."

"We cannot build a strong economic future on a house of cards. We cannot continue to live on a credit card," he said. The governor did not, however, make these points in the televised portion of the debate.

Jackson, asked afterward about the welter of spending proposals, responded that "Republicans are the biggest spenders" and blamed President Reagan for the size of the federal budget deficit.

The debate, sponsored by the United Steelworkers of America, the Tri-State Conference on Steel and Carnegie-Mellon University, followed a Friday night encounter in Philadelphia in which Dukakis and Jackson adopted a conciliatory approach before Tuesday's primary here.

For the most part, they [illegible] private tonight on well-[illegible] foreign policy [illegible] Reagan and Vice President Bush instead.

The tone of tonight's debate was set in advance by the questioners, who prepared wide-ranging questions by citizens, which all focused on the economic troubles of the region. The sponsors then framed in advance their own "background" answers to the questions they had posed.

They got sympathy and promises of help—some of it expensive—in response.

Jackson, for example, urged spending $5 billion more on research and development in new technology. "We must reverse Reaganomics and put some money on the table," he said.

Most of the spending ideas advanced by the two Democrats tonight were not new ones, but they were offered with renewed vigor during the televised session. In addition to doubling the education budget, Jackson said he would spend another $3 billion on the Head Start program, and urged large amounts of new spending on the "war on drugs."

Jackson Campaign Seeks Broader Base of Support

Economic Message Stressed in Pennsylvania

By Thomas B. Edsall
Washington Post Staff Writer

MCKEESPORT, Pa., April 23—With his nomination chances all but gone, Jesse L. Jackson campaigned today in the heartland of industrial devastation and white poverty, support for striking and laid-off workers into white, working-class votes.

Unlike his black support, which is consistent across all income groups, Jackson's white support has been dominated by well-educated liberals.

In the South, for example, he got



The Washington Post

THE CAMPAIGN OF 1988

pending Plans to Revitalize Rust Belt

For the most part, they remained friendly rivals tonight as well, aiming familiar criticism at Reagan and Vice President Bush instead.

The tone of tonight's debate was set in advance by the sponsors, who prepared videotaped questions by citizens, which all focused on the economic troubles of the region. The sponsors then issued in advance their own "background" answers to the questions they had posed.

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Most of the spending ideas advanced by the two Democrats tonight were not new ones, but they were offered with renewed vigor during the televised session. In addition to doubling the education budget, Jackson said he would spend another $3 billion on the Head Start program, and urged large amounts of new spending on the "war on drugs."

"Are you willing to deal with a budget for that?" Jackson asked Dukakis, who has said he would not issue a budget now for 1989. "We've got to pay for our dreams," Jackson said.

"The point Jesse is making is a sound one," Dukakis said. "We've got to decide and the next president has to decide whether we're going to spend billions on Star Wars, on MXs, on two supercarrier task forces at $30 billion, on a three-hour space plane from Washington to Tokyo that's designed to get investment bankers from here to there in two to three hours. Is it going to be day care or Star Wars? Is it going to be housing for 2.5 million homeless people in this country or the Midgetman missile? Those are the choices that the next president is going to have to make."

Jackson said later he was unsatisfied by Dukakis' answer. "He did not answer the questions on the budget," he said. Like Dukakis, Jackson said he would find savings in defense, freezing military spending at current levels and thus save $60 billion over five years.

Dukakis proposed a $500 million investment bank to help restart or modernize industrial plants with government, business and labor participation. He also suggested a "national center for steel technology" to develop advanced processes for an "Investment Bank," which he said would be like a World Bank for the United States, funded in part by workers' pension money.

Jackson said the nation needed $1 trillion in infrastructure improvements over the next decade; he reminded listeners three times during the debate that a new bridge fails in the United States every other day.

"I say let's put money on the table to pay for education, to pay for scholarships, to educate our children, Head Start, the war on drugs," Jackson said. "We will not, in the Jackson action administration, just say no. We will just fight."

The audience erupted in cheers.

After the debate, Dukakis reiterated that he would not propose a federal budget plan now for the first year he would be president. He said he could not anticipate the needs that would arise, such as a possible recession or a national emergency.



POLITICS

Election Specialist Predicts Bush Win

You may think the general-election campaign has not yet begun, but as far as Allan J. Lichtman is concerned, it's over. And George Bush won.

Lichtman is the American University history professor who, with help from a Soviet geophysicist, six years ago de-

says that Democrats need a southern strategy," Sen. Alan Cranston (D-Calif.) said at a news conference. "I think a strong case can be made we need a western strategy." Cranston said a poll, which will be released shortly, shows Dukakis can beat Vice President Bush nationally and in the East, the Midwest and the West—but not the South.

SUNDAY	MONDAY	TUESDAY	WEDNESDAY
3	4 9-12 Ode Topic 1-4 Ode Debate prep 6:00 RA	5 NYC 11:30 DR	6 2:00 Natl 7:00
10 skiing PRISCILLA	11 Iowa Focus Group	12 DEUROY	13 9 is Board ~~10:00 Steering~~ 10:30 Budget 6:30 Comm - Staff
17	18 MARTIN LUTHER KING, JR.'S BIRTHDAY OBSERVED TM	19 10:30 Interns 11:00 Dem Wkly	20
24	25	26 NYC 9:30 TM	27
31	TM?		

OCTOBER 1988

THURSDAY	FRIDAY	SATURDAY
		1 NO
6	7 GF? 11:30-1	8 10:00 LM EDIT MASON?
13 3:00 NRSC	14 10:00 NRSC CONF CALL	15 NO DEADLINE 12 MILES
20 PM?	21	22 SHOOT
27 EDIT DC	28 EDIT DC	29 NO PAPER



DEPOSITIONS OF LAWRENCE C. MCCARTHY (AUGUST 21, 1991),
ELIZABETH I. FEDIAY (AUGUST 29, 1991)
AND ROGER E. AILES (AUGUST 29, 1991)
ARE LOCATED AT THE END OF THIS FILE

9204038435

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 3069
Bush-Quayle '88, et al.)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on August 27, 1991, do hereby certify that the Commission decided by a vote of 6-0 to direct the Office of General Counsel to give a status report on MUR 3069 at the executive session of September 24, 1991, unless a written report had been submitted to the Commission prior to that time.

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

Attest:

9-5-91
Date

Marjorie W. Emmons
Secretary of the Commission

9204088643886

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 3069
Bush-Quayle '88, et al.)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on September 26, 1991, do hereby certify that the Commission decided by a vote of 5-0 to direct the Office of General to give a status report on MUR 3069 at the executive session of October 22, 1991 unless a written report had been submitted before then.

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

Attest:

9/30/91
Date

Marjorie W. Emmons
Secretary of the Commission

92040884387

06C2896

RAIFORD COMMUNICATIONS, INC.

FAX COVER SHEET

TO: *Xavier McDonnell, Esq.*
Federal Election Committee

FAX #: 202-219-3923

FROM: Jesse Raiford

RE: MUR3069

DATE: September 20, 1991

Number of pages to follow: 14

91 SEP 25 PM 2:12

9204038843888

928 Broadway, Suite 500 New York, NY 10010 Telephone (212) 254-7055 Fax (212) 254-9486

2-1-87

JESSE RAIFORD
203 CLINTON STREET, APT.#8
BROOKLYN, NY 11201

INVOICE

TO: AILES COMMUNICATIONS, INC.
456 WEST 43RD STREET
NEW YORK, NY 10036

FOR: EDITING SERVICES
WEST COMPANY CEO MESSAGE #5

ROUGH CUT AND FINAL EDITING TOTAL - $325
JOB COMPLETED JANUARY 13, 1988
DELIVERED JANUARY 15, 1987

PLEASE REMIT $325.00

NOTE: THIS IS A DUPLICATE INVOICE.

THANK YOU

9204038439

2-1-87

JESSE RAIFORD
203 CLINTON STREET, APT.#8
BROOKLYN, NY 11201

INVOICE

TO: AILES COMMUNICATIONS, INC.
456 WEST 43RD STREET
NEW YORK, NY 10036

FOR: PRODUCER SERVICES
DAWKINS FOR SENATE CAMPAIGN

1 DAY PRORATED RATE $225
JANUARY 1 (1/2 DAY), & JANUARY 5 (1/2 DAY)

PLEASE REMIT $225.00

THANK YOU

>2>40381390

JESSE T. RAIFORD
203 Clinton Street
Brooklyn, NY 11201
212/254-8400 (office)
718/852-2646 (home)

3/2/88

INVOICE FOR PRODUCTION SERVICES

TO: AILES COMMUNICATIONS, INC.
456 WEST 43RD STREET
NEW YORK, NY. 10036

FOR: BUSH FOR PRESIDENT
ACCOMPLISHMENTS AND DOLE/CUOMO SPOTS
REFERENCE 084, GB-TV-40 AND GB-TV-41

MARCH 1, 1988. 9:30 AM TO 9:00 PM
PRODUCER SERVICES INCLUDING GENERIC FOOTAGE
AND STILL PHOTO RESEARCH AND CLEARANCE.
DAY RATE: $500.00

PLEASE REMIT $500.

THANK YOU.

2204038439 1

JESSE T. RAIFORD
203 Clinton Street
Brooklyn, NY 11201
212/254-8400 (office)
718/852-2646 (home)

4/4/88

INVOICE FOR PRODUCTION SERVICES

TO: AILES COMMUNICATIONS, INC.
456 WEST 43RD STREET
NEW YORK, NY. 10036

FOR: BUSH FOR PRESIDENT
CIRCUS SHOOT, 4/3/88, D.C. ARMORY
REFERENCE: 087-S-0403

DATE	DESCRIPTION	TOTAL
3/31/88	Producer	$500.00
4/1/88	Producer	$500.00
4/2/88	Producer	$500.00
4/3/88	Director	$750.00
	TOTAL:	$2,250.00

PLEASE REMIT

THANK YOU.

9204038843992

JESSE T. RAIFORD
203 Clinton Street
Brooklyn, NY 11201
212/254-8400 (office)
718/852-2646 (home)

6/21/88

INVOICE
PRODUCTION SERVICES

TO: AILES COMMUNICATIONS, INC.
456 WEST 43RD STREET
NEW YORK, NY. 10036

FOR: DIPRETE FOR GOVERNOR
ANNOUNCEMENT SHOOT
REFERENCE: 66001,66002

DATES	DESCRIPTION	TOTAL
6/7	MEETING, INITIAL SCOUT	$500.00
6/15-16	PRE-PRODUCTION, SHOOT	$1,000.00
	TOTAL:	$1,500.00

PLEASE REMIT

THANK YOU.

9204038843393

JESSE T. RAIFORD
203 Clinton Street
Brooklyn, NY 11201
212/254-8400 (office)
718/852-2646 (home)

8/1/88

INVOICE
PRODUCTION SERVICES

TO: AILRS COMMUNICATIONS, INC.
456 WEST 43RD STREET
NEW YORK, NY. 10036

FOR: DIPRETE FOR GOVERNOR
ANNOUNCEMENT SHOOT
REFERENCE: 66008

DATES	DESCRIPTION	TOTAL
7/24	TRAVEL DAY	$250.00
7/25	PRE-PRODUCTION SCOUT	$500.00
7/26	PRE-PRODUCTION SCOUT	$500.00
7/27	PRE-PRODUCTION SCOUT	$500.00
7/28	PRODUCER	$500.00
7/29	PRODUCER	$500.00
	TOTAL:	$2,750.00

PLEASE REMIT

THANK YOU.

2204038843934

JESSE T. RAIFORD
203 Clinton Street
Brooklyn, NY 11201
212/254-8400 (office)
718/852-2646 (home)

8/15/88

INVOICE
PRODUCTION SERVICES

TO: AILES COMMUNICATIONS, INC.
456 WEST 43RD STREET
NEW YORK, NY. 10036

FOR: BUSH FOR PRESIDENT
GOVERNOR TOM KEAN KEYNOTE TAPE
REFERENCE: 870037

DATES	DESCRIPTION	TOTAL
8/7	PRODUCER	$500.00
8/8	PRODUCER	$500.00
8/9	PRODUCER	$500.00
	TOTAL:	$1,500.00

PLEASE REMIT

THANK YOU.

92040384395

JESSE T. BAIFORD
203 Clinton Street
Brooklyn, NY 11201
212/254-8400 (office)
718/852-2646 (home)

8/16/88

INVOICE
PRODUCTION SERVICES

TO: AILES COMMUNICATIONS, INC.
456 WEST 43RD STREET
NEW YORK, NY. 10036

FOR: BUSH FOR PRESIDENT
BARBARA BUSH TRIBUTE
REFERENCE: 870034

DATES	DESCRIPTION	TOTAL
8/10	PRODUCER	$500.00
8/11	PRODUCER	$500.00
8/12	PRODUCER	$500.00
8/13	PRODUCER	$500.00
8/14	PRODUCER	$500.00
8/16	PRODUCER	$500.00
	TOTAL:	$3,000.00

PLEASE REMIT

THANK YOU.

2204038843396

JESSE T. RAIFORD
203 Clinton Street
Brooklyn, NY 11201
212/254-8400 (office)
718/852-2646 (home)

8/26/88

INVOICE
PRODUCTION SERVICES

TO: AILES COMMUNICATIONS, INC.
456 WEST 43RD STREET
NEW YORK, NY. 10036

FOR: DIPRETE FOR GOVERNOR
POST PRODUCTION, ED-TV-01
REFERENCE: 66012

DATES	DESCRIPTION	TOTAL
8/19	PRODUCER	$500.00
8/20	PRODUCER	$500.00
8/22	PRODUCER	$500.00
8/23	PRODUCER	$500.00
	TOTAL:	$2,000.00

PLEASE REMIT

THANK YOU.

.220403843397

JESSE T. RAIFORD
203 Clinton Street
Brooklyn, NY 11201
212/254-8400 (office)
718/852-2646 (home)

9/16/88

INVOICE
PRODUCTION SERVICES

TO: AILES COMMUNICATIONS, INC.
456 WEST 43RD STREET
NEW YORK, NY. 10036

FOR: DIPRETE FOR GOVERNOR
POST PRODUCTION, ED-R-02
REFERENCE: 66013

DATES	DESCRIPTION	TOTAL
8/29	PRODUCER	$500.00
	TOTAL:	$500.00

PLEASE REMIT

THANK YOU.

.2204038843998

JESSE T. RAIFORD
203 Clinton Street
Brooklyn, NY 11201
212/254-8400 (office)
718/852-2646 (home)

9/16/88

INVOICE
PRODUCTION SERVICES

TO: AILES COMMUNICATIONS, INC.
456 WEST 43RD STREET
NRW YORK, NY. 10036

FOR: DIPRETR FOR GOVERNOR
MAN ON THE STREET SHOOT
REFERENCE: 66014

DATES	DESCRIPTION	TOTAL
9/2	PRODUCER/DIRECTOR	$750.00
	TOTAL:	$750.00

PLEASE REMIT

THANK YOU.

.220403843999

JESSE T. RAIFORD
203 Clinton Street
Brooklyn, NY 11201
212/254-8400 (office)
718/852-2646 (home)

9/16/88

INVOICE
PRODUCTION SERVICES

TO: AILES COMMUNICATIONS, INC.
456 WEST 43RD STREET
NEW YORK, NY. 10036

FOR: DIPRETE FOR GOVERNOR
POST PRODUCTION, TV-02,03,04
REFERENCE: 66015

DATES	DESCRIPTION	TOTAL
9/3	PRODUCER	$500.00
9/4	PRODUCER	$500.00
	TOTAL:	$1,000.00

PLEASE REMIT

THANK YOU.

2204038844000

JESSE T. RAIFORD
203 Clinton Street
Brooklyn, NY 11201
212/254-8400 (office)
718/852-2646 (home)

9/16/88

INVOICE
PRODUCTION SERVICES

TO: AILES COMMUNICATIONS, INC.
456 WEST 43RD STREET
NEW YORK, NY. 10036

FOR: DAWKINS FOR SENATE
HELICOPTER REMOTE
REFERENCE: 350021

DATES	DESCRIPTION	TOTAL
9/8	DIRECTOR	$750.00
	TOTAL:	$750.00

PLEASE REMIT

THANK YOU.

.220403844401

JESSE T. RAIFORD
203 Clinton Street
Brooklyn, NY 11201
212/254-8400 (office)
718/852-2646 (home)

9/16/88

INVOICE
PRODUCTION SERVICES

TO: AILES COMMUNICATIONS, INC.
456 WEST 43RD STREET
NEW YORK, NY. 10036

FOR: DIPRETE FOR GOVERNOR
ED-TV-06,07 & ED-M-05
REFERENCE 66017

DATES	DESCRIPTION	TOTAL
9/12	PRODUCER	$500.00
9/13	PRODUCER	$500.00
9/14	PRODUCER	$500.00
9/15	PRODUCER	$500.00
	TOTAL:	$2,000.00

PLEASE REMIT

THANK YOU.

9204038440 2

0 SC 2725-

RAIFORD COMMUNICATIONS, INC.

FAX COVER SHEET

TO: *Xavier McDonnell, Esq.*
Federal Election Committee

FAX #: 202-219-3923

FROM: Jesse Raiford

RE: MUR3069

DATE: September 27, 1991

Number of pages to follow: 3

9204038440.3

928 Broadway, Suite 500 New York, NY 10010 Telephone (212) 254-7055 Fax (212) 254-9486

RAIFORD COMMUNICATIONS, INC.
926 BROADWAY, SUITE 500 • NEW YORK, NY 10010 • (212) 254-6400

INVOICE

TO: National Security PAC
1919 Pennsylvania Ave. N.W.
Washington, DC 20006

DATE: 11/15/88
INV#: 001
JOB#: 111
VIA: L. Fodiay

QUANTITY	DESCRIPTION	PRICE	AMOUNT
	1) Duplication and shipping of NSPAC-TV-20, "Moorer". Including; 100 VHS dubs 2 one-inch dubs 15 3/4 dubs deliverd to Media Basics 10/26	$ 1,151.00	$ 1,151.00
		SUB TOTAL:	$ 1,151.00
		TAX:	0.00
		TOTAL:	$ 1,151.00

2204038404

RAIFORD COMMUNICATIONS, INC.
928 BROADWAY, SUITE 500 • NEW YORK, NY 10010 • (212) 254-8400

INVOICE

TO: National Security PAC
1919 Pennsylvania Ave. N.W.
Washington, DC 20006

DATE: 10/18/88
INV#: 001
JOB#: 107
VIA: L. Fadiay

QUANTITY	DESCRIPTION	PRICE	AMOUNT
	1) Production of NSPAC-TV-20, entitled "Moorer". Including; Stills, research, rights for cable television broadcast, announcer, union fees, voice record/edit/mix, remote shoot, tape stock, final edit, make-up, producer, director, production manager, teleprompter, expenses, animatics, broadcast master, screening cassettes, messengers, and shipping.	$16,531.00	$ 16,531.00
		SUB TOTAL:	$ 16,531.00
		TAX:	0.00
		TOTAL:	$ 16,531.00

9204038405

PAID IN FULL

10/25/88

RAIFORD COMMUNICATIONS, INC.
928 BROADWAY, SUITE 900 • NEW YORK, NY 10010 • (212) 254-8400

INVOICE

TO: National Security PAC
1919 Pennsylvania Ave. N.W.
Washington, DC 20006

DATE: 9/15/88
INV#: 1001
JOB#: 102
VIA: L. Fedlay

QUANTITY	DESCRIPTION	PRICE	AMOUNT
	1) Creative Services for the production of two television commercials, "Crime"& "Horton".	$14,967.00	$ 14,967.00
		SUB TOTAL:	$ 14,967.00
		TAX:	0.00
		TOTAL:	$ 14,967.00

2204038440 06

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 10, 1991

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

RE: MUR 3069
Bush-Quayle '88 and
Stanley Huckaby, as treasurer
Roger Ailes

Dear Mr. Baran:

Enclosed please find a check for your client's witness fee and mileage for the deposition taken in the above captioned matter on August 29, 1991.

If you have any questions, please call me at (202) 219-3400.

Sincerely,

Xavier K. McDonnell
Staff Attorney

Enclosure
Check

2204038844407

United States Treasury 15-51/000 W 058,067,684

10 07 91 4 WASHINGTON, DC 3007 28526477
629655 02 ROGER AILES 95350001
Pay to the order of ROGER AILES
F E C WASH DC
$******43*00
VOID AFTER ONE YEAR
PO NO 1AW111 WITNESS FEE

⑈300744⑈ ⑆000000518⑆ 28526477⑈ 071091

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 10, 1991

Paul E. Sullivan, Esquire
Wunder, Diefenderfer, Ryan, Cannon
and Thelen
1615 L Street, N.W.
Suite 650
Washington, D.C. 20036

MUR: 3069
National Security Political
Action Committee and
Elizabeth Fediay, as treasurer

Dear Mr. Sullivan:

Enclosed please find Ms. Fediay's payment for her witness fee and mileage for the deposition taken in the above captioned matter on August 27, 1991.

If you have any questions, please call me at (202) 219-3400.

Sincerely,

Xavier K. McDonnell

Xavier K. McDonnell
Staff Attorney

9204038440

United States Treasury 15-61/000 W 058,067,683

Check No.

10 07 91 54 WASHINGTON, DC 3007-28526476

629655 02 ELIZABETH I FEDI 95350001

Pay to the order of ELIZABETH I FEDIAY

F E C WASH DC

$*****42*50

VOID AFTER ONE YEAR

PO NO 1AW111 WITNESS FEE

RECEIVED
F.E.C.
SECRETARIAT
91 NOV 14 AM 10:25

BEFORE THE FEDERAL ELECTION COMMISSION

In the matter of	)	
	)	
Bush-Quayle '88, and	)	MUR 3069
Stanley Huckaby, as treasurer	)	
National Security Political	)	
Action Committee, and	)	
Elizabeth I. Fediay, as treasurer	)	

SENSITIVE

GENERAL COUNSEL'S REPORT

I. STATEMENT OF THE CASE

This matter was generated by a complaint filed by the Ohio Democratic Party and James M. Ruvolo, as chairman, and the Black Elected Democrats of Ohio, and Ray Miller, as president, (collectively "Complainants") which alleged that during the 1988 presidential election cycle Bush-Quayle '88 (or the "Bush Committee" or the "Bush campaign") and its agent, Roger Ailes, coordinated, cooperated or consulted with National Security Political Action Committee ("NSPAC"), and its agents, (collectively "Respondents") with respect to NSPAC's "Willie Horton" television advertisements.[1]

NSPAC created and aired the Willie Horton spot as part of its "Americans for Bush" independent expenditure campaign.

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1. NSPAC's ad featured a photograph of Willie Horton, a convicted murderer who fled from Massachusetts to Maryland while on a weekend furlough from prison. The ad noted that while he was in Maryland, Horton committed more crimes, including rape and kidnaping. Michael Dukakis was the Governor of Massachusetts at the time Horton was released. NSPAC's ad used the Horton case as an illustration of Dukakis' position on crime. Although the Bush campaign made references to Mr. Horton during the 1988 Presidential campaign, and although the Bush campaign's "revolving jailhouse door" or "weekend passes" spot referred to the Massachusetts' furlough program, the Bush campaign never used Mr. Horton's name or image in any of its authorized spots.

Information provided in the complaint as well in the responses revealed that two of the persons who were responsible for creating NSPAC's Willie Horton spot, Larry C. McCarthy and Jesse T. Raiford, had been employed by, or were being retained by Ailes Communications (ACI) at the same time that ACI, and its President, Roger Ailes, were acting as the chief media advisor to the Bush campaign. In addition, information contained in certain newspaper and magazine articles suggested that there were written and oral communications between the agents of the two committees within the months just preceding the 1988 Presidential election. See General Counsel's Report, dated April 26, 1991.

If the allegations of coordination proved accurate, NSPAC's expenditures would be deemed to be an unreported, excessive in-kind contribution to the Bush Committee, the acceptance of which is prohibited. On June 11, 1991, the Commission found reason to believe that NSPAC and Elizabeth I. Fediay, as treasurer, violated 2 U.S.C. §§ 441a(a) and 434(b) and that Bush-Quayle '88, and Stanley Huckaby, as treasurer, violated 2 U.S.C. § 434(b) and 26 U.S.C. § 9003(b). Pursuant to the Commission's instructions, the Office of the General Counsel conducted a limited investigation, during which staff deposed Roger Ailes, Elizabeth I. Fediay, and Larry C. McCarthy.

II. FACTUAL AND LEGAL ANALYSIS

A. Applicable Law

The Federal Election Campaign Act of 1971, as amended, (the "Act") requires each political committee to submit reports to the Commission which disclose all contributions or expenditures.

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2 U.S.C. § 434(b). The Act limits contributions made by persons and political committees. 2 U.S.C. § 441a(a). Independent expenditures are not limited by the Act. Buckley v. Valeo, 424 U.S. 1, 39 (1976). An independent expenditure is defined as:

> an expenditure by a person expressly advocating the election or defeat of a clearly identified candidate which is made without cooperation or consultation with any candidate, or any authorized committee or agent of such candidate, and which is not made in concert with, or at the request or suggestion of, any candidate or agent of such candidate. 2 U.S.C. § 431(17); 11 C.F.R. § 109.1(a).

Expenditures made by any person in cooperation, consultation or concert with, or at the request or suggestion of, a candidate, his authorized political committees, or their agents, shall be considered to be a contribution to such candidate. 2 U.S.C. § 441a(a)(7)(B)(i). The Commission's regulations further provide that expenditures are not independent when they are made by "any arrangement, coordination, or direction by the candidate or his or her agent prior to the publication, distribution, display, or broadcast of the communication." 11 C.F.R. § 109.1(b)(4)(i). Under Commission regulation 11 C.F.R. § 109.1(b)(4)(i), an expenditure will be presumed to be so made when it is

> (A) Based on information about the candidate's plans, projects, or needs provided to the expending person by the candidate, or by the candidate's agents, with a view toward having an expenditure made;
>
> (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.

Under the Presidential Election Campaign Fund Act (the "Fund

9204038441

Act"), a Presidential candidate may elect to receive public financing. To become eligible to receive public funds, the candidates of a major party must certify to the Commission, under penalties of perjury, that no contributions to defray qualified campaign expenses have been or will be accepted by such candidates or any of their authorized committees except under certain limited circumstances. 26 U.S.C. § 9003(b)(2). Presidential Candidate George Bush (the "Candidate") received public funding pursuant to the Fund Act in 1988.

B. Information Ascertained Through Investigation

Vendor Relationships

The investigation has confirmed that Larry McCarthy was a senior vice president of Roger Ailes' corporation, ACI, that he was employed at that firm for six years and that he terminated his permanent position with ACI in January of 1987. See Deposition Transcript of Larry C. McCarthy, date August 21, 1991, at pages 5, 6, 10, 14 (hereinafter "McCarthy Depo. at pages ___"). Shortly after terminating his permanent position with ACI, McCarthy entered into a contract with ACI to perform media consulting services for Senator Danforth's 1988 campaign. Id. at page 6.

The investigation has also confirmed that in June of 1987, ACI and the Bush campaign entered into a written consulting agreement under which Mr. Ailes became the Bush campaign's chief media advisor. See ACI-Bush contract, Attachment 6. Mr. Ailes stated that he began discussing the possibility of working on the Bush campaign sometime in late 1986 or early 1987, and signed a

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written agreement to be the Bush Committee's chief media advisor in the summer of 1987. See Deposition Transcript of Roger Ailes, dated August 29, 1991, at pages 38-39 (hereinafter "Ailes Depo. at pages ___").

Both Ailes and McCarthy testified that they communicated with each other during 1987, while Mr. McCarthy was working on the Danforth account for ACI and Ailes was working on the Bush account. Ailes Depo. at pages 22-23; McCarthy Depo. at pages 38-40. McCarthy stated that he believes he visited ACI's offices in New York on occasion during 1987, but that any such visits to ACI's office were basically of a social nature. McCarthy Depo. at pages 37-38. Ailes testified that during that period he spoke to McCarthy on an "as needed" basis. Ailes Depo. at pages 22-23. McCarthy acknowledged that he was given access to ACI's production facilities to perform editing for the Danforth account. However, he testified that he was sure that he did not perform any production work for Danforth at ACI's New York office. McCarthy Depo. at pages 37-39.[2]

McCarthy testified that once he ended his permanent employment relationship with ACI, there was "a real arms length distance," between him and the firm, that he was no longer privy

2. McCarthy also testified that after he terminated his permanent position he no longer had an office at ACI. McCarthy Depo. at pages 37, 52-54. McCarthy stated, however, that when he made the contract with ACI, he presumed editing for Senator Danforth's ads would be performed at ACI's New York offices. Id. at page 53. However, McCarthy does not recall performing any production work on the Danforth campaign before the contract was terminated by Ailes in January of 1988, and he does not believe he ever actually used ACI's offices while he was subcontracting with that firm. Id.

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to all the projects Ailes was working on and that he had no access to documents relating to such projects. McCarthy Depo. at page 52. McCarthy further testified that while he was under contract with ACI, it was clear to him that Ailes would be retained by a presidential campaign and that Ailes knew McCarthy was interested in joining a presidential campaign committee. McCarthy Depo. at pages 40-45. Therefore, McCarthy asserted, both he and Ailes "deliberately did not discuss any presidential activities" because they both knew it was probable that the two of them would "wind up on different sides of the fence ... ." Id. at pages 44-45. McCarthy further averred that he did not discuss the Bush campaign with Ailes. Id. at pages 42-43.

McCarthy's Danforth contract with ACI was terminated by Mr. Ailes effective January 27, 1988, shortly after Ailes was informed that McCarthy had been retained by the Dole for President Committee. Ailes Depo. at pages 27-28; McCarthy Depo. at pages 49-50. McCarthy stated that his contract with ACI specifically provided that, after consulting with Mr. Ailes, he could join a presidential committee. McCarthy also stated that the agreement did not give Mr. Ailes veto power, and that both of the parties contemplated that McCarthy would, at some point, go to work for a 1988 presidential candidate. Therefore, according to McCarthy, Ailes wrongfully terminated the contract. McCarthy Depo. at pages 44-45, 49-52. McCarthy testified that after Ailes terminated the contract his relations with Mr. Ailes were "very testy" and "contentious underneath." Id. at pages 75 and 114.

With respect to the termination of the Danforth contract,

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Roger Ailes testified that he was working to elect George Bush and that McCarthy violated his agreement with ACI by joining the Dole for President Committee, a competitor. Ailes Depo. at page 27. Ailes indicated that after the subcontract with McCarthy was terminated relations between the two were "strained." Ailes Depo. at page 28.[3] Roger Ailes further testified that, during 1987, he was the only person within ACI to work on the Bush account and that he did not seek advice from his employees with regard to his work on the Bush campaign. Moreover, although he trusted his employees, Ailes stated that he was careful about anything he said about the Bush campaign to anybody because he was afraid of "leaks." Ailes Depo. at pages 40-42. Ailes also testified that he does not recall ever having any discussions with Mr. McCarthy about the Bush Committee's campaign while McCarthy was retained by ACI, and that he did not discuss, share information or otherwise communicate any information with Mr. McCarthy about the Bush Committee during the 1988 election cycle. Ailes Depo. at pages 86 and 89.

McCarthy was first approached by NSPAC in May of 1988, and then agreed to produce a commercial for NSPAC. McCarthy Depo. at pages 54-59. The first spot he created was NSPAC's Bush biography, which aired in June of 1988. Id. at pages 57-58. McCarthy testified that from the very first meeting Ms. Fediay was

3. The Respondents did not provide the Commission with a copy of the ACI/Danforth-McCarthy subcontract. Therefore, it is unclear whether the contract provided for or permitted McCarthy to be retained by a Presidential campaign committee. In any event, the deposition testimony establish that the contract was not terminated by mutual consent.

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very explicit that McCarthy could have no contact with any part of the Bush campaign, and that he appreciated her word of warning because he had worked for Senator Charles Percy, whom he felt was largely defeated by "an illegal independent expenditure" campaign. McCarthy Depo. at pages 69-70. McCarthy stated that in late August of 1988 he was again approached by NSPAC about creating an ad that would compare Bush and Dukakis. Id. at page 62. McCarthy agreed to draw up several scripts, and in late August through early September of 1988, he created and produced the Willie Horton spot and another "crime spot." The spots were aired on cable television stations from September through early October of 1988. See General Counsel's Report, dated April 26, 1991, Attachment 2 at pages 26-27. Sometime in October of 1988, Fediay again contacted McCarthy and he created a spot featuring one of the founders of NSPAC, retired Admiral Thomas Moorer. Id. at pages 54-58, 80-89, 108-110. The spot addressed the issue of national defense.

The other former ACI employee who allegedly was involved with NSPAC's Willie Horton spot was Jesse T. Raiford. Jesse Raiford apparently began working for ACI in 1983 and left in January of 1988. See Ailes Depo. at pages 28-29; See also General Counsel's Report, dated April 26, 1991, Attachment 3 at page 19; Attachment 4 at page 3. During his deposition, McCarthy indicated that he hired Raiford to perform services related to all four of NSPAC's spots. He testified that Raiford booked the crew, contacted and paid all vendors, performed bookkeeping services and assisted McCarthy during post production for NSPAC's Americans for Bush

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spots, including the Horton spot. McCarthy Depo. at pages 59-60, 82, 85, 89-91 and 110. The investigation has also revealed that Raiford was in attendance during the editing of three of NSPAC's four Americans for Bush commercials, including the Horton Spot. Id. at pages 89 and 110.

Although Mr. McCarthy testified that he hired Raiford, NSPAC made all payments in connection with its four spots, including McCarthy's fees, to Jesse Raiford or Raiford Communications. McCarthy Depo. at pages 89-90; Attachment 5 at pages 16-18. In his previously submitted affidavit, Mr. McCarthy averred that when he hired Mr. Raiford he informed him that Americans for Bush was an independent expenditure campaign, that Raiford "could not be working in any capacity as an agent, employee or the like for the Bush campaign" and that Raiford indicated that "he did not fulfill any of those roles." See General Counsel's Report, dated April 26, 1991, Attachment 2 at page 28.

The investigation has revealed, however, that after he left ACI as a permanent employee on January 1, 1988, Mr. Raiford was hired by ACI's producers to perform production services on behalf of the Bush campaign. Ailes Depo. at pages 30-32, 86-87. Ailes stated during his deposition that Raiford was hired, without his knowledge, to perform "shoots" on behalf of the Bush campaign. Id. at pages 86-87.[4] Mr. Ailes explained that producers such as

4. We note that Mr. Ailes acknowledged in his affidavit that Raiford, as an independent contractor, was in a pool of persons who were, on occasion, sub-contracted by producers of ACI. See General Counsel's Report, dated April 26, 1991, Attachment 3 at page 19. Yet the earlier submissions did not disclose that Raiford had actually worked on the Bush account.

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Raiford were hired to "cover an event" in a "news crew" capacity which he asserted is different than creating an ad or spot. Id. at pages 33-34. Ailes further stated that he was unaware whether Mr. Raiford visited ACI's New York offices while he was subcontracting with the firm. Id. at pages 35-36 and 86. Finally, Ailes testified that he did not discuss, share information or otherwise communicate any information with Mr. Raiford about the Bush Committee during the 1988 election cycle. Ailes Depo. at pages 86 and 89.

During a telephone conversation with a staff member of the Office of the General Counsel, Jesse T. Raiford acknowledged that he performed the services described by Ailes. Moreover, Raiford stated that he performed other services for ACI on behalf of the Bush Committee. Specifically, Raiford stated that sometime in 1987, before he left ACI as a permanent employee, he assisted Ailes in preparing a budget for the costs of television and radio ads relating to ACI's consulting agreement with the Bush campaign. Raiford further stated that during the Fall of 1987, he traveled with the Candidate, filming him in Poland and in Great Britain during a meeting with former Prime Minister Margaret Thatcher.

Raiford stated that after he left ACI as a permanent employee, he was hired by ACI to film the Candidate, to perform opposition research related to the Bush campaign and to perform post production services for a spot which was a tribute to Barbara Bush, which was apparently aired at the Republican National Convention. Raiford also indicated that other ACI employees performed services on behalf of the Bush Committee both

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before and after he terminated his permanent position with ACI on January 1, 1988. Mr. Raiford has produced copies of fourteen invoices for independent contractual services he performed for ACI through September of 1988, after the Horton spot was produced. See Attachment 5. Five of the invoices produced are for Raiford's services/expenses relating to the Bush Committee, dated for March, April and August of 1988.[5]

Mr. Raiford has also produced three invoices for services he performed for NSPAC, including the September, 1988 Horton and crime spots, and the November, 1988 Admiral Moorer spot. Attachment 5 at pages 16-18. Raiford acknowledged during the call that he was involved in the production of NSPAC's Bush biography, the Horton and crime spots, as well as the Admiral Moorer spot. With respect to the Horton spot, Raiford specifically indicated that his role was that of a producer while McCarthy's was that of a director.

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Communications Among the Respondents

In addition to clarifying the Respondents' employment relationships, this Office examined various communications among the Respondents in the months preceding the 1988 Presidential election. See General Counsel's Report, dated April 26, 1991, at

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5. The invoices to ACI on behalf of the Bush Committee include one for "photo research," for "Dole/Cuomo" spots, dated March 2, 1988, two for "circus shoots, dated April 4, 1988, one for Bush-"Governor Tom Kean Keynote Tape," dated August 15, 1988, and one for the "Barbara Bush Tribute," dated August 16, 1988. See Attachment 5. Ailes produced three invoices for services Raiford performed for ACI during March and April of 1988, which, he testified, were all the invoices that his staff found in reviewing his files. Ailes Depo. at page 88.

pages 17-22. Specifically, there was a telephone call from Roger Ailes to Larry McCarthy in June of 1988 and there were certain statements in newspaper and magazine articles which suggested that NSPAC may have communicated with, or perhaps obtained information from, the Bush Campaign or its agents.

During his deposition, Mr. Ailes acknowledged that he believes he called Larry McCarthy sometime after he learned that the latter was doing independent expenditure work for NSPAC. Ailes Depo. at page 50. According to Ailes, he believes someone informed him that McCarthy was considering joining the Bush campaign. However, Ailes could not recall who conveyed this information to him. Id. at pages 51-53. Ailes testified that during the call he simply informed McCarthy that he could not join the Bush campaign under any circumstances since he was working for an independent expenditure group. Ailes Depo. at pages 50-51. Ailes further testified that he hopes he made the call to McCarthy, because "that makes it clear" that he knows the difference between "independent expenditure groups and campaigns." Ailes Depo. at page 51.

Ailes did not recall whether he stated during the telephone conversation that he had considered hiring McCarthy to do comparative spots, but he testified that it would not be uncharacteristic of him to say something like that. Ailes Depo. at page 54.[6] Moreover, Ailes testified that in his judgment,

6. In his previously submitted affidavit Mr. Ailes averred that he did tell McCarthy he was considering using him for "comparative advertising." See General Counsel's Report, dated April 26, 1991, Attachment 3 at page 19.

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McCarthy was better at comparative spots than at positive pieces, and that a committee's decision whether to do comparative spots is part of its political strategy. Ailes Depo. at pages 54-55.

McCarthy testified that Ailes called him after the first NSPAC commercial (the George Bush Biography) was finished and stated that he had heard a rumor that McCarthy had done that ad. McCarthy Depo. at page 74.[7] McCarthy told Ailes that NSPAC consisted of "a bunch of retired admirals," but then, McCarthy avers, he told Ailes he could not talk to him about the subject because it involved independent expenditures. Id. at page 74. According to McCarthy, Ailes responded, "it is too bad because I was thinking of having you work on the Bush campaign." McCarthy Depo. at page 74. McCarthy stated that he basically took Mr. Ailes' comment regarding the potential position with the Bush campaign to be "a throw-away, meaningless line" because of their "testy relations" and they both knew that there was "no way that Mr. Ailes was going to retain" him. McCarthy Depo. at page 75. With respect to the statement that Ailes had considered hiring him for comparative spots, McCarthy said that he understood it to be that it would be working on Dukakis because the Bush campaign "had done a lot of their positive stuff already. And the only thing new to the equation would be the Democratic nominee." Id. at pages 79-80.

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7. McCarthy was not sure whether the ad had actually aired before Ailes called him, and suggested that Ailes may not have seen the ad at the time of the call. McCarthy opined that Ailes may have learned of the ad through his media buyer. McCarthy Depo. at page 74.

In addition, Ailes testified that between the June phone call and the October interview, he believes McCarthy called him a couple of times to tell him jokes, probably at Bush headquarters. Ailes Depo. at page 82. There was no reference in the previously submitted affidavits to these calls and McCarthy did not mention these calls during his deposition. Rather, McCarthy insisted that, after the June phone call, the next time he deliberately communicated with Ailes was to set up the Gannett interview. McCarthy Depo. at page 111.[8]

The investigation also focused on statements made by Larry McCarthy in The New Republic about his work for NSPAC. When questioned about the statement in the article that he "figured" the Bush campaign would go negative by mid-September, and that he planned to lead them by a week or two, McCarthy testified that he made these judgments based on his prior campaign experience and on the Bush Committee's statements in the press. McCarthy Depo. at page 95. He explained that "what will be in paid media will frequently appear in the rhetoric that a campaign uses for weeks beforehand," and that in the "rhetoric of then-candidate Bush" and from "all the Bush surrogates in that period, the furlough issue, and Mr. Horton specifically were prominently featured." McCarthy Depo. at page 95. From that information, McCarthy testified he judged that the Bush Committee believed the furlough issue to be a "cutting issue which would be damaging to Mr. Dukakis and helpful

8. McCarthy also testified that he ran into Ailes at the airport during the Republican National Convention and at a restaurant in Washington, D.C. McCarthy Depo. at pages 103 and 111.

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to Mr. Bush." Id. at page 96. He further surmised that the Bush Committee would "start running this type of commercial mid to late September" because "you always try to alternate your waves of comparative media with your positive media." Id.

With respect to his statement that he "tried to spare" Ailes from doing certain things, McCarthy testified that he was "making the assumption" that even though the Bush campaign, Mr. Ailes, Mr. Atwater and others frequently referred to Mr. Horton both "in their formal statements and their offhand comments to the press," "they probably would not use his picture on the screen." McCarthy' Depo. at page 98. McCarthy said his "professional judgment" was that the Bush campaign would shy away from using Horton's picture on the screen because the "cry of racism would go up immediately." Id. at page 98-99. McCarthy testified, however, that he thought the Horton ad would be beneficial to Bush's candidacy. Id. at page 100. McCarthy stated that he probably paraphrased what he said in The New Republic article in conversations with Elizabeth I. Fediay, NSPAC's treasurer, and Floyd Brown, NSPAC's political consultant. Id. at pages 96-97 and 99. However, in her deposition Ms. Fediay denied that McCarthy ever discussed the timing of the ad, the use of the Horton photo or anything about the Bush Committee's plans during the campaign. Deposition Transcript of Elizabeth I. Fediay, dated August 27, 1991, at page 49-52. (hereinafter "Fediay Depo. at pages _____").

The investigation also confirmed that McCarthy interviewed Ailes for the Gannett Journal, and documentation produced indicates that the interview occurred on October 15, 1988. Ailes

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Depo. at page 81; McCarthy Depo. at page 111. Ms. Fediay and Mr. McCarthy also testified that during October of 1988, NSPAC produced its final spot, featuring retired Admiral Thomas Moorer, as part of its Americans For Bush project. McCarthy Depo. at pages 107-110; Fediay Depo. at page 45. Neither McCarthy nor Fediay was certain when the final NSPAC spot was aired. However, the invoice for the spot is dated October 18, 1988, and indicates that NSPAC paid Raiford for the spot on October 25, 1988. Attachment 5 at page 17. In any event, McCarthy testified that he believes that the "Moorer" spot was written and shot by the time he interviewed Ailes, although he was not sure if post production had been completed. McCarthy Depo. at page 115. McCarthy testified that he called Ailes to request the interview probably around October 10, 1988, which was within a week of when NSPAC's Willie Horton spot had aired. McCarthy Depo. at page 113. Both Ailes and McCarthy denied that there was any discussion of NSPAC's spots or any discussion of the Bush Committee's campaign plans, although they acknowledged that they discussed the effectiveness of spots which the Bush campaign had previously aired. Id. at pages 117-119; Ailes Depo. at page 84.

As noted in the First General Counsel's Report, there were references in the press to various written communications between NSPAC and members of the Bush campaign in the press. See General Counsel's Report, dated April 26, 1991, Attachments 1 and 5. The Respondents have produced copies of those letters, and among them are letters between James Baker, III and NSPAC, as well as a

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letter from Dan Quayle to NSPAC.[9]

In a letter, dated September 8, 1988, to Mr. Baker, Ms. Fediay wrote that it had come to her attention that NSPAC's efforts on behalf of George Bush had "caused concern among some middle-level staffers of the Bush campaign," and that NSPAC "would be interested" in Mr. Baker's "wishes" with regard to its independent efforts on behalf of the Candidate. Attachment 4 at page 10. Ms. Fediay's letter does not mention the Horton ad nor any other specific advertisement. In a response to Ms. Fediay's letter, dated September 27, 1988, Mr. Baker informed NSPAC that the Bush Committee, and a member of its senior staff had previously informed NSPAC that it disapproved of its activities and he renewed the Bush Committee's request that NSPAC cease using the Candidate's name or any other name that suggests his or the campaign's association. Id. at pages 20-21. Ms. Fediay testified that there was no relationship between her letter requesting the Bush Committee's "wishes" and the announcement of the Horton and crime spots, although the letter was apparently delivered on the same day the spots were released. When asked the purpose of her letter to Mr. Baker, Ms. Fediay testified that it was to "stop the

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9. Among the letters produced are: 1) a letter to Lee Atwater from NSPAC/ Elizabeth Fediay, dated August 25, 1988; 2) a letter from Ms. Fediay to James Baker, III, dated September 8, 1988; 3) a letter from Lee Atwater to Ms. Fediay, dated September 12, 1988; 4) a letter from James Baker, III, to Elizabeth Fediay, dated September 27, 1988; 5) a letter from Dan Quayle, U.S. Senator, to NSPAC, dated October 22, 1998. NSPAC also produced a copy of the Horton and "crime spot." The other documents provided consisted essentially of correspondence between the two Committees which addressed the dispute which formed the basis of MUR 2638, a complaint filed with the Commission by the Bush Committee against NSPAC. See Attachment 4.

conversations about" NSPAC's use of the Candidate's name. Fediay Depo. at page 58. Fediay insisted that, through the letter to Mr. Baker, she was not seeking the Committee's approval of, or guidance for NSPAC's independent expenditure campaign. Fediay Depo. at pages 53 and 58.

Ms. Fediay also testified that NSPAC received a letter from Senator Dan Quayle in response to receiving a copy of NSPAC's videotape of the Horton and crime spots. Id. at pages 62-63. However, Fediay explained that NSPAC sent copies of both of those spots by messenger to all the Senate and House office buildings, not just to former Senator Dan Quayle. Ms. Fediay testified that she does not know how the letter from Quayle was brought to the attention of the media and, contrary to the quotation in the New York Times, she testified that she does not believe the signature of Senator Quayle is genuine, nor would she ever use the letter as evidence that the Bush campaign approved of NSPAC's activities. Fediay Depo. at pages 69-70. In addition, Ms. Fediay testified that, contrary to the quotation in the New York Times, she does not recall making a statement to the effect that officially the Bush campaign had to disavow themselves from her and NSPAC, but that unofficially she had heard that they were thrilled about what NSPAC was doing. Fediay Depo. at pages 71-73. Nor could Ms. Fediay explain the basis of the statement, although it was attributed to her in that article. See General Counsel's Report, dated April 26, 1991, Attachment 5.

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C. Analysis

The investigation has revealed that there were opportunities for coordination between NSPAC and the Bush Committee in the months preceding the 1988 general election. Indeed, several factors would appear to support a finding that NSPAC's expenditures were not independent under the Act and the Commission's regulations. First, it is now clear that Jesse Raiford simultaneously performed campaign-related production services for NSPAC and the Candidate's Committee, and that his role was not as limited as previously disclosed. 11 C.F.R. § 109.1(b)(4)(i)(B). It appears that Raiford worked on the Bush account while he was a permanent employee at ACI, and that he continued to be used for the Bush account in different capacities throughout the campaign. Moreover, during this very time frame, Raiford assisted McCarthy and NSPAC in arranging and producing four spots for NSPAC's Americans for Bush campaign. Under 11 C.F.R. § 109.1(b)(4)(i)(B), this dual employment arguably impairs the independence of NSPAC's expenditures. See also Federal Election Commission v. National Security Political Action Committee, 647 F. Supp. 987 (S.D.N.Y. 1986).

Second, it appears that through the June, 1988 telephone conversation Mr. Ailes, the Bush Committee's agent, may have implicitly communicated to Mr. McCarthy, NSPAC's consultant, information about the candidate's needs and plans. The call itself can be seen as having been a vehicle for "suggesting" that NSPAC change its focus from the positive, i.e., the Bush biography, to developing and airing negative spots on Dukakis.

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In fact, as McCarthy's testimony indicated, Mr. Ailes' statements were consistent with the view that the Bush Committee would be looking for negative ads, which Ailes viewed as McCarthy's strength, on the Democratic Nominee. This is exactly what NSPAC did through its Willie Horton and crime spots.

Next, although Ailes, McCarthy and Fediay have all denied that there was any coordination between NSPAC and the Bush Committee, their testimonies are at times inconsistent and, moreover, other contacts between the agents of the committees have not been adequately explained. For example, Ailes testified that between the June phone call and the October interview McCarthy called him to tell him jokes, while McCarthy insisted that after the June phone call the next time he deliberately communicated with Ailes was to set up the Gannett interview. Ailes Depo. at page 82; McCarthy Depo. at page 111. With respect to the purpose of Ailes' June telephone call, Ailes testified that he called McCarthy to inform him that he could not join the Bush campaign since he was now involved in NSPAC's Americans for Bush project. McCarthy seemed unsure of the purpose of the call, but McCarthy testified that they both knew there was no way Ailes would retain him again. McCarthy Depo. at page 75. Thus McCarthy's testimony calls into question Mr. Ailes' stated purpose for the call, i.e., to inform his former employee that he could not join the Bush campaign.

We further note that Ailes and McCarthy described relations between them as "strained" or "testy," and that they both acknowledged a sensitivity to the requirements for independent

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expenditures. Nevertheless, they each purposely communicated with each other during the last months before the election. Ailes Depo. at pages 28 and 51; McCarthy Depo. at pages 75, 79 and 114. The fact that McCarthy called Ailes ostensibly to tell him jokes and to request an interview is especially surprising given that their relationship was "testy" and that McCarthy claims that he terminated the June conversation with Ailes because he thought that "any further communication" with Ailes would be "viewed unfavorably" by the FEC. McCarthy Depo. at pages 78-79. His conduct is also inconsistent with his testimony that Ms. Fediay informed him when he was retained by NSPAC that there "could be no dealings of any kind with the Bush Committee," and that from his work on the Percy race he "knew the ground rules well." McCarthy Depo. at pages 70-73. In addition, we know that Ms. Fediay wrote letters to various members of the Bush staff, including a letter to James Baker, III, in an attempt to ascertain the Bush Committee's "wishes" about NSPAC's campaign, although she previously averred that at no time during the campaign did she or any of her employees or consultants "contact[ ], communicate, or consult with the Bush for President Committee or any of its agents." See General Counsel's Report, dated April 26, 1991, Attachment 2 at page 38.

It also appears that NSPAC was not as careful as previously thought about the prior relationships between its consultants/vendors and ACI and the Bush Committee. Specifically, although it appears that McCarthy and other NSPAC consultants and employees signed a document pledging to keep NSPAC's expenditures

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independent, there is no evidence that Raiford, who received payments directly from NSPAC with respect to the creation of the four spots, ever signed such a document.[10] Moreover, Ms. Fediay's testimony belies her asserted concern with keeping NSPAC's expenditures independent. Although McCarthy is alleged to have signed a waiver and to have given Ms. Fediay his assurances regarding past and future contacts with the candidate's committee or agent, Fediay testified that she was not even aware of McCarthy's prior employment with ACI and that she did not look at his resume or check his references. McCarthy' Depo. at page 70; Fediay' Depo. at pages 20-21. McCarthy's testimony contradicts Ms. Fediay's asserted ignorance of his earlier employment with ACI. According to McCarthy, his "demo reel" included spots he produced for ACI, and his "bio" mentioned it as well. See McCarthy Depo. at page 71.

In addition, Raiford indicated that he and other ACI employees performed services on behalf of the Bush campaign both before and after he left ACI as a permanent employee, which is at odds with Mr. Ailes' testimony that he was the only person within ACI who worked on the Bush account in 1987. Ailes' Depo. at pages 40-41. Finally, although McCarthy testified that he

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10. McCarthy averred in his affidavit that when he hired Jesse Raiford he informed him that he could not "be working in any capacity as an agent, employee, or the like for the Bush campaign[,] and that Raiford assured McCarthy "he did not fulfill any of those roles." See General Counsel's Report, dated April 26, 1991, Attachment 2 at page 28. Yet the investigation has revealed that Raiford performed services for ACI on projects relating to the Bush Committee during the same period he performed services for NSPAC.

believes he conveyed statements similar to those he made in The New Republic to NSPAC's treasurer Elizabeth Fediay, Ms. Fediay stated that McCarthy did not talk to her about using the Horton photo, and that McCarthy never expressed to her anything about the timing of the Horton ad or the Bush Committee's use of the issue. See McCarthy Depo. at 96-99; Fediay Depo. at pages 49-53.

D. Conclusion

Independent expenditures have been given special protection under the Federal election laws. See Buckley v. Valeo, 424 U.S. 1, 39 (1976). Given their unique attributes and the fact that independent expenditures can not be limited, it is imperative that the "independence" be clear and absolute. In this matter, the investigation has confirmed that there were deliberate contacts between the agents of the two committees, including previously undisclosed telephone calls between Ailes and McCarthy. In addition, Mr. Raiford was retained simultaneously by both Committees, giving rise to a presumption of coordination.

Messrs. Ailes and McCarthy and Ms. Fediay have flatly denied that they coordinated their efforts or that the Committees discussed NSPAC's media campaign. Nonetheless, the information obtained through discovery calls into question those denials. Given the nature of the investigation and the difficulty of ascertaining more details regarding the overlapping employment relationship and the communications between the vendors, the Office of the General Counsel believes that it is not likely that further limited investigation will resolve the problem of having, on the one hand, a legal presumption of coordination and several

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opportunities for such coordination, and, on the other hand, absolute denials of coordination by Respondents. Accordingly, the Office of the General Counsel recommends that the Commission take no further action against Bush-Quayle '88, and Stanley Huckaby, as treasurer, National Security Political Action Committee and Elizabeth I. Fediay, as treasurer, and close the file.

III. **RECOMMENDATIONS.**

1. Take no further action against Bush-Quayle '88, and Stanley Huckaby, as treasurer, National Security Political Action Committee, and Elizabeth I. Fediay, as treasurer.

2. Approve the appropriate letters.

3. Close the file.

11-13-91

Lawrence M. Noble
General Counsel

Attachments
1. Deposition Transcript of Roger Ailes
2. Deposition Transcript of Larry McCarthy
3. Deposition Transcript of Jesse Raiford
4. Documents Produced by Committees
5. Raiford' Invoices
6. ACI-Bush Contract

Staff Assigned: Xavier K. McDonnell

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 27, 1991

SENSITIVE

MEMORANDUM

DEC 3 1991

TO: The Commission

FROM: Lawrence M. Noble LMN (RB)
General Counsel

EXECUTIVE SESSION

SUBJECT: MUR 3069
Correction to General Counsel's Report,
dated November 13, 1991

This memo is being circulated to inform the Commission that Attachment 3 of the General Counsel's Report in MUR 3069 is the deposition transcript of Elizabeth I. Fediay. See General Counsel's Report, dated November 13, 1991, at page 24.

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FEDERAL ELECTION COMMISSION
WASHINGTON DC 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/DONNA ROACH DR
COMMISSION SECRETARY

DATE: NOVEMBER 19, 1991

SUBJECT: MUR 3069 - GENERAL COUNSEL'S REPORT DATED NOVEMBER 13, 1991.

The above-captioned document was circulated to the Commission on THURSDAY, NOVEMBER 14, 1991 at 4:00 P.M.

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

Commissioner Aikens	XXX
Commissioner Elliott	
Commissioner Josefiak	XXX
Commissioner McDonald	
Commissioner McGarry	XXX
Commissioner Thomas	XXX

This matter will be placed on the meeting agenda for TUESDAY, DECEMBER 3, 1991.

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

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Bush-Quayle '88 and Stanley Huckaby, as treasurer;	)	MUR 3069
National Security Political Action Committee, and Elizabeth I. Fediay, as treasurer.	)	

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on December 3, 1991, do hereby certify that the Commission decided by a vote of 6-0 to take the following actions in MUR 3069:

1. Take no further action against Bush-Quayle '88 and Stanley Huckaby, as treasurer, and National Security Political Action Committee and Elizabeth I. Fediay, as treasurer.

2. Approve the appropriate letters as recommended in the General Counsel's report dated November 13, 1991.

3. Close the file.

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

Attest:

12-4-91
Date

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 9, 1991

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

James M. Ruvolo, Chairman
Ohio Democratic Party
88 E. Broad Street, Suite 1920
Columbus, Ohio 43215

RE: MUR 3069
Bush-Quayle '88, and
Stanley Huckaby, as treasurer
National Security Political
Action Committee, and
Elizabeth I. Fediay, as treasurer

Dear Mr. Ruvolo:

This is in reference to the complaint you filed with the Federal Election Commission on May 30, 1990, which contained allegations of coordination between the above-captioned Committees.

Based on that complaint, on June 11, 1991, the Commission found that there was reason to believe that Bush-Quayle '88, and Stanley Huckaby, as treasurer, violated 26 U.S.C. § 9003(b) and 2 U.S.C. § 434(b), and that the National Security Political Action Committee, and Elizabeth I. Fediay, as treasurer, (collectively "Respondents") violated 2 U.S.C. §§ 441a and 434(b), provisions of the Federal Election Campaign Act of 1971, as amended, Chapters 95 and 96 of Title 26, U.S. Code, and instituted an investigation of this matter. However, after considering the circumstances of this matter, the Commission determined to take no further action against the Respondents and closed the file in this matter on December 3, 1991. This matter will become part of the public record within 30 days. The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

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If you have any questions, please call Xavier K. McDonnell the attorney who was assigned to this matter, at (202) 219-3400.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
General Counsel's Report

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 9, 1991

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

State Representative Ray Miller
President
Black Elected Democrats of Ohio
3040 Elborn Avenue
Columbus, Ohio 43209

RE: MUR 3069
Bush-Quayle '88, and
Stanley Huckaby, as treasurer
National Security Political
Action Committee, and
Elizabeth I. Fediay, as treasurer

Dear Mr. Miller:

This is in reference to the complaint you filed with the Federal Election Commission on May 30, 1990, which contained allegations of coordination between the above-captioned Committees.

Based on that complaint, on June 11, 1991, the Commission found that there was reason to believe that Bush-Quayle '88, and Stanley Huckaby, as treasurer, violated 26 U.S.C. § 9003(b) and 2 U.S.C. § 434(b), and that the National Security Political Action Committee, and Elizabeth I. Fediay, as treasurer, (collectively "Respondents") violated 2 U.S.C. §§ 441a(a) and 434(b), provisions of the Federal Election Campaign Act of 1971, as amended, Chapters 95 and 96 of Title 26, U.S. Code, and instituted an investigation of this matter. However, after considering the circumstances of this matter, the Commission determined to take no further action against the Respondents and closed the file in this matter on December 3, 1991. This matter will become part of the public record within 30 days. The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

2204038438

If you have any questions, please call Xavier K. McDonnell the attorney who was assigned to this matter, at (202) 219-3400.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
General Counsel's Report

2204038439

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 9, 1991

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

RE: MUR 3069
Bush-Quayle '88, and
Stanley Huckaby, as treasurer
Roger Ailes

Dear Mr. Baran:

On July 25, 1991, you were notified that the Federal Election Commission found reason to believe that Bush-Quayle '88, and Stanley Huckaby, as treasurer ("your clients") violated 26 U.S.C. § 9003(b) and 2 U.S.C. § 434(b). On August 29, 1991, Roger Ailes was deposed.

After considering the circumstances of the matter, the Commission determined, on December 3, 1991, to take no further action against your clients and closed the file. The file will be made part of the public record within 30 days. Should you wish to submit any factual or legal materials to appear on the public record, please do so within ten days of your receipt of this letter. Such materials should be sent to the Office of the General Counsel.

The Commission reminds your clients that expenditures made by any person in cooperation, consultation, or concert, with, or at the request or suggestion of, a candidate, his authorized political committees, or their agents, shall be considered to be a contribution to such candidate. See 2 U.S.C. § 441a(a)(7)(B)(i). Moreover, there is a presumption of coordination when expenditures are made based upon information about the candidate's plans, projects, or needs provided to the expending person by the candidate, or by the candidate's agents, with a view towards having an expenditure made, or when made by or through any person who is, or has been, receiving compensation or reimbursement from the candidate, the candidate's committee or agent. 11 C.F.R. §§ 109.1(b)(4)(i)(A), (B). The Commission also reminds your clients that coordinating expenditures with an independent expenditure committee results in the receipt of prohibited contributions, in violation of 26 U.S.C. § 9003(b), and

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that the failure to report the receipt of contributions is a violation of 2 U.S.C. § 434(b). Your clients should take immediate steps to insure that this activity does not occur in the future.

If you have any questions, please contact Xavier K. McDonnell, the attorney assigned to this matter, at (202) 219-3400.

Sincerely,

Lawrence M. Noble
General Counsel

Attachment
General Counsel's Report

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CLOSED

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 9, 1991

Paul E. Sullivan, Esq.
Wunder, Diefenderfer, Ryan,
Cannon & Thelen
1615 L Street, N.W.
Suite 650
Washington, D.C. 20036

RE: MUR 3069
National Security Political
Action Committee, and
Elizabeth I. Fediay, as treasurer
Larry McCarthy

Dear Mr. Sullivan:

In a letter dated July 18, 1991, you were notified that the Federal Election Commission found reason to believe that National Security Political Action Committee ("NSPAC"), and Elizabeth I. Fediay, as treasurer, ("your clients") violated 2 U.S.C. § 441a and 434(b). As part of the Commission's investigation in this matter, on August 21 and August 27, 1991, Ms. Fediay and Mr. McCarthy were deposed.

After considering the circumstances of the matter, the Commission determined, on December 3, 1991, to take no further action against your clients, and closed the file. The file will be made part of the public record within 30 days. Should you wish to submit any factual or legal materials to appear on the public record, please do so within ten days of your receipt of this letter. Such materials should be sent to the Office of the General Counsel.

The Commission reminds your clients that expenditures made by any person in cooperation, consultation, or concert, with, or at the request or suggestion of, a candidate, his authorized political committees, or their agents, shall be considered to be a contribution to such candidate. See 2 U.S.C. § 441a(a)(7)(B)(i). Moreover, there is a presumption of coordination when expenditures are made based upon information about the candidate's plans, projects, or needs provided to the expending person by the candidate, or by the candidate's agents, with a view towards having an expenditure made, or when made by or through any person who is, or has been, receiving compensation or reimbursement from the candidate, the candidate's committee or agent. 11 C.F.R. §§ 109.1(b)(4)(i)(A), (B). The Commission also reminds your

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clients that coordinating expenditures with an authorized candidate committee results in the making of excessive contributions, in violation of 2 U.S.C. § 441a, and that the failure to report the making of contributions is a violation of 2 U.S.C. § 434(b). Furthermore, the Act requires every person who makes independent expenditures, in excess of certain prescribed amounts, to submit to the Commission, under penalty of perjury, a certification whether or not such expenditures were made in cooperation, consultation, or concert, with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate. See 2 U.S.C. § 434(c)(2)(B). Your clients should take immediate steps to insure that any such activity does not occur in the future.

If you have any questions, please contact Xavier K. McDonnell, the attorney assigned to this matter, at (202) 219-3400.

Sincerely,

Lawrence M. Noble
General Counsel

Attachment
General Counsel's Report

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 17, 1991

Jesse T. Raiford
Raiford Communications, Inc.
Suite 500
928 Broadway
New York, NY 10010

RE: MUR 3069

Dear Mr. Raiford:

On June 6, 1990, the Federal Election notified you of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was provided to you at that time. In a letter dated June 20, 1990, you filed a response to the complaint.

After considering the circumstances of the matter, the Commission determined to take no action against you. The Commission closed the file on December 3, 1991. The file will be made part of the public record within 30 days. Should you wish to submit any factual or legal materials to appear on the public record, please do so within ten days of your receipt of this letter. Such materials should be sent to the Office of the General Counsel.

If you have any questions, please call me at (202) 219-3400.

Sincerely,

Xavier K McDonnell

Xavier K. McDonnell
Staff Attorney

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20461

In the Matter of	)	
	)	
Bush-Quayle '88 and	)	MUR 3069
Stanley Huckaby, as treasurer	)	
National Security Political	)	
Action Committee, and	)	
Elizabeth I. Pediay, as treasurer	)	

STATEMENT FOR THE RECORD

CHAIRMAN JOHN WARREN MCGARRY
COMMISSIONER DANNY LEE MCDONALD
COMMISSIONER SCOTT E. THOMAS

During the 1988 election cycle, National Security Political Action Committee ("NSPAC") conducted a large scale advertising campaign urging voters to support George Bush for President. One of the most celebrated aspects of this campaign was a televised advertisement using a convict named Willie Horton. The advertisement portrayed Governor Michael Dukakis as soft on crime by featuring a mug shot of Horton and stating that Horton committed a number of violent crimes while out on a weekend furlough from a Massachusetts prison.

It is clear that this advertisement had a significant impact on the presidential campaign; however, it is less than clear whether NSPAC's expenditures were truly independent and not coordinated in any way with Bush-Quayle '88 (the "Bush

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Committee" or the "Bush Campaign"). For example, it appears that one individual, Jesse T. Raiford, was actually involved in NSPAC strategy sessions regarding the Willie Horton spot and did production work on the advertisement for NSPAC. At the same time Mr. Raiford was working in this capacity for NSPAC, he worked on media projects for the Bush campaign. This evidence of employment overlap and common media strategy raises serious questions with respect to the asserted independence of NSPAC's expenditures.

In MUR 3069, the Federal Election Commission had the opportunity to settle once and for all the issue of whether the Bush campaign played any role in the production and airing of the Willie Horton advertisement. Unfortunately, three of our colleagues refused at the outset to authorize the full and complete investigation necessary to resolve that question. As a result, the Commission was left in this most significant case with a record that was incomplete and inadequate for informed Commission decisionmaking.

We would have allowed the Office of General Counsel to conduct a thorough investigation in order to develop fully the factual record in this serious matter. Given the opposition of our three colleagues to a complete search for relevant evidence, however, this was not possible. Accordingly, we agreed with the General Counsel's recommendation to take no further action against the respondent in this matter and to close the file.

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I.

Section 431(17) of the Federal Election Campaign Act of 1971, as amended ("the Act"), 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, or at the request or suggestion of, a candidate, his authorized political committees, or their agents, shall be considered to be a contribution to such candidate." 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). In order to become an "eligible candidate" under the Presidential Election Campaign Fund Act, 26 U.S.C. §9002(4), an individual must, among other things, certify that he or she has not and will not accept any private contributions. 26 U.S.C. §9003(b).

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On June 4, 1990, the Ohio Democratic Party and James M. Ruvolo, as Chairman, filed a complaint with the Federal Election Commission alleging that NSPAC's Willie Horton television advertisements were not actually independent expenditures. The complaint contended that Bush-Quayle '88 and NSPAC "coordinated, consulted or otherwise cooperated in their activities regarding the Willie Horton advertising and its role in the Bush-Quayle campaign strategy, in violation of the limitations of the Act." Complaint at 1. In support of this contention, the complaint stated that "the two people responsible for preparing the ads for [NSPAC]--the person who made them, Larry McCarthy, and the person who filmed them, Jesse T. Raiford--either worked for Roger Ailes, the chief media adviser for Bush-Quayle '88, at the time they made the ads or had quit only shortly before." Id. (emphasis added).

After a comprehensive review of the responses and materials submitted by NSPAC and Bush-Quayle '88, 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. The General Counsel's Report concluded that "the evidence presently available appears to provide a sufficient basis that there was 'cooperation and/or consultation' between NSPAC and the Bush campaign with respect to the Willie Horton ad to warrant an investigation in this matter." General Counsel's Report at 23 (April 26, 1991). Accordingly, the General Counsel's Report recommended that the Commission find reason to believe that NSPAC violated 2 U.S.C.

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§441a(a) by making contributions on behalf of the Bush 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 Bush-Quayle '88 violated 26 U.S.C. §9003(b) for accepting prohibited contributions and §434(b) for not reporting the contributions.[1] Concluding that "[a]any questions, ambiguities and inconsistencies are present in this matter which require investigation," General Counsel's Report at 24 (April 26, 1991), the General Counsel's Report indicated that a full investigation of the matter would be conducted beginning with interrogatories and requests for production of documents.

On June 11, 1991, the Commission found, by a 4-2 vote, reason to believe that NSPAC and Elizabeth I. Pediay, as treasurer, violated 2 U.S.C. §§441a(a) and 434(b) and that Bush-Quayle '88 and Stanley Huckaby, as treasurer, violated 2 U.S.C. §434(b) and 26 U.S.C. §9003(b). In addition, we supported the General Counsel's recommendation that a full and complete investigation of this matter be conducted. There were not four votes, however, in support of the General Counsel's recommendation. Since four affirmative votes are needed for the Commission to proceed with a full investigation, see 2 U.S.C.

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1. The General Counsel's Report also recommended that the Commission take no action at this time against Roger Ailes/Ailes Communications, Larry McCarthy and Jesse T. Raiford, who appeared to have been acting only as agents for the other respondents in this matter. General Counsel's Report at 23-24 (April 26, 1991).

§437g(a)(2), the Commission could only agree to direct the Office of General Counsel to conduct a limited investigation.

On December 3, 1991, the Commission voted to approve the General Counsel's recommendation to take no further action against the respondents and close the file. The General Counsel's Report noted that it was "not likely that further limited investigation" would resolve the matter. General Counsel's Report at 23 (November 13, 1991).

II.

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). Thus, if NSPAC used a person who had previously received or was currently receiving compensation from the campaign committee of a presidential candidate, any NSPAC expenditure in support of, or in opposition to the opponent of, that presidential candidate would be considered to be coordinated and thus, an in-kind contribution to the campaign.

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From the limited record before us it appears that Jesse Raiford simultaneously was employed by NSPAC and Bush-Quayle '88.

During his deposition, Larry McCarthy indicated that he hired Jesse Raiford to perform services related to four of NSPAC's advertisements. He testified that Raiford booked the crew, contacted and paid all vendors, performed bookkeeping services and assisted McCarthy during postproduction for NSPAC's television advertisement, including the Willie Horton spot. See General Counsel's Report at 8-9 (November 13, 1991) citing McCarthy Deposition at 59-60, 82, 85, 89-91 and 110. The investigation also revealed that Raiford was in attendance during the editing[2] of three of NSPAC's four commercials for candidate Bush, including the Willie Horton spot. Id. at 89 and 110. Indeed, during a telephone conversation with a staff member of the Office of General Counsel, Mr. Raiford "acknowledged...that he was involved in the production of NSPAC's Bush biography, the Horton and crime spots, as well as the Admiral Moorer spot. With respect to the Horton spot, Raiford specifically indicated that his role was that of a

2. We would reject any argument suggesting that the editing function is merely something technical in nature and not "significant enough" to compromise the independent nature of the advertisement. This argument would contend that the use of the same editor is no different than if the two committees used the same express mail delivery service. It goes without saying that a television advertisement conveys its message primarily through the use of images; how one assembles those images and how one cuts from one image to another to develop certain audience feelings and reactions is certainly one of the most creative contributions one can make to a television advertisement. The significance of what is included in an ad and what is not is best exemplified by the very ad at issue in this case.

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producer while McCarthy's was that of a director." General Counsel's Report at 11 (November 13, 1991) (emphasis added).

In addition, Mr. McCarthy stated in an affidavit filed with the Commission that Mr. Raiford was a participant in NSPAC strategy sessions that led to the Willie Horton advertisement:

> I wrote several scripts relative to furlough programs, and other crime related issues. After reviewing the proposed scripts, the decision was made by the same NSPAC strategy group to produce the furlough spot in which Mr. Horton was used as an example of the problems of furloughs in the state of Massachusetts under the governorship of Mr. Dukakis....The only individuals participating in the production and airing of the spot were those involved in the strategy session, Ms. Fediay, Mssrs. Brown, Shirley, Fabrizzio, myself and Mr. Jesse Raiford of Raiford Communications, Inc.

MUR 3069, McCarthy Affidavit, ¶7 (emphasis added). In short, it appears from the available record that Mr. Raiford was deeply involved in both the strategy behind and the production of the Willie Horton television advertisement.

At the same time that Mr. Raiford was employed by NSPAC, he was also employed by Bush-Quayle '88. During his telephone conversation with a staff member of the Office of General Counsel, Mr. Raiford stated that "he was hired by ACI [Ailes Communications, Inc.] to film the candidate, to perform opposition research related to the Bush campaign and to perform post production services for a spot which was a tribute to Barbara Bush, which was apparently aired at the Republican National Convention." General Counsel's Report at 10 (November 13, 1991) (emphasis added). The General Counsel's

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Report further stated that "Mr. Raiford has produced copies of fourteen invoices for independent contractual services he performed for ACI through September of 1988, after the Horton spot was produced.... Five of the invoices produced are for Raiford's services/expenses relating to the Bush Committee, dated for March, April and August of 1988." Id. at 11.

Mr. Raiford's simultaneous employment with both NSPAC and Bush-Quayle '88[3] would appear to raise the presumption that NSPAC's expenditures were coordinated with the Bush campaign. For example, in situation 4 of Advisory Opinion 1979-80, 1 Fed. Elec. Camp. Fin. Guide (CCH) ¶5469, the National Conservative Political Action Committee (NCPAC) proposed to engage a media time-buyer to purchase time to show commercials advocating the defeat of a candidate for the Democratic nomination to the United States Senate. NCPAC asked whether the time-buyer could accept employment by the Republican nominee, and continue to be employed by NCPAC. The Commission indicated that if the

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3. The role of Jesse Raiford in this matter illustrates perfectly well why affidavits should not be blindly accepted by any investigative body. A number of the affidavits in this matter, for example, contain a broad sweeping statement asserting that there were no contacts between NSPAC and Bush-Quayle '88. See, e.g., MUR 3069, Fediay Affidavit at ¶12. If such general statements are accepted without question, this would indeed be an easy matter to resolve. But it isn't that simple. As Jesse Raiford's unfolding role in NSPAC's expenditures indicates, such blanket denials are many times not completely accurate--not because affiants intend to be deliberately misleading, but because complex, factual matters, by their very nature, are rarely explained away in a single, overbroad statement. Recognizing this, affidavits should be thoughtfully examined and not eagerly accepted as exonerating evidence.

time-buyer accepted employment from the Republican nominee, "the time-buyer's continued work for NCPAC would compromise NCPAC's ability to make independent expenditure in opposition to the Democratic candidate." Advisory Opinion 1979-80 (emphasis added). Based on this Commission precedent, if the simultaneous use of a media time-buyer in Advisory Opinion 1979-80 would jeopardize the independence of an "independent expenditure," then the simultaneous employment of Jesse Raiford by NSPAC and the Bush campaign would appear similarly to jeopardize NSPAC's expenditures.

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III.

There is much more that the Commission could and should have done in this matter. It is regrettable that, in a case of this importance and magnitude, there were not four votes to undertake a full and complete investigation. Such an investigation undoubtedly would have included a deposition of Jesse Raiford. It also would have included depositions of the other named members of the NSPAC strategy group such as Craig Shirley, Floyd Brown and Anthony Fabrizzio. A full and complete investigation would have also reconciled inconsistencies revealed in the factual record. It is only with a full and complete investigation that the Commission could have resolved the legal issues surrounding the Willie Horton spot.

Absent further investigation, we are left with a factual record which suggests that NSPAC and Bush-Quayle '88 coordinated expenditures through the simultaneous employment of Jesse Raiford. Perhaps there is a satisfactory explanation or legal evidence which could have been developed to rebut the presumption of coordination between the two committees. Indeed, a full and complete investigation may very well have cleared the names of respondents and offered peace of mind to the various third party witnesses. Because there were not four votes to investigate this matter fully, however, we will never know what actually transpired in this matter.

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 the words of Senate Minority Leader Hugh Scott, "[t]he 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., at 69 (Statement of Sen. Scott). The legitimacy of the process depends upon a full examination of significant matters. The Commission ignores its congressional mandate when it neglects to investigate fully the serious allegations presented in cases of this magnitude. This result is

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unfair not only for the complainant and respondents, but also the general public with whose confidence the Commission was specifically entrusted.

December 30, 1991
Date

John Warren McCarry
Chairman

December 30, 1991
Date

Danny Lee McDonald
Commissioner

December 30, 1991
Date

Scott E. Thomas
Commissioner

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In the matter of)
)
Bush-Quayle '88, and) MUR 3069
Stanley Huckaby, as treasurer)
National Security PAC, and)
Elizabeth I. Fediay, as treasurer)

STATEMENT OF REASONS

Commissioner Thomas J. Josefiak

The complaint in this matter alleged that the Bush-Quayle'88 Committee and its agent, media consultant Roger Ailes, coordinated, cooperated or consulted with National Security Political Action Committee ("NSPAC") and its agents with respect to certain television advertisements NSPAC ran as "independent expenditures" during the 1988 Presidential election (the "Willie Horton" ads). Under the Federal Election Campaign Act, any coordination between the committees would impair the independent status of NSPAC's expenditures and render payment for the commercials an impermissible and unreported contribution by NSPAC to Bush-Quayle'88.

Upon initial review of this matter, I considered the allegations regarding the circumstances of NSPAC's independent expenditures to raise issues of fact and inferences of coordination not fully answered or explained by the responses to the complaint. I viewed a preliminary "reason to believe" determination by the Federal Election Commission -- and the investigation such a finding would permit -- to be justified by these unresolved questions. Therefore, on June 11, 1991, I voted to adopt the recommendations of the Commission's Office of General Counsel to find "reason to believe" NSPAC and Elizabeth I. Fediay, as treasurer, violated 2 U.S.C. § 441a(a) and §434(b), and Bush-Quayle'88

and Stanley Huckaby, as treasurer, violated 2 U.S.C. §434(b) and 26 U.S.C. §9003(b). The Commission directed the General Counsel's office to promptly begin an investigation into those legally relevant factual issues requiring examination and clarification. The Counsel proceeded to take sworn deposition testimony from principal witnesses and to subpoena relevant documents.

Based upon the information gained in the investigation, I became convinced the allegations of the complaint were wholly speculative and unsubstantiated. All respondents flatly and emphatically denied any cooperation or consultation between the committees in the making of NSPAC's television advertising expenditures. The deposition testimony was believable, and adequately explained the conduct of respondents' agents. (See excerpts and review of testimony in attached Supporting Memorandum.) No new evidence was uncovered to directly support the charges of coordination or significantly impeach the respondents' recollections. (See review of evidence in attached Memorandum, particularly with respect to the simultaneous employment of Jesse T. Raiford.) The Commission's fundamental questions were answered and our original inferences of coordination rebutted. Any remaining loose ends or inconsistencies arising from the evidence were unimportant and unresolvable.

As a result of our inquiry, I was satisfied the independence of NSPAC's television ads was not genuinely compromised by the prior professional relationships or continued contacts between these media consultants, or by any other of the circumstances examined. Thus, on December 3, 1991, I voted with a unanimous Commission to adopt the General Counsel's recommendation to take no further action against the

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respondents in this matter.

My vote to take no further action reflected a practical judgment that this recommendation was the best I could expect from the General Counsel's office. That office is institutionally resistant to giving up a big and controversial case, even when a fair and dispassionate review of the evidence does not support the complaint's allegations. I viewed taking no further action as being as close to an outright dismissal of this type of matter as we might be able to reach.

There should be no confusion, however, about the Commission's dedication to pursuing this matter if the evidence had provided a compelling case. Contrary to the conclusion implied in the General Counsel's report recommending no further action, this was manifestly not a case where the Commission chose to exercise prosecutorial discretion and save its resources by declining to pursue a potential violation. The Commission's prosecution of this matter was deliberate and thorough, and properly addressed the allegations of the complaint.

The FEC's investigation into the complaint's allegations was sufficient to determine those charges could not be substantiated. Any suggestion that the General Counsel's investigation of this matter was hampered or constrained or too tightly focused by the Commission at the opening of this case is hogwash. By directing the General Counsel to conduct an expeditious investigation concentrating on the legally significant issues of fact, the Commission was doing its job. The General Counsel's poor-mouthing of its own investigation in its final report, underlying the "take no further action" recommendation, reveals the office's resentment of any challenge to its self-perceived authority to manage cases without Commission "interference."

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The heart of this case was the allegation of coordination between media consultants; the other issues raised by the General Counsel were peripheral and insignificant. Testimony of the respondent committees' agents regarding their relationships and contacts was detailed and expansive, and deserves to be read before passing judgment on these circumstances. Explanations of their actions were plausible and reasonably consistent. Their conduct, even as explained, demonstrated some bad judgment that risked the appearance of or provided an opportunity for coordination. But there is no separate legal consequence for the bad judgment of these consultants -- no special penalty -- as long as their fleeting contact fell short of cooperating or consulting in the making of these expenditures.

However foolish or deserving of criticism, the brief, isolated and insubstantial contact between respondents' agents during the campaign did not appear to involve any communications that, by content or timing, could be said to represent coordination regarding their clients' respective advertising campaigns. A fair reading of the evidence indicates no cooperation, consultation or arrangement between these committees that in any sense influenced or affected NSPAC's activities. Their contact could have compromised the independence of the NSPAC ads, but did not. As NSPAC's original response to the complaint observed: "It did not require a covert political message to be issued by the Bush/Quayle'88 Committee for any political operative to realize that this was a very hot political issue which should be capitalized upon for the benefit of the Bush campaign."

The track record of the General Counsel demonstrates an unerring policy to pursue cases if there is the barest evidentiary basis for

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doing so, and regardless of the likelihood of Commission support. Therefore, let it be well understood: if the General Counsel's office believed it had sufficient evidence and legal argument to pursue this case further, or reason to ask for further investigation, it would have. The truth is the General Counsel was left with a flimsy case that further investigation could not have fixed.

It should not be respondents' fault if they cannot prove a negative: the total absence or absolute impossibility of coordination. NSPAC's success in identifying a hot issue, anticipating the general strategies of the Bush campaign and complementing those strategies is not evidence of collusion. Makers of independent expenditures are not relegated to amateurish or ineffective speech.

And it is not respondents' fault if it is difficult for the Commission to prove coordination in independent expenditure cases. That these cases are hard should not work to the disadvantage of those accused of violating the law. Standards of proof and the presumption of innocence should not be thrown out in independent expenditure cases because they are inconvenient.

The government bears the burden of proof. When an agency charged with enforcing a law fails to make its case, it is obligated to admit it. The law allows of no middle ground where the government gets to say "We can't prove you did, but you can't prove you didn't."

The Commission is not entitled to equivocate and dissemble, to wring our hands, to say the standard of "coordination" under the Act is too hard to prove, to insinuate the respondents may nevertheless have violated the law, and to then try to call it a a tie. It is unfair to condemn those accused of coordination in the making of independent

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expenditures to being unable to beat back the allegations against them to anything better than a draw. Independent expenditures are protected speech under the First Amendment, not a loophole in the Federal Election Campaign Act that should be discouraged.

This case never presented the Commission with a reason to think coordination must have occurred in order to explain the advertising strategies of these two committees, or any indication of some effect or consequence of coordination. The allegations of the complaint regarding supposed acts of coordination were not substantiated by proof and were strongly denied. The evidence indicated respondents did not, and did not need to, coordinate their political advertising campaigns. A unanimous Commission concluded further investigation was unwarranted. The consequence of that determination should have been a "no probable cause" finding by the Commission.

Ultimately, the General Counsel's final report was not so much legal analysis as criticism of respondents' behavior and explanations. The General Counsel's recommendation to take no further action was a deliberate decision to split the difference between fact and suspicion -- to leave respondents a little chastened and others forewarned. Joining that result with the "limited investigation" excuse permits keeping a cloud of suspicion over respondents of whom the Counsel's office remains somewhat disapproving -- without having to prove anything. But when all the dust clears from this case, and the General Counsel does an extraordinary job of stirring it up, we had no legitimate basis for finding the expenditures by NSPAC to be other than independent under the Act.

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Political pundits may well continue to wrongly hang the "Willie Horton ad" around the neck of the 1988 Bush campaign. The press may now want to write the FEC's investigation was inconclusive. In fact, however, the evidence was totally insufficient to show NSPAC and Bush/Quayle'88 were in collusion in their advertising. Based on the facts before the Federal Election Commission, Bush/Quayle'88 bears no legal responsibility under the Act for NSPAC's "Willie Horton" television ads. Lacking a case against them, we owed respondents a "no probable cause" finding. Absent institutional stubbornness, we would have reached that result.

December 30, 1991

Thomas J. Josefiak

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In the matter of	)	
	)	
Bush-Quayle '88, and	)	MUR 3069
Stanley Huckaby, as treasurer	)	
National Security PAC, and	)	
Elizabeth I. Pediay, as treasurer	)	

SUPPORTING MEMORANDUM

Statement of Reasons

Commissioner Thomas J. Josefiak

1) BASIS FOR "REASON TO BELIEVE" FINDING

Complaints before the Federal Election Commission involving "independent expenditures" are generally based upon facts giving rise to an inference of coordination -- we are unlikely to find open or blatant cooperation in these matters. Such inferences can be drawn from circumstances indicating particular acts or consequences of coordination, and are sufficient for the Commission to find "reason to believe" respondents have violated the Act (for effectively making 'in-kind' contributions to the benefited campaign and not reporting them). The inferences drawn at the "reason to believe" stage are not a presumption of guilt, but rather only a preliminary deduction that must subsequently be supported by proof.

This matter did not involve inferences of coordination based on effects or consequences. When viewed objectively, the advertising activity of NSPAC and Bush/Quayle'88 did not appear inexplicably similar or suspiciously coordinated for having focused on the same issue (despite complainant's characterizations). We did not have a compelling basis for believing coordination must have occurred -- that these advertising programs were unlikely to have occurred, or

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unlikely to have occurred as they did, absent coordination. We were not in the position to legitimately say: if you guys did not coordinate, how do you explain result X or Y?

It is important to remember the Commission's "RTB" finding was also not based upon clear evidence of any acts of coordination. The Commission's initial inference of coordination in this case was based upon the complaint's exposition of facts (news reports) indicating an opportunity for coordination from prior professional relationships of the committees' media consultants and isolated contacts between them during the course of the election year, and the absence of a full explanation of these circumstances. Certainly the case never involved testimony of anyone purporting to observe or overhear consultation or cooperation between these respondents, and no incriminating memoranda or documentary evidence was ever produced.

In my opinion, at the time we so voted, the Commission had a sufficient basis from the facts alleged by the complaint for finding "reason to believe" a violation may have occurred. Again, however, an "RTB" finding does not create a presumption of wrongdoing, nor place the evidentiary burden upon respondents to prove false the allegations of the complaint. It merely says the Commission found a sufficient basis for investigating. It remains our responsibility to prove a case.

2) RESULTS OF THE INVESTIGATION

The information and testimony gained by the Commission's investigation provided considerable detail to support respondents' explanation of their conduct and their denials of any coordination

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in the making of NSPAC's expenditures. Despite the General Counsel's resistance to seeming to "clear" the respondents on the basis of this evidence, a plausible account of the actions and relationships involved is really all we could have expected from respondents in their defense against the allegations. It was the inference of coordination raised by these circumstances that had to be addressed and refuted. The investigation was unlikely to prove the facts alleged in the complaint to be totally false or to prove an absolute absence or impossibility of coordination.

Our investigation explored the prior professional relationships between the media consultants to the two respondent committees (a not uncommon situation among political campaign vendors) and indicated no inherent 'conflict of interest' in terms of independent expenditures. The investigation uncovered some discrepancies in recollections about these events (not surprising three years after the events occurred), but those minor inconsistencies did not genuinely impeach witnesses' testimony. And the investigation confirmed brief and isolated contacts between these consultants during the election year that could have jeopardized the independence of these expenditures, but did not (discussion below).

a. Raiford

The only new development arising from the investigation was information about the involvement of Jesse T. Raiford as a subcontractor to both media consultants. Raiford's dual role as a service provider to both committees' media consultants should have been, and was intended to be, avoided by NSPAC's own procedures for

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screening vendors. That dual employment was not itself, however, a "violation" of the Act by anyone.

Raiford was apparently a favored technician within the pool of people the two media consultants drew upon to film commercials. Working for both camps, of course, could be seen to raise a presumption of coordination undermining the independence of the expenditures. Here, the purely technical function of Raiford's work as a cameraman and film crew organizer intermittently hired for a "shoot" militates against such a presumption (the General Counsel's report unconvincingly tried to pump up his credentials by referring to him as a "producer" of commercials [he hired the crew, set up the "shoot" and paid subvendors, pursuant to the instructions of the media consultant] and involved in "opposition research" [getting still photos from public archives]). But his function was not that of a campaign insider or strategist or creative force in producing the advertising campaigns. Compare Federal Election Commission v. National Conservative Political Action Committee, 647 F. Supp. 987 (S.D.N.Y. 1986).

I admit Raiford's significance is a harder call than common use by the two committees of Federal Express, but I do not concede his involvement inherently destroyed the independence of NSPAC's expenditures. Any presumption or inference of coordination based on Raiford's role is rebutted by the testimony of the two committees' consultants, who were unaware of his work for the other group and viewed him only in a technical support role. Raiford's apparent ignorance or even duplicity in not telling Ailes or McCarthy of his

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work for the other was dumb, risking the independence of the project, but not separately dispositive of anything. We have no reason to think his dual employment actually constituted or resulted in coordination within the meaning of the FECA.

I also acknowledge if any further investigation was remotely justifiable in this case, it might have been to depose Raiford and explore how he could have affected the course of these ad campaigns from a strategic or creative standpoint. That did not strike me as a particularly necessary or potentially fruitful line of inquiry, given all the other indications of Raiford's merely technical role and his absolute denial of providing any information to either camp or otherwise facilitating any coordination. Also, the General Counsel's investigation efforts included a lengthy telephone conversation with Raiford, as noted in the Counsel's report.

b. Ailes and McCarthy

The primary focus of the Commission's investigation was the relationship and contacts between Roger Ailes, media consultant to Bush-Quayle'88 and Larry McCarthy, media consultant to NSPAC. [1]

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1. Even the questions about Raiford can be subsumed under the Ailes/McCarthy relationship (whether Raiford served as a link). All the other "issues" raised by the General Counsel at the conclusion of its report are truly just peripheral to the complaint's principal allegation of "coordination."

   The investigation also inquired into communications between then-candidate Quayle's campaign and Ms. Fediay of NSPAC after the making of the expenditures in question. The General Counsel treats the issue as evidence of a good relationship between the respondents. However, the exchange of pleasantries between the Vice-Presidential campaign and NSPAC appears to be so patently innocent and legally insignificant as to not merit further discussion.

The heart of this case is the question of coordination between the committees' two advertising creators. On that point, the deposition testimony of McCarthy speaks for itself:

Q: So where did you go from there after you made that commercial [the first Bush biographical spot], with NSPAC?

A: ...[Y]ou know I had done the commercial, I really did not expect to hear from them again, I thought it was very speculative that this commercial would raise any money, that this organization would raise any money. I probably talked to them in late August. They came back and said, we have some money, we're thinking about doing another spot. We're thinking about going -- about comparing Bush and Dukakis. We talked about the different options for doing that. And it was kind of a seat-of-the--pants discussion because we had no survey research, we had no opposition research, we simply had what we carried around in our heads.

We talked about different options, we talked about pledge of allegiance as an issue. We talked about crime, specifically the furlough program. I think we talked about pollution, but I'm not sure. There was a third issue, I'm not sure what it was, but it was something along the lines of pledge of allegiance, something that was in the news at the time. So we discussed all the options.

Q: That was at your first meeting with them or --

A: I'm not sure that we met -- I think it was probably a conference call.

Q: Who else was on there?

A: I think it was just ... Floyd Brown [NSPAC officer] and Ms. Fediay [NSPAC treasurer].

...

Q: Now you said that you got the call from them and now you started to negotiate a new -- by conference call -- another commercial? ... Or at least one commercial was it? Or --

A: They were talking about one commercial.

Q: One commercial, okay. Where did it go from there?

A: I drafted a furlough ad. I drafted a pledge of allegiance ad. I'm pretty sure I drafted a third ad but I'm not sure which ephemeral issue it was. It became clear to me as I was writing

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that furloughs was going to stick. It was based on nothing other than my own gut instinct. I thought pledge of allegiance was going to fade away. I forget what the other issue was. But I thought people -- and this is based on my, just experience in political campaigns -- that people, they take crime real seriously. That and economics are the two things that people react to.

So I said I think we should do an ad on the furlough issue. And they agreed with me.

...

Q: When you did your research did you use basically your own research from newspapers or did you use any other sources?

A: I used one additional source. Once we agreed that we probably wanted to do an ad on the furlough program, Reader's Digest referenced the work of a newspaper called the Lawrence Eagle-Tribune... [T]hey had won the Pulitzer Prize for their work on investigating the furlough issue, specifically the case of Mr. Horton...

So when I read in -- I think it was Reader's Digest which ran in July, there was a feature article in July about the Horton case and the whole furlough program -- I said to Ms. Fediay, can you have somebody dig up all the stories from the Lawrence paper? And she said yes she could...

...

Q: When you were hired by Ms. Fediay did she express any concern or give you any notice or make any statement to the effect that you weren't to contact anybody from Ailes or [Ailes' company]?

A: Ms. Fediay was very explicit from the very first meeting that this was an independent expenditure and of course that I could have no contact with any part of the Bush campaign. I appeciated her word of warning. I already knew independent expenditures...

... [T]here could be no dealings of any kind with the Bush committee. Having worked at the Senate committee and having worked in the Percy race... I knew the ground rules well. So I said I understand that.

And Ms. Fediay wanted to dot the i's and cross the t's, and she presented me with a document which I believe legal counsel had prepared stating that not only did I not have any contact with the Bush campaign, but I would continue to not have any contact. I knew that I would be off-limits for the remainder of the campaign. So I signed the document, and I believe it was either during, just before, or just after the editing of

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the very first commercial.

...

Q: Did you receive a call from Mr. Ailes while you were with NSPAC or doing work for NSPAC?

A: Mr. Ailes called me -- the first commercial was finished, I'm not sure if it was actually on the air yet [June], and Mr. Ailes called me up -- and if you know Mr. Ailes at all it was a very typical conversation, he didn't -- he had heard a rumor that I had done this ad. He hadn't seen it yet, I don't think it was on the air yet. But he heard about it. I think his media buyer had learned that it was in the process of being placed. And he said, "who are these guys?" And I said, "they are a bunch of retired admirals." At that point I said, you know, "but Roger, this is an independent expenditure, I really can't talk to you about it." And he said -- sort of his closing throw-away line was "it is too bad because I was thinking about having you work on the Bush campaign." And I said, I appreciate that, but we couldn't talk about it.

And I basically took Mr. Ailes' comment to be -- I'm trying to think of the correct word -- a throw-away, meaningless line, because he and I had not -- had very testy relations -- had not spoken since late December, early January of that year. We had not spoken at all.

As I took that, as just like the moral equivalent of "let's have lunch." There was no way that Mr. Ailes was going to retain me for the Bush campaign, he and I both knew it, but it was just his throw-away line.

...

Q: But Mr. Ailes conveyed to you that he knew you were working for Americans for Bush?

A: He wasn't sure. I don't believe he was sure. He had heard that there was an ad and he had heard a rumor that I had done it. So he was not sure.

Q: Did he ask you?

A: I believe he probably did. I said yes. I'm working with them and I -- what I related to you earlier -- and then I terminated the conversation.

Q: Just repeat again what you said about the statement -- why you terminated the conversation.

A: Well, because I realized that any further communication with Mr. Ailes would be viewed unfavorably by people like yourself.

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...

Q: Did [Ailes] say anything specifically about hiring to do negative ads for the committee?

A: I can't remember the exact context. The context that I took from it to be that it would be working on Dukakis because they had done -- they had done a lot of their positive stuff already. And the only thing new to the equation would be the Democratic nominee.

...

... I guess we made this commercial [at the] very end of August or first day or two of September. It was my professional judgment that this issue -- furlough issue would be used in the paid media by Bush for President.

I made that judgment based on, as I said earlier my experience, and also you can usually see, the leading indicators, if you will, of what will be in paid media will frequently appear in the rhetoric that a campaign uses for weeks beforehand.

If you look at the rhetoric of then-candidate Bush, all the Bush surrogates in that period, the furlough issue, and Mr. Horton specifically were prominently featured.

To me that said, even though I have no survey data and nothing other than what I read to base this judgment on, that they believe the furlough issue to be a cutting issue which would be damaging to Mr. Dukakis and helpful to Mr. Bush.

And I made the further guess that they would start running this type of commercial mid- to late September because I -- you always try to alternate your waves of your comparative media with your positive media. I knew if they were going to do some comparative media they would want to come back for a week or two and do some positive pro-Bush stuff. And then probably go back in again in mid-October and do some comparative again on Mr. Dukakis. That's a very classic, traditional pattern which is followed in nine out of 10 campaigns.

So I was simply making that surmise of what the Bush campaign would do, and I based my actions accordingly.

...

I was making the assumption that even though the Bush campaign and Mr. Ailes and others, and Mr. Atwater referred frequently to Mr. Horton both in their formal statements and their offhanded comments to press.

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> Even [though] they referred to Mr. Horton specifically and colorfully that they probably would not use his picture on the screen or get very specific in terms of the case in paid media, in television commercials.
>
> I made that assumption for the reason that I knew it would be controversial.
>
> ...
>
> ... I knew that the instant that I made an ad which put a criminal's picture on the screen, a criminal who happened to be black, I knew that would be controversial. I knew that the Bush campaign would probably shy away from it.
>
> ...

Q: Did you ever discuss whether the Bush committee would approve of your use of that ad?

A: No. From what little I knew of the Bush committe I knew that they were in constant friction with NSPAC over -- well, I believe they filed FEC complaints against NSPAC. So there was real and genuine hostility between the two at a -- at committee to committee level.

Q: But you weren't concerned at all whether the Bush committee, you know, was pleased by the ad itself?

A: No. I was doing what I thought best for my client and for the -- my immediate client, I was hoping that George Bush would win the election, I thought this ad would be beneficial to his candidacy.

Q: And did Ms. Fediay ever discuss any concerns about whether the Bush committee would approve of this work?

A: No.

Described at its basic level, in narrative form and in human terms, this story is not fantastic or too cleverly crafted. I find McCarthy's description of events utterly plausible. It accords with how things work in the real "seat-of-the-pants" world of political consultants in the thick of a campaign. When the testimony is read objectively, the General Counsel's efforts to manufacture a

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conspiracy theory is ridiculous.

NSPAC did not, and did not need to, coordinate their advertising campaign with Bush-Quayle'88. McCarthy knew how media campaigns are run, and may have had special insight into Ailes' approach. He was able to anticipate the needs and strategies of the Bush campaign accurately. His work complemented theirs, but he did not consult or cooperate with them.

This account of events is believable, despite the General Counsel's efforts to pick at this (and Ailes') testimony, and its treatment of each minor inconsistency or lapse as a major basis for impeachment of the witnesses. However slightly inconsistent McCarthy's description of events may be from Ailes', inconsistency is not itself the issue under the FECA, nor is the basic foolishness of having any contact that might risk jeopardizing the independence of these expenditures. Coordination is the issue. Based on the evidence, I do not think it happened here.

The only hint of a misstep by the Bush campaign is the Ailes telephone call to McCarthy in June of 1988, weeks before Willie Horton became an issue in the campaign. That call, as described in deposition testimony, was certainly ill-advised and a little silly. Ailes' curiosity may have gotten the best of him. Perhaps he meant to flatter McCarthy and mend fences. However, the call does not represent impermissible coordination under the Act. [2]

2. Similarly, McCarthy's interview of Ailes at the very end of the campaign for a magazine article did not affect the independence of NSPAC's prior "Willie Horton" advertisements. As the report of the General Counsel noted: "Both Ailes and McCarthy denied that there was any discussion of the Bush Committee's campaign

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The call is hardly dispositive evidence that NSPAC later developed a negative strategy it would not otherwise have pursued. Frankly, it would not take consultation (or a clairvoyant) for a former employee to predict Ailes would ultimately favor a negative, hard-hitting media strategy. Knowing that does not excuse complicity if it actually occurred, of course. But NSPAC's eventual use of a negative advertising strategy, even if intended to anticipate or complement the advertising of Bush/Quayle '88, does not constitute, nor is it itself proof of, coordination. Again, in this case, we had no compelling basis for believing coordination must have occurred.

Those actions that gave the appearance of or opportunity for coordination, while foolish, were adequately explained. I have no reason to believe Ailes and McCarthy were not telling the truth when they swore under oath they did not discuss or coordinate their media strategies or plans. Nothing in the evidence serves to truly impeach their testimony, despite the General Counsel's efforts to pick at it. As to Raiford, he was a technician, or at most a general contractor for technicians' services, and appeared to play no role that would have facilitated any kind of strategic or creative coordination.

Both circumstantial elements -- the Ailes/McCarthy contacts and Raiford's dual employment -- are troublesome, and complicated the Commission's determinations. However, neither was sufficient on its

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(Footnote 2 continued from previous page)
plans, although they acknowledged that they discussed the effectiveness of spots which the Bush campaign had previously aired." The Counsel's office primarily relied upon this interview to show the consultants' general friendliness and to attempt to draw inconsistencies for impeachment of their testimony.

face, or in conjunction with any other facts, to justify a conclusion that coordination took place. Absent such a conclusion, the proper course of action would have been for the General Counsel to brief and recommend, and the Commission to vote, "no probable cause to believe" a violation occurred.

3) SCOPE AND SUFFICIENCY OF THE INVESTIGATION

The Commission's meeting of June 11, 1991, in which I voted with three colleagues to find "reason to believe" in this matter, included a lengthy and vigorous discussion of the allegations of the complaint, the responses, the facts as understood, those questions remaining to be addressed and the relevant legal considerations. As a result of this discussion, the Commission defined the parameters of the case and instructed the General Counsel's office as to which questions we were interested in pursuing in the investigation.

The responses to the complaint generally explained the circumstances and rebutted most of any inferences of coordination. Some questions were not fully answered, and the Commission voted to find 'RTB' and ask those questions. The Commission's investigatory focus was entirely reasonable and sufficiently thorough to address the allegations of the complaint. The subtle blame now voiced about a "limited" investigation is buck-passing. [3]

3. Furthermore, it would be disingenuous for any of my colleagues to rewrite history and claim they were forced to accept a "limited" investigation. To the contrary, a review of our June 11 discussion demonstrates there was widespread agreement among those who addressed the issue that the investigation should be focused and 'fast-tracked.' (Commissioner Aikens, who voted against finding "reason to believe," expressed her concern the General Counsel's office would undertake an overly broad investigation despite the majority's direction).

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The General Counsel is apparently piqued the Commission would dare to define the relevant range of the inquiry, but the Counsel's 'still some unresolved questions' conclusion simply became far too attenuated and self-serving by the time of its last report. At our meeting of December 3, 1991, the General Counsel's only suggestions for further investigation were to expand the inquiry far beyond the scope of the complaint's allegations, compare all advertisements of the respondent committees for "similarity" of themes, and broadly scrutinize every facet of Bush\Quayle'88's advertising program and NSPAC's advertising program and all their respective vendors.

When the evidence does not support the fundamental allegations, the "what if's" and picking at little details have to stop. And, as those who follow the Commission know, this type of case could be languishing on our docket long after the next Presidential election had the Commission not directed the General Counsel to conduct a focused and prompt investigation.

4) CONTACT, COORDINATION AND INDEPENDENT EXPENDITURES

The Commission's investigation confirmed that respondents' media consultants were guilty of bad judgment in not completely avoiding any contact or communication, however brief or innocent, that might have provided the appearance of or opportunity for coordination in the making of these expenditures. These agents of respondents have described and explained their contact. Their stories, while not perfect mirror images (which would itself have been curious), were not inconsistent in any significant way. Their testimony, while plausible, does not excuse their having any contact

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that would raise questions.

The penalty for coordinating expenditures that are supposedly "independent" is that such activity is then deemed an in-kind contribution to the benefited candidate and subject to the Act's contribution limits and prohibitions and reporting requirements. The penalty for <u>risking</u> an appearance of or opportunity for coordination is, likely, the disfavor of the client and the political community and, perhaps, an investigation by the FEC.

The General Counsel wants to punish these respondents for their conduct (particularly their faithlessness in not adhering to their clients' instructions to avoid any contact), not for any demonstrated coordination itself. Taking no further action, instead of a "no probable cause" finding, is a disingenuous way of exacting a minor "penalty" for the unwise contacts of these respondents' agents. But the only legal consequence for failing to keep an independent expenditure operation 100% insulated from contact comes if something constituting coordination results from the breach. There is no separate violation, no special punishment, for indiscreet but harmless contact -- it is not itself 'illegal.'

The independence of NSPAC's expenditures was placed in potential jeopardy by the contacts between respondents' agents, though brief or isolated or insubstantial. Based on a fair review of the evidence, however, there is no indication the contact between these consultants constituted or resulted in actual coordination of NSPAC's television advertising. The independence of the expenditures was not genuinely compromised or impaired.

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5) BASIS FOR "NO PROBABLE CAUSE" FINDING

Pursuant to the Commission's "reason to believe" finding, the General Counsel's investigation found inadequate evidence to support allegations the independence of NSPAC's expenditures were compromised by coordination with Bush/Quayle'88. If the FEC cannot meet the evidentiary threshold for a "probable cause" finding, then the proper course of action is a "no probable cause" finding. Once the inquiry is concluded and the evidence reviewed, the proper role for the General Counsel is to acknowledge when the allegations have not been proved, instead of complaining the allegations are too hard to prove or are incapable of being proved with the "limited" investigation sanctioned by the Commission. [4] When the government does not have a case, it is obligated to admit it, not to call it a tie.

The respondents deserved not so much the benefit of the doubt

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4. To suggest that proving coordination sets an impossibly high enforcement standard is to irresponsibly beg the question. First, of course, 'coordination' is the general standard set forth by the Act and Commission regulations for imposing limits and restrictions upon the otherwise protected political speech of independent expenditures. The General Counsel has no right to decide the standard is unwise or impractical, or that special efforts to get around it are justified. Second, it is not so impossible to develop a case demonstrating, by a preponderance of the evidence, that acts constituting coordination occurred or the effects or consequences of coordination were apparent. Evidence of either acts or results of coordination was not compelling here. Third, 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). Perhaps the difficulty in showing coordination is only commensurate with the drastic legal consequence of finding such otherwise protected speech to not be independent.

as the benefit of the normal operation of legal presumptions and finality. Instead, they were subject to being measured by the General Counsel's continuum of general blameworthiness, which denied them any result that might be seen as a completely clean bill of health.

In the General Counsel's view, it is also bad to risk a violation of the law or engage in any action that, had it gone further, might have violated the law. Refusing to "clear" them, by declining to recommend a "no probable cause" finding, the General Counsel leaves the respondents slightly tarred by these unproven allegations -- a little rap on the knuckles just in case. Such moralizing and equivocating is not worthy of the FEC in its adjudicative role. We are obligated to make a fair and defensible decision in each case, not to 'send a message' to the regulated community to be careful.

Recognizing the case does not demonstrate a violation of the Act does not require the General Counsel to give a stamp of approval or to totally absolve respondents of any inappropriate conduct. It is not the General Counsel's job to hedge on those respondents of whom it is slightly suspicious or disapproving, or to dispense its own sense of rough justice for behavior risking a violation. It is instead the General Counsel's job to advise the Commission on the adequacy of evidence and the legal sufficiency of a case. Here, the Counsel ultimately failed in its job, because it refused to recognize the legal result demanded by its own investigation: a "no probable cause" finding. It just could not bear to let these respondents go.

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TRANSCRIPT OF PROCEEDINGS

UNITED STATES OF AMERICA

FEDERAL ELECTION COMMISSION

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IN RE:

MUR 3069

- -x

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DEPOSITION OF LAWRENCE C. MCCARTHY

Washington, D. C.

Wednesday, August 21, 1991

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UNITED STATES OF AMERICA

FEDERAL ELECTION COMMISSION

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DEPOSITION OF LAWRENCE C. MCCARTHY

Washington, D. C.

Wednesday, August 21, 1991

Deposition of LAWRENCE C. MCCARTHY, called for examination pursuant to notice of deposition, at the Federal Election Commission Office of General Counsel, 999 E Street, N.W., Sixth Floor, at 9:59 a.m. before MARLENE KNOWLES, a Notary Public within and for the District of Columbia, when were present on behalf of the respective parties:

XAVIER K. MCDONNELL, ESQ.
LISA E. KLEIN, ESQ.
Federal Election Commission
Washington, D. C. 20463
On behalf of the Federal Election Commission.

PAUL E. SULLIVAN, ESQ.
Wunder, Diefenderfer, Ryan, Cannon and Thelen
1615 L Street, N.W.
Suite 650
Washington, D. C. 20036
On behalf of the Deponent.

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C O N T E N T S

WITNESS	EXAMINATION
Lawrence C. McCarthy	
by Mr. McDonnell	3

E X H I B I T S

MCCARTHY DEPOSITION NUMBER	IDENTIFIED
FEC Exhibit 1 - 5/28/90 Article	93
FEC Exhibit 2 - Article Entitled, "The Selling of the President--An Interview with Roger Ailes	122
FEC Exhibit 3 - Photocopies of a Calendar	125

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PROCEEDINGS

Whereupon,

LAWRENCE C. MC CARTHY

was called as a witness and, having first been duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. MC DONNELL:

Q Good morning. My name is Xavier McDonnell. With me here today is Lisa Klein. And we represent the Federal Election Commission in this matter. This is MUR 3069. The Commission has a statutory duty of enforcing the Federal Election Campaign Act of 1971 as amended, Title 2 of the United States Code.

This deposition is being taken pursuant to a subpoena issued by the Commission as part of its investigation in this matter.

Can you state your name for the record.

A My full name is Lawrence, L-a-w-r-e-n-c-e, C, McCarthy, M-c-C-a-r-t-h-y.

Q What does the C stand for?

A Charles.

Q Are you represented by counsel here today,

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Mr. McCarthy?

A Paul Sullivan is here with me.

Q Have you ever had your deposition taken before?

A No.

Q I'm going to ask you a series of questions which you will answer today under oath and we ask you answer orally, not with a yes or a nod or anything. Do you understand that?

A I understand that, yes.

Q Any time you would like me to repeat a question just ask me and I'll do so.

A All right.

Q Any time you would like to take a break just let me know and we'll take a break and get a cup of coffee or stretch your legs or anything.

A Thank you.

Q Could you tell me your address?

A 108 9th Street Southeast, Washington, D.C. 20003.

Q How long have you been at that address?

A Approximately four years.

Q What is your date of birth?

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A July 19, 1952.

Q Could you just summarize your educational background starting from after high school?

A It is very short. Georgetown University, graduated 1974.

Q What was your degree?

A In English.

Q Could you summarize your employment history starting from your college to the present?

A I worked through college and -- for two years afterwards for then-Senator Jacob Javits of New York. I then worked for first Congressman, then candidate, then Senator John Heinz from Pennsylvania. When Senator Heinz was elected chairman of the Senatorial Committee in 1979, I moved there to serve as communications director, which I did for two years. In 1981 I spent the majority of the year as a freelance writer for several different clients including the senatorial committee, Senators Heinz, Senator Specter, and the Times Mirror Corporation which is the parent company of Newsday and Los Angeles Times.

Late in that year in November of 1981 I began working for Ailes Communications in New York. I ceased

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being a staff member there in January 1987. At that time I became a fellow at the Kennedy School of Government at Harvard. I also at that time signed a contract with Ailes Communications to handle one or more races for them as a contractor in the 1988 cycle.

The one race that we knew about -- knew at the time was the Danforth race, Senator John Danforth in Missouri. It was presumed that I would also work on the reelection campaign of Senator Dave Durenberger of Minnesota, if we got that account, which Ailes later did.

The contract I had with Ailes Communications was terminated in December of 1987. The cause of termination was the fact that I had become a media consultant for Dole for President.

I served in that capacity until the Dole campaign ended after which I was a political and communications consultant, both political and corporate clients to which -- and that employment continues to this day.

Q I'm going to step back a little bit. Did you -- what did you do to prepare for this deposition today?

A I reread what little I had in my Americans for

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Bush/National Security Political Action Committee file. Mr. Sullivan told me what a deposition would be like and that's it.

Q Did you talk to anyone about this deposition today?

A No.

Q When was the last time -- you know Roger Ailes I assume?

A I do, yes.

Q Do you know Elizabeth Fediay?

A I do, yes.

Q Am I pronouncing her --

A Fediay.

Q Fediay, okay. When was the last time you spoke with Mr. Ailes?

A Oh, about three months ago.

Q What about Elizabeth Fediay?

A I spoke to her this morning.

Q Can you tell me what that was about?

A Paul was briefing both of us what a deposition would be like since I think she is next week or -- he was just doing -- killing two birds with one stone.

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Q You were speaking in person?

A Yes.

Q This morning, okay. You said you reviewed your file in this matter?

A Yes.

Q Could you tell us what it is? What were you reviewing?

A I basically sent it to Paul. It was a collection of news clips, it was The New Republic article, that was it.

MR. SULLIVAN: Just a point of clarification. Is that essentially the documents that you submitted to the FEC --

THE WITNESS: Yes.

MR. SULLIVAN: -- under the subpoena?

THE WITNESS: Yes, that is.

BY MR. MC DONNELL:

Q We might show you those later just to verify that those, you know, are in response --

MR. SULLIVAN: Nothing beyond those documents that you submitted?

THE WITNESS: No. I don't tend to keep much

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paper. Most of my work winds up on videotape and so that is usually the record.

BY MR. MC DONNELL:

Q I would like to focus a little bit on ACI, Ailes Communications; is that correct?

A Correct.

Q You stated just prior that you worked for Ailes. Could you tell us a little bit about the business, what type of business it is?

A It is a -- and I'm speaking in the term in which I was there.

Q Correct, that's fine.

A I think the nature of the business has changed somewhat since I left.

When I was there, which was then the period of November -- early November of '81 through early January of '87 it was a business which, its primary focus was creating political media for -- usually statewide, occasionally at a lower level candidates. It also would do TV production -- corporate TV production for both entertainment shows, documentaries, corporate videos, things of that nature. And there were miscellaneous

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corporate communications activities, and I was involved in all those areas.

Q How were you involved?

A For example -- well, I'll start with the politics. I was in charge of the political division at Ailes. And the way that structure worked was Roger, having the most well-known name and experience in the field, would serve as basically creative director, he would float among all the campaigns, but he would not do the day-to-day work on any of them.

I would do the day-to-day work on all the major statewides. There was another political producer there who would focus primarily on the congressionals and the very small projects and would assist us in the statewides as well.

Q Who was that?

A That was Bob Bradsell.

Q Bradsell?

A Bradsell, B-r-a-d-s-e-l-l. Robert.

Q When you say "congressional" you mean federal campaigns?

A Yes, House elections --

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Q House?

A House of Representatives campaigns. On the documentary side we would do, I guess in the course of time I was there we did half a dozen TV projects. We did a documentary on television, the presidency with Theodore H. White; which I wrote and won an Emmy for. We did a documentary on history of television, did a cable show called the Weight Watchers Magazine, cable show, with Lynn Redgrave. We did a pilot for Paramount which was not picked up for syndication. I think that's it for TV.

And the corporate videos are things like -- for such clients as the Public Affairs Council, which is the Fortune 1000, the PACs, they do a film or two every year, so -- about PACs and about citizen involvement, things of that nature.

Q You said Mr. Ailes would float in these different --

A He would work on all of them to some degree but not in great detail.

Q What would be his role? You may have said a little bit about it, but what would be his role in working with these?

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A Are you asking for a specific campaign or what --

Q No, I just mean generally. Would he -- you said he wouldn't be involved in specifics, is that --

A That's correct. He would not usually be involved in specifics. He would go to some of the meetings, be in some of the calls, he would write very little. I usually did most of the writing. He would usually glance at the survey, I'd usually do the in depth survey analysis. He would sign off on the spots as they were post-produced, but he typically would not post-produce them himself. Post-producing means actually sitting in the editing room and creating a spot frame by frame and adding announcer track, music, editing, things like that.

Q You said that -- what was their involvement, in your understanding, in the federal campaigns during the time you were there?

A Ailes Communications?

Q Yes. As far as -- yes, federal. Other than those congressional races, were they involved in any other races -- any other federal races?

A Senate --

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MR. SULLIVAN: Excuse me, can I ask during what period of time? During the entire time that he was --

MR. MC DONNELL: Generally the focus of ACI --

THE WITNESS: It was usually Senate and gubernatorial races. There were occasional House races. Occasional initiatives.

BY MR. MC DONNELL:

Q So they were not involved in any presidential campaigns --

A In --

Q -- within that time frame?

A -- '84, Mr. Ailes, separately from the company, did some work on the Tuesday Team, and did some debate coaching of President Bush. But no one else in the company was involved in it. I do not believe he did any actual production of TV spots. It was coaching of Reagan, debate prep of Reagan. I think general ideas, but there was no actual -- at least no production that I saw.

Q Did he do that completely on his own, are you saying or --

A I couldn't tell you whether -- how he was paid for that. But he was the only person from Ailes who was

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involved in that.

Q Had your position changed while you were at ACI?

A My title may have changed. It may have gone from vice president to senior vice president which is one of those things you get in place of a raise.

Q And you said that you deal -- did you deal directly with clients?

A Yes.

Q You else would deal directly with clients? Would it be --

A Well --

Q How were cases or clients assigned or --

A Well, pretty much all the major races, Roger and I would work on them together. I would do the bulk of the work. Roger would come in and add his insight and ideas, but he would -- he might have an idea for a commercial which he'd give to me and I would spend the next day writing it and rewriting, and rewriting, and I would show him the draft, he'd say "that's pretty good. Why don't you try this?" His involvement was in and out.

Q What size company was ACI when you were there?

A During the period I was there probably --

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including all the people who worked on corporate, numbered 15, 16, 17, somewhere in there. There were occasional freelancers added for political season.

Q And then how much -- would there be like divisions within the --

A Yes. But those are more paper than anything else. There was a -- there were a couple people who worked solely on corporate. But, you know, primarily most other people worked both in political and TV production, in corporate as the workload warranted.

Q Were you supervising anyone else's work?

A Not directly -- for different projects, for example, if Bob Bradsell was working on a race -- if he was going to post-produce a spot that I had written, since I couldn't -- let's say I was in Denver, which frequently happened, there was a lot of trading off on races back and forth. But I was -- if I had written a spot and my -- and the client I was working on, Bob Bradsell and Norma Ailes -- who was Roger's wife and also did a lot of the post-production -- they might be the ones to actually go in the editing room. So there might be things to -- regarding pronunciation of names, graphics, just real fine print

stuff.

Q Did Ailes have its own editing room on the premises?

A We had an off-line editing room which means that it is -- it is a 3/4-inch video editing system which means you can do very rudimentary edits, enough to put shot next to shot next to shot, but nothing that you could ever actually broadcast. It is simply as reference purposes and to see how things go together.

Every consultant has to go to a major post-production facility to actually do the broadcast-quality edits.

Q On average how often would you say you were in contact with Mr. Ailes during the period you worked there? Was it --

A Constantly.

Q Did you have weekly meetings or daily meetings to discuss --

A It tended not to be meetings, just sort of an ongoing conversation, phone call, this and that. It was -- it was rarely that it was formal meetings.

Q Would you characterize Mr. Ailes as a

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rainmaker? Would that be --

A That is doing him a disservice. He is certainly the big rainmaker for the firm because he is the biggest name. But he is very, very talented and he can contribute enormous amounts to commercials and campaigns by relatively quick amounts of time.

Q Was he responsible for building up the clientele?

A Yes.

Q That was his primary --

A Well, he --

Q -- responsibility?

A 90 percent of the people who came to Ailes Communications came because they knew of Roger Ailes.

Q Who else besides yourself and Mr. Bradsell were involved in coming up with ideas with regard to political --

A Commercials?

Q -- political commercials.

A On rare occasion Roger's wife Norma Ailes would work on the creative side. Usually she was strictly on the post-production side. She might go out and shoot a

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commercial that one of us had written, but on occasion she would throw an idea in the creative side.

The only other person who was involved in any kind of strategic or creative sense would have been another vice president we added in the '86 -- late in the '86 cycle named Kathleen Ardleigh, A-r-d-l-e-i-g-h.

Q She stayed employed with ACI?

A To my knowledge she is still employed there.

Q And as far as -- you have some staff members that did fairly technical --

A Yes.

Q -- work?

Can you give me the names of those people if it is not too much of a timespan?

A Clay Rawson, R-a-w-s-o-n, was our editor -- one of our editors. Jesse Raiford, R-a-i-f-o-r-d, was one of the production managers. Felycia, spelled F-e-l-y-c-i-a, Sugarman was one of the production managers. Jim Higgenbotham, H-i-g-g-e-n-b-o-t-h-a-m, was one of the production managers. Don Campbell was one of the editors. Ilean, I-l-e-a-n, Guinot, G-u-i-n-o-t, was accounting, office management, things like that. I think

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that's probably as far as you want to go.

Q Is there anyone else you can think of that was there?

A There were occasional freelance production assistants, but those people really were carrying boxes and schlepping.

Q What was your salary at the time you left ACI?

A With bonus I think my last full year was '86, I think I probably made

Q

A Yes.

Q Where were you living at that time?

A When I started working for ACI, I moved to New York in November of '81. I then moved back to Washington in September, October of '85 where I lived until the end. I spent obviously huge amounts of time in New York but I lived in Washington.

Q You did?

A Yes.

Q And you commuted there?

A I went back and forth. I spent a lot of time on the road. So I would typically spend -- you know, at the

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end -- in the end of the '86 cycle I was probably mostly in New York.

Q Did you have an apartment up there or something?

A I would crash with friends and frequently were going, you know, 20 hours a day. So we had a large number of cots and quiet sleeping areas.

Q How would you describe the office setup at ACI?

MR. SULLIVAN: Excuse me, could you clarify that? What do you mean by "setup?"

BY MR. MC DONNELL:

Q Yes. How many --

MR. SULLIVAN: Are you talking about the physical plan?

MR. MC DONNELL: Yes, I'm talking physical.

BY MR. MC DONNELL:

Q How many offices did ACI have first of all?

A Private offices I guess for maybe half of it, six or seven and the rest of the people worked in common areas.

Q And this is one center where everything -- where all the offices were?

A Yes, it was an oddly configured space because it

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was underground. It was in the, basically the basement of a very big apartment building. But it was -- it had office space, general work areas, an off-line editing room and a studio space for the coaching of corporate executives which was something that I didn't get into and it was the corporate side of things. I didn't delve in that area very much.

Q That room that you are talking about, the coaching room, did they bring any candidates?

A Occasionally. It is rare that candidates came to New York.

Q Normally they would go out and meet them on the road?

A Washington or wherever.

Q And whoever was assigned to that candidate, or whatever, would be there --

A Well, usually it would be Roger or me or both.

Q And those offices you are referring to, those are in New York?

A Yes.

Q Do you remember the area or the address or anything?

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A 456 West 43rd.

Q Is that presently the location?

A They moved to -- somewhere in '88 they moved I'm not sure where. Somewhere in Park Avenue South I believe.

Q Do they have any other offices?

A They now -- I think in the -- in '88 they opened up an office in Old Town. I'm not -- they have a subsidiary they call the Media Team. I'm not sure if that's legally a separate division or what that is. But when you call over there it is answered "the Media Team."

Q When you were there, it was just --

A Just ACI, just only New York.

Q Only New York, okay. Could you describe the creative process for developing commercials?

A You are talking about statewide political campaigns?

Q Political campaigns generally -- or if that's easier for you to do then stick with that?

A You typically try to gather as much information as you can possibly get. One large component of that is survey research if you have it, sometimes you don't always have it. Usually in major statewides you have it in

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enormous quantities. And that will give you enormous guidance in terms of your relative position with your opponent and what needs to be done, whether you need to make your candidate more likable or whether you need to stress certain issues or whether you need to compare the two candidates.

Basically the survey research is the road map, basically tells you where to go. And almost all campaigns have it.

There is the opposition research and the issues research on your own candidate which is usually compiled by some other source. Ailes did not usually do that. That was simply given to you in either a very nice binder or massive boxes of garbage.

There is your own instinct of the candidate, usually you would spend very large amounts of time with the candidate and their staffs, not only in formal meetings but traveling with them, just to get a sense of who they are, who he or she is, what their style is like, what they do well, what they do not so well, things of that nature, and you sort of take all that into a big stew and hope a commercial emerges, and hope it's a good one.

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Q When you said you did certain kinds of survey research --

A Ailes did not --

Q That's what I was going to get to, who --

A Any number of private survey research vendors to do that.

Q And it would depend on the location where you were doing it? What would be the factors that you would choose in --

A Usually it was not our call who was the survey research. Usually that was decided by the campaign.

Q You said you got boxes of information or something, could you be a little bit more specific on that? I'm not sure --

A In some cases it was literally "here is some stuff we've accumulated, see if you can find it." That's usually the worst case and that happens occasionally. But some campaigns are not very organized and not very skilled at research. So they just, you know, we sort of draw -- we say, you know, can you find fact A, fact B and fact C and they say "well, I don't know." And after they strike out 19 times and you are reasonably sure it should be in there

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you say "well, send it to us and we'll try and find it." But that's the worst -- you try to avoid that because that is just wading through stuff which we're not hired to do, may not do all that well, but sort of last resort.

Q Say now you have got something and you are in the production stage. Could you take us through the next step?

A Then you write a draft. Usually it is kicked around internally a little bit. Probably goes through two or three drafts, between me and Roger if that was the person I was working with. In some cases Roger did not ever see the drafts. Then they are faxed to clients to get some feedback. The client loves it or hates it or is somewhere in the middle. You either then keep revising or come up with new and alternative concepts until you all agree on one or more.

Q And then when you get --

A Then you produce it -- well, then you say -- well, then you budget it. One of the production managers goes through and says, "well, this looks like eight hours of editing," and "announcer for California" and things like that, and this is approximately how much it will cost,

tell that to the client. And if they sign off on it you make it.

Q Right. And then what?

A Then you make the dubs and ship it.

Q Ship it to --

A Ship it either directly to them or directly to TV stations.

Q Is there any other process of approval?

A (No verbal response.)

Q No?

A Well, occasionally they will see a screen copy ahead of time. And the final edited version, say "we love it" or "we hate it" or "change this" or "ship it." Usually early in campaigns you will ship screening copies to the campaign because there is plenty of time. In the latter portions of campaigns spots are frequently sent to TV stations without the client seeing them.

Q Did they also have a certain media buyer?

A In some cases it is already determined by the campaign. In some cases we contract -- we subcontracted it out. In the '84 cycle, Roger started to concentrate his buy more with one firm. The firms changed -- he was with

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one person who changed firms and I think the firm was called Ed Libov, L-i-b-o-v, & Associates. The first name was Cathy Farrell, spelled with a C. And she then moved to Western International Media for the '86 cycle. It is possible that these might be -- I might have '84 or '86, but it is one or the other.

Q Okay --

A -- and then after that -- I think the '88 cycle, which I was not there for, Roger and Cathy Farrell entered into some type of agreement and created Farrell Media. And I believe Ailes Communications or Roger personally somehow had equity in that. I believe that relationship has since been severed.

Q Where is that from -- located?

A New York.

Q And Libov, where is that?

A They are all in New York.

Q In New York as well. Okay, do you know of anyone else that had an interest in that, Farrell Media?

A I believe it was just Cathy Farrell and Roger Ailes.

MS. KLEIN: Could I ask a question just to

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clarify an issue. I may have jumped or it just certainly isn't clear for me, when you have gone through the research and you have looked inside yourself here, instincts about the candidate, do you draft a list of proposed ideas that will then be discussed with candidates or --

THE WITNESS: Well --

MS. KLEIN: -- we've kind of jumped from there to doing drafts --

THE WITNESS: It depends. In some cases it will be predetermined by either events or by the survey research what you need to do. The survey research may say that your candidate is seen as very cold and strident, we've got to warm him up with a family-type spot. It may say that our opponent is beating our brains in on the environment. So in some cases the survey research and the general course of the campaign tells you exactly what you have to do, just a matter of what words and images you choose to do that.

In other cases it is a lot less clear what you have to do. That type of situation that you sort of brain storm and say well, we could do option A or option B or

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option C, and then you kick that around and frequently you will draft a number of different options on different topics, but not a dissimilar theme. And then as you work through them -- as you work from scripts or concepts, then you get -- you all get a better sense of what you need to do.

BY MR. MC DONNELL:

Q Generally did you have written contracts with clients?

A Yes.

Q Is there a general list of criteria that you have within that contract?

A I'm not sure I understand the question.

Q Okay. Let me rephrase it. Was there certain terms that were usually adopted in the contract as far as payment?

A Yes.

Q Could you tell us about that?

MR. SULLIVAN: Excuse me, again, we're speaking of the time that he was with Ailes Communications --

MR. MC DONNELL: That's correct.

MR. SULLIVAN: -- as an employee?

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MR. MC DONNELL: Right.

THE WITNESS: They were pretty straightforward contracts. They stated the services offered and there would be a list of a few items and they would include such items as creation and production of TV, radio commercials, general campaign consulting, debate preparation, things of that nature.

It would be the amount of compensation and how that compensation was to be paid, on which dates and in which amounts. There would usually be some kind of out clause, termination clause for -- you decide upon X number of days notice to cancel the contract. It was pretty straightforward.

BY MR. MC DONNELL:

Q And who would work on drafting that?

A Usually just a form. Usually it is a fill-in-the-blank form. I would guess that the contract we used in '81 was very similar to the one we used in '86.

Q I see. Even though there would be different services called for --

A They are all pretty much the same.

Q -- radio or TV?

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A Pretty much the same.

Q You testified that you left Ailes Communications in January of '87; is that correct?

A Early January.

Q What was it that made you leave?

A I was tired of the workload. The workload was extremely heavy. It is a high volume shop. It requires enormous amounts of travel and time and I did not want to do that. I had done six years at that point. I didn't want to -- that was plenty.

Q What were your plans when you left?

A I knew that I had the fellowship at Harvard lined up I had agreed to before I informed Mr. Ailes that I was not going to stay with him. We had been discussing this from the latter portions of '86 on that I might not sign up for another cycle.

Q Is that how you sign up generally, by cycle?

A No. I indicated in -- you know, summer or early fall of '86, that I was starting to wear down from the workload and that I was thinking about not -- thinking about the future. And I was entertaining what I want to do with life.

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Q Tell us a little bit about the fellowship?

A Fellowship is one of the great things known to man. The fellowship is at the Harvard University John F. Kennedy School of Government in the Institute of Politics. And every semester they invite six people who have real, hardcore in-the-trenches experience in politics, usually give them -- varied aspects of politics. They come in, teach a course and attend lots and guest lecture and serve as a resource for students and other faculty members and work on some independent project. They pay you a small stipend and get you an apartment and you basically hang out, it's great.

Q What was the duration of your --

A Spring semester which was probably late January through Memorial Day.

Q What project did you work on?

A I started out working on a detective novel, which is still unfinished. And in the latter portion of my fellowship I resumed my contract with Times Mirror where I had done some consulting work in '81. And I did some -- I wound up coauthoring a book on the American electorate for them which came out in the end of '87.

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Q Did you do any other work during that period from January of '87 through spring?

A I may have done a couple of freelance assignments and I think I probably did a couple of Danforth meetings, which is the one race that I contracted with at that time to do for Ailes. But it was basically Harvard.

Q You contacted when to do that with Ailes? The Danforth --

A January '87.

Q When you left?

A Shortly thereafter.

Q Can you tell us a little about that contract?

A It was a very straightforward contract saying that I would work on the Danforth race performing the -- similar duties to what I had done as a staff employee. It spelled out the level of compensation, it also put certain conditions into the agreement; for example, I could not work for any other media consultant. And I retained the option of working for a presidential campaign.

I put that option in there because I was reasonably sure that Ailes was going to do Bush and I had

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no real interest in that campaign. And I was talking and later did some work for the Rumsfeld campaign. And then subsequent to that I did work for the Dole campaign. So even at the end of '86 I was thinking of presidential, but non-Bush.

Q Why did you have no interest in working for the Bush campaign?

A I didn't think Bush was going to do very well, which shows my level of foresight. I thought Bush was going to be dogged by Iran-Contra and others -- I thought -- I'm not sure who is going to get it, but I thought Bush had a decent shot, but -- I knew if I stayed with Ailes I would do some of that work. But I thought I would rather be the lead on a smaller campaign than be the second on a major campaign.

Q Do you know how ACI got the Bush account?

A I don't, no.

Q Mr. Ailes never talked to you about that?

A Well, I can tell you --

MR. SULLIVAN: Excuse me, I think there is a foundational question here that needs to be laid as far as when Ailes actually obtained the Bush campaign and whether

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or not Mr. McCarthy was there at that time or --

THE WITNESS: I was not the --

MR. SULLIVAN: Excuse me, if you can lay that foundation perhaps the question would be more appropriate.

MR. MC DONNELL: Right. But I'd rather -- I'm going to reserve that question for later, I'll get back to that.

BY MR. MC DONNELL:

Q Can you tell me any more about the contract you had with Ailes when you left? For instance, the compensation?

A The compensation for the Danforth race was I

Q And how much of the time did you have to work on the campaign?

A It was unspecified.

Q Pardon me?

A Whatever it took to get the job done.

Q And when was the race scheduled?

A The race was scheduled for November 1988 in Missouri.

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Q And did you have any other contracts through ACI?

A No, we had discussed the possibility of doing Durenberger, he did not have the contract. So he did not -- he and I didn't have an agreement on Durenberger or -- but I said I would think about doing a second race like that if it wasn't Durenberger, I might have something else for him. So that was the extent of what we agreed to in January.

Q When was that agreement -- when was that discussion about doing the Durenberger race?

A It was discussed at the time we signed the Danforth agreement which was basically January. Because he -- we had done Durenberger in the previous -- let's see Durenberger is up '88 -- so we did Durenberger '82 and Roger had done Durenberger in '78 when he won the first time. So there was a presumption that he would do Durenberger again, but there was no agreement.

Q When you worked for the Danforth campaign you worked directly with the campaign itself or --

A Yes.

Q Where did you do your work? Where did you

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perform your services?

A Almost exclusively in Washington or Missouri.

Q Did you have an office at ACI at that time?

A No.

Q During the time you were working for the Danforth campaign did you ever visit the offices of ACI?

A Probably a couple of times during the course of '87, yes.

Q Could you be a little more elaborate about that? Could you elaborate on that?

A Well, I was living in Cambridge. You know, I may have been to ACI once or twice during the course of that year. But primarily '87 was simply a research and planning year. There was no production involved. So my activity -- I spent several days in Missouri with Danforth, I would attend meetings with Danforth and his staff in Washington. But I don't think there was any Danforth work per se done in New York that I can recall.

Q When you did go to the Ailes studio -- I mean the Ailes offices, what was the nature of those meetings or those calls -- visits?

A It was basically social. Most of my -- there was

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not very much Danforth work to do then. So if I passed through New York, which was -- if I -- it may have been once, it may have been twice, but certainly no more than that -- it was strictly to say hello.

Q Under the terms of the contract with Danforth did you receive payments throughout the year from -- for that work?

A I'm not sure of the payment schedule. I certainly hadn't given some -- I'm not sure if it was monthly or quarterly or what it was -- but it was some gradually increasing scale to reflect the workload. So I got paid a little bit in the front and most of it was at the end when most of the work would be.

Q Through what time period did you receive those checks?

A Through December of 1987.

Q And who was the payor of the account? What account were those checks drawn on?

A I believe they were just drawn on a regular Ailes Communications account.

Q While you were working on the Danforth campaign, did you ever discuss any of your work with -- work on that

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campaign with Mr. Ailes?

A Danforth?

Q Right.

A Yes.

Q You did? Could you tell us a little bit about what his role was in that campaign?

A There wasn't much to do in '87. Most of it was just a familiarization with the candidate, with the research, just thinking ahead, what kind of challenges you would face in '88. But it's -- in terms of the relative amount of work that you would do, there may be -- 10 percent of the work on the Danforth campaign was done in '87 and '90 percent in '88.

Q So you hadn't done any production at all during that?

A No.

Q Did you ever have any other contracts with anyone else during 1987?

MR. SULLIVAN: Excuse me, just a point of clarification. Are you speaking political campaign clients?

MR. MC DONNELL: Just any contracts at all,

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generally I would like to know first, to start with.

THE WITNESS: The only political one that I had was Danforth, Ailes.

BY MR. MC DONNELL:

Q That's it?

A I was in discussion with Rumsfeld in the early part of the year. At the end of the year I signed a contract with Dole for President.

Q Did you have any other contracts with ACI?

A No.

Q You had some other commercial accounts, did you?

A I had Times Mirror, I had a law firm client, I probably had a couple of the miscellaneous corporate, very small which I can't -- which I would have to look at my tax records I could probably tell you what they were, but I can't recall them offhand.

Q During the time you discussed the Danforth campaign with Ailes, did you discuss any other topics?

A General "have you seen Terminator," general social. Talked a little bit about Durenberger, if that was going to be real or not. We did not talk presidential because he knew that I was talking to Rumsfeld and I knew

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that he was either talking to or probably going to do Bush. So we deliberately avoided presidential.

Q Do you remember him telling you that he did work for the Bush campaign or he was getting that account?

A I'm sure he mentioned the fact that he was weighing what to do in '88 because I believe he had options from a number of different campaigns. He talked I believe to the Kemp campaign, maybe even to Dole, I don't know. But I think he had plenty of options.

Q What made you change your mind about the Durenberger campaign?

A Well, I didn't change my mind. Simply it wasn't a reality at the time. In fact I never did sign a contract for it.

Q Right, I understand.

A About the time Durenberger was -- Ailes won the account -- was right at the end of the year. I may have gone to one Durenberger or maybe two Durenberger meetings before I had any signed contract with Ailes.

Q Your understanding was towards the end of the year --

A Durenberger?

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Q No, towards the end of the year that the Bush committee obtained a Bush account? I'm sorry, the -- Ailes Communication obtained the Bush account?

A I don't know specifically. I don't know when their conversations began, concluded and were signed. I do know that Roger was clearly doing Bush by the fall of '87.

Q What was he doing?

A I don't know.

Q But you have an understanding that he was clearly doing something?

A Well, I knew that largely by news media accounts.

Q I would like to clarify one point. You said that you were reasonably sure that Ailes was going to do the Bush account. Was that based on something in particular?

A News media accounts. I thought --

Q Even before you got the account?

A Well, I thought Roger would go with the best bet. At that point it looked -- you know, by summer of '87 it looked like Bush was the best bet for the nomination.

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Q But you didn't think he -- but personally you didn't think he was going to --

A I personally thought that Bush would have a very difficult time with the primaries and have a difficult time in general.

Q Where did you get the idea that it was the best bet?

A I think that's Roger's -- I'm characterizing what I believed Roger's thinking to be. That's the best bet not only politically but financially.

Q Do you remember discussing that with him or --

A I did not discuss that with him.

Q I'm a little confused now because if you didn't discuss it with him how did you -- you said that he had the best bet, but he didn't tell you -- it leaves me a little bit perplexed.

A Perhaps I'm not speaking clearly enough, but I'm intuiting, or I'm guessing what I believe Roger's motivations to be. And I believe that Roger in the summer of '87, having looked at Kemp and Dole and Pete DuPont, whoever else he talked to -- figured out that they are all risky to a different degree or not, but Bush is probably

the -- you know, Bush is the vice president, and if you go on the basis of history, vice presidents tend to do better in elections than non-vice presidents do, and that Bush will probably have more money than anybody else.

MR. MC DONNELL: Okay.

MR. SULLIVAN: Excuse me, can I just take one minute with him.

MR. MC DONNELL: Sure.

(Witness conferred with counsel.)

THE WITNESS: Let me clarify what I just said.

BY MR. MC DONNELL:

Q Sure.

A In that when I signed my contract with Ailes on the Danforth race --

Q Which was?

A January '87. I had already had discussions with Rumsfeld, I was reasonably sure that I would do the Rumsfeld media if that campaign got off the ground, which it did not. And even failing that, I was more interested in doing a campaign for president outside of Ailes; I'd rather be the big fish in the small pond.

So I deliberately and Roger deliberately did not

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discuss any presidential activities because he knew and I knew that it was probable we would wind up on different sides of the fence: He thought it was going to be Rumsfeld which didn't scare him at all, and in fact it was Dole, which did scare him a little bit.

Q I see, okay. Could you tell us how you did get involved with the Rumsfeld campaign, or to the degree that you did?

A A personal friend recommended me to Bernie Windon, W-i-n-d-o-n, who was the -- I'm not sure what his exact title was, but for all intents and purposes he was the campaign manager of Rumsfeld to the extent that it ever existed as a formal campaign, which was hazy and marginal.

Q Mr. Ailes had nothing to do with your --

A Nothing.

Q -- contacting that committee?

A No.

Q And the Dole campaign, you said you subsequently joined the Dole campaign?

A I did.

Q Can you tell us how you got involved in that

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campaign?

A Sometime while I was at -- I guess at the very end of Harvard, and I'm not sure if Rumsfeld was going down or had gone down, I got a call from Bill Lacy who was then an official at the Dole campaign asking me if I would be interested in bidding the account, and I said yes. The actual bid didn't take place until August or so. It might have been early September, I'm not sure which.

Q What year?

A Of 1987. And I did not get that account at the first passing. It went to a different consultant. And I was later brought into the Dole campaign when they changed management teams, and the gentlemen I mentioned earlier, Mr. Windon, wound up working for Dole. And he then contacted me again to say would I come talk to them about Dole, which I did.

Q What was your position with the Dole campaign?

A I was a media consultant.

Q Were there any other media consultants --

A Many.

Q -- with the Dole campaign?

A Many.

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Q There were many, okay. Were there any firms involved? Media firms.

A There --

MR. SULLIVAN: Excuse me, just for clarification.

MR. MC DONNELL: Sure.

MR. SULLIVAN: Are we talking at the time that Mr. McCarthy had a contract with the Dole campaign or any knowledge that he had or --

MR. MC DONNELL: Well, I just -- well, just generally while you were there. Thank you.

THE WITNESS: Generally the firm which won the account that I initially bid on, did not get, went to Ringe, R-i-n-g-e, Media Incorporated. I was later brought in over Mr. Ringe. Within six weeks of my arrival he departed. I then later brought in a firm called Murphy & Castellanos, Inc., to help me with some of the production.

BY MR. MC DONNELL:

Q They are a production company or --

A They are media consultants. But at the time which I was brought into Dole I was not -- I was brought in

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very, very quickly because Dole was very unhappy with the work of Ringe Media, so I had a number of other primarily corporate clients that I was not prepared to handle a full workload. And it turned out that the Dole campaign was very badly organized and it was a -- the proverbial Chinese fire drill, so I needed some assistance on the production end. And I retained Murphy & Castellanos for that.

Q Where were they located, their headquarters?

A They were in Alexandria.

MR. MC DONNELL: This is a good time to take a break right here.

THE WITNESS: Okay.

(Recess.)

BY MR. MC DONNELL:

Q We left off talking about the Dole committee. Can you tell us about how you -- how that finished up or whatever? I mean it is pretty obvious, but just for the record.

A He lost.

Q And you worked for him for --

A Until late March I guess.

Q In March, okay. You did some actual production

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of some advertisements?

A Yes.

Q Then what did you do after that? You said you had a contract with Times Mirror and then --

A Times Mirror, I do miscellaneous corporate videos, things like that. That was my only -- I was in a bad position for the political season because I no longer had what I was going to do with Ailes. Dole had gone under. So I basically had no political clients for some period of time.

Q By then you had terminated your contract with Ailes -- ACI regarding the Danforth committee; right?

A Correct.

Q Is there some specific reason why you terminated that?

A I did not, it was terminated by Mr. Ailes. A termination which I thought was -- violated the terms of the contract. He terminated the contract for the specific reason that I had taken the Dole account. And I said, our contract clearly allows for this. He said, sue me. So we did not part on the happiest of terms.

Q So it definitely was not part of the Dole

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contract that you could work for ACI? There was no non-competition clause?

A I had specifically written -- there was a non-compete clause on statewide elections. This is the contract between myself and Ailes Communications. I could not compete -- I believe there were some exceptions written in there because I had a couple of campaigns, small ones that I was thinking about doing. They were in there as a presidential exception. I could compete on the presidential level. My -- at the time I put that into the contract I knew and Mr. Ailes knew that the -- what I was looking at was Rumsfeld.

And he tolerated that simply because he believed Rumsfeld was probably a joke. Probably not going to go anywhere.

When it turned out that the exclusion -- or the exception was Dole, he reacted violently to that.

So he terminated it with -- what's the legal term, with prejudice -- and the Danforth people were extremely unhappy that my services were terminated.

Q How did he convey that to you, that he was going to terminate the contract?

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A He called me up screaming.

Q Where were you at that time?

A I'm not sure where I was. There were a series of conversations. When he first learned of it, I informed him that I was talking to Dole, because the exception or inclusion that I put into the contract that he agreed to said that I had to tell him in advance if I was going to do something, which -- I was very conscious of that language and of those conditions and I knew this would be obviously a sensitive issue for him.

So I told him I was -- that Dole had come back to me, after initially shooting down Dole had come back. He initially was relatively calm about it. And then a day or two later reacted violently.

Q Do you remember the content of the conversation?

A The content was, he said that I had not consulted. I said, well, I think notification several days in advance before I did anything is consultation. He did not have veto power, he only had consultation power in there. He took great exception to the idea, he said, "how can I work on Danforth, which might require me being in ACI's offices, if I'm doing Dole and he is doing Bush?"

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To which I replied, Danforth was certainly not going to go on the air until May or June. So there is no reason to be in ACI's office. By that time the nomination would be decided. We all knew the nomination was going to be decided by Super Tuesday or the week after.

So I was looking at it as a very short duration contract, you know, either Bush is going to win or Dole is going to win and it is going to happen within a matter of 10, 12 weeks. And in that period of time there wasn't going to be any Danforth production. And even when, you know, when I had ceased being a staff member and began being an independent contractor, there was a real arms length distance. I was no longer privy to all the projects he was working on nor did I want to be.

So I did not go to any of the private offices. I had no access to any documents or any of the projects they were working on.

Q But you were given access to the offices for the Danforth -- were you going to do any production work for the Danforth campaign?

A We did not do any production work for Danforth --

Q But, no, were you given any access -- was that

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part of the contract, that you were given access to the offices at ACI?

A I believe -- I'm sure I did no Danforth work at ACI in New York. Because A, there wasn't very much to do, and B, all the action was either in Washington at Danforth's office or in Missouri where Danforth was a good portion of the time and I was with him on a few days.

So there was -- to my knowledge there was no Danforth work done in New York that I did.

Q Right, but was there an understanding when you made the contract that you would have access to the ACI's offices?

A Yes, I would presume that we would do the editing in New York.

Q Was there anything in the contract about that?

A No.

Q Was there anything at all in the contract about your having any office at ACI?

A No.

Q The office you have there was no longer -- you had, no longer had access to that office which you previously --

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A Clay Rawson took it.

Q Now we know that you subsequently went to work for another organization in June of 1988, is that -- or May?

A If you are speaking about the --

Q The National Security Political --

A If you are speaking about the National Security Political Action Committee I met with them in late May and agreed to do a commercial for them in the early part of June.

Q Just for the record we call them NSPAC. I don't know whether you do that, is that okay with you?

A Anything -- I either call them NSPAC or AMBUSH, Americans for Bush.

Q You stated that you met them in May of '88. Who is it that you met?

A I met Lillie Fediay and Floyd Brown.

Q How did you come to meet these --

A Floyd Brown -- I did not know Ms. Fediay beforehand. I knew Floyd Brown from Dole. He was a Dole midwestern person.

Q What was his role in the Dole campaign?

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A I'm not exactly sure. He was very active in the midwestern states. I'm not sure if he had a particular state or he was a coordinator, but he was a field man.

Q Do you know what his particular work that he did? I'm sorry, I --

A I really am not sure what those people do. But it is safe to say political organization, in meeting with county chairmen and that kind of stuff.

Q Is that generally his work?

A Yes. He does the other side of politics from me. He does the grass roots, organizational stuff.

Q How is it that you came to meet Ms. Fediay?

A Through Mr. Brown.

Q Did he arrange for you to work there or to interview or --

A He asked -- he called me up and said that he was either doing some work or might do some work with NSPAC. They are thinking about doing a TV commercial and would I be interested in talking to him, and I said sure.

Q Can you tell us about that meeting or --

A It was relatively brief. Floyd I knew a little bit, Ms. Fediay I had not known at all. We talked about --

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I basically did my demo reel and dog and pony show about how great I am. And then we talked a little bit about what they were interested in and they said they would get back to me if they were interested in retaining me. And they did several days later.

Q And then where did it go from there?

A We discussed the concept for a commercial and we produced that commercial.

Q At that time did you form a contract or anything?

A Handshake.

Q What was the agreement?

A Basically was -- let's talk about the kind of commercial that you want to do, I'll give you a proposal, I'll write it out and give you a budget for it and if you want to do it, fine, if you don't want to do it, that's fine too.

And that would be a budget estimate which would itemize production costs and a creative fee for myself.

Q That's basically, you were just negotiating one commercial; is that correct?

A It was strictly a project basis.

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Q I'm not sure I understand what you mean.

A Well, they were unsure of the amount of resources they had and they wanted to produce one commercial and see if they could use that commercial to raise more money and keep the ball rolling.

Q And what was the type of commercial they wanted to do?

A They were interested in doing a direct response TV commercial. I had done some direct response -- direct response means that the customer or the viewer sees the product or the offer and the commercial and there is an 800 number. They were interested in exploring that. It had been -- I had done several of them for the corporate clients when I was at Ailes. It had not been done much politically. There had been some mostly ill-fated attempts to raise money through 800 numbers. But they thought that they could make it work. I guess they were having some success raising money direct mail. I thought, well, let's see if we can keep -- try something different.

So in fact we created a 60-second commercial which was half biography of George Bush and half a direct response ad narrated by one of the members of NSPAC's

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board, Admiral Mark Hill. The first -- remember, in mid-June when this came out George Bush was roughly 17 points behind. And since I had done spots attacking Bush I knew his record fairly well, both pro and con. So I thought one thing which could help -- which I think helps Bush, given that this is a very, very limited budget, this is a drop in the ocean compared to what the regular presidential campaigns could spend, because NSPAC -- I don't know what they spent on the first buy, but it was 50- or $100,000, which is very little. So the first half of the ad was a George Bush bio created out of still photos and graphics. The second half was Admiral Hill saying, we need to elect George Bush, phone this number now for your free Bush action kit.

Q What made you join this -- you know, accept the offer with NSPAC?

A Cash.

Q Did you change your mind at that time in thinking George Bush's position was --

A Well, I always liked Bush personally, I thought he was a nice guy. But, you know, at that point the conventional wisdom was that Bush was, A, 17 points down,

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and B, going to have trouble. And I thought that's probably not unreasonable. But I thought anything could happen, because I didn't view Dukakis as especially strong either.

Q Who were the persons who worked on the 60-second commercial you referred to?

A Worked in what sense?

Q Any sense. Was that many people involved?

A Well, I basically wrote the script, ran it by Ms. Pediay, Mr. Brown, we agreed on the language, I retained Raiford Communications -- well, actually, he wasn't incorporated then, Jesse Raiford as a freelancer and had him book a crew for me, shot Admiral Hill, a few days later post-produced the ad.

Q And you hired Mr. Raiford as post-producer, is that what it is, post-production?

A I basically hired him for technical and accounting services. Even though I can -- he didn't come to the shoot, he simply got the crew there, got the makeup, you know, calls the makeup artist, calls the camera man, finds out do we need a permit to shoot at Iwo Jima, that kind of thing. That's where we shot, at the

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Iwo Jima memorial.

So he was not at the shoot, and I simply use him to book facilities and pay the subvendors.

Q At that time Mr. Raiford you said was on his own?

A Yes.

Q Sole proprietor or --

A Sole proprietor, and had been so for many, many months.

Q Could you tell us a little bit about how the idea was executed for the commercial as far as the meetings you had or whatever?

A It was very casual in the sense that we had no survey research data. All that was going on was basically what was in the public polls, what I could read in the Washington Post, the New York Times. And our buy was so minimal that it didn't really matter how tightly or widely focused our commercial was because it wasn't going to have a huge impact.

Q What kind of stations was it advertised on?

A I don't know the buy specifically because I did not execute the buy. But it was -- to my knowledge it was

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broadcast on cable networks.

Q Who executed the buy?

A Multi-Media Services.

Q What is that?

A It is a media buyer.

Q Do you know who owns that company?

A I do not know who owns it. I know who runs it.

Q Who is that?

A Anthony Fabrizio.

Q When did you first meet him?

A He was the Dole buyer, I met him at Dole.

Q Do you know where his company is located?

A Alexandria.

Q When did he join NSPAC?

A I don't know.

Q Was he there when you -- was he involved with NSPAC when you joined?

A I'm not sure if he preceded me or came later. I don't know his arrangement with them.

Q So where did you go from there after you made that commercial, with NSPAC?

A Then I really, I didn't -- you know I had done

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the commercial, I really did not expect to hear from them again, I thought it was very speculative that this commercial would raise any money, that this organization would raise any money. I probably talked to them again late August. They came back and said, we have some money, we're thinking about doing another spot. We're thinking about going -- about comparing Bush and Dukakis. We talked about the different options for doing that. And it was kind of a seat-of-the-pants discussion because we had no survey research, we had no opposition research, we simply had what we carried around in our heads.

We talked about different options, we talked about pledge of allegiance as an issue. We talked about crime, specifically the furlough program. I think we talked about pollution, but I'm not sure. There was a third issue, I'm not sure what it was, but it was something along the lines of pledge of allegiance, something that was in the news at the time. So we discussed all the options.

Q That was at your first meeting with them or --

A I'm not sure that we met -- I think it was probably a conference call.

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Q Who else was on there?

A I think just Floyd and Ms. Fediay, Floyd Brown and Ms. Fediay.

Q You may have answered this already, but what was his role at that time -- within NSPAC what was his --

A Mr. Brown?

Q Right. His position.

A I'm not completely sure. I think Ms. Fediay was the head of it and I think he was sort of the operating director. He knew how to do direct mail. I don't think Ms. Fediay claims to be any kind of direct mail expert. So he was the -- sort of the chief operating officer as opposed to the chairman of the board.

Q Let's jump back to the Bush biography again just for a second, how much did you get paid for that -- to do that work, do you remember?

A I am not sure.

Q When you first were -- got involved with NSPAC, who hired you to do that job?

A As I stated, Mr. Brown and Ms. Fediay. Ms. Fediay was clearly the decisionmaker.

Q No one else was there?

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A No.

Q Now you said that you got the call from them and now you started to negotiate a new -- by conference call -- another commercial?

A (No verbal response.)

Q Or at least one commercial was it? Or --

A They were talking about one commercial.

Q One commercial, okay. Where did it go from there?

A I drafted a furlough ad. I drafted a pledge of allegiance ad. I'm pretty sure I drafted a third ad but I'm not sure which ephemeral issue it was. It became clear to me as I was writing that furloughs was going to stick. It was based on nothing other than my own gut instinct. I thought pledge of allegiance was going to fade away. I forget what the other issue was. But I thought people -- and this is based on my, just experience in political campaigns -- that people, they take crime real seriously. That and economics are the two things that people react to.

So I said I think we should do an ad on the furlough issue. And they agreed with me.

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Q You prepared those drafts before you met with them?

A I don't think I met with them. I think I was -- it was simply by fax and by conference call.

Q There was no meeting in August of 1988?

A It's possible. Possible. I do not know for sure. It was a very casual operation. There may have been a meeting but I just can't recall if it was a conference call or brief -- my guess would be it was a conference call.

Q Do you remember ever going to the offices of NSPAC or whoever they were?

A They had a temporary office in -- not temporary, but executive office thing which basically somebody buy -- rents a whole floor and they subdivide it into cubicles and you would get the secretarials -- they had an office downtown somewhere.

Q Did you ever go there?

A I was there once, I believe.

Q What was that for?

A I'm not sure, I tend to think it was early for the first ad. Actually I think I screened the first ad

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there for them.

Q Do you remember a little bit about that or --

A I popped the cassette in the VCR and said "here it is. What do you think?"

Q Do you remember who else was there?

A Certainly Ms. Fediay. I'm not sure if Floyd was at that meeting or that screening or not.

Q At the time you drafted the scripts did you have an agreement with Ms. Fediay or NSPAC?

A Same arrangement. I said, "I'll draft them. Let's figure out what you want to do, because the biggest single variable is production cost. You could do a very simple spot or very complicated spot and that affects how much money it will cost. I said, I'll tell you what it is going to cost and what I'm going to make and you can make the judgment from there."

Q When did you tell her that?

A It was basically a continuation of the arrangement that we had from June for the first commercial. And I'm sure I told her that over the phone. I said I'll script them and then we'll budget them. Whatever you want to pursue -- whatever spot you are

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interested in I'll budget whatever you want to budget.

Q Back to the scripts themselves, what materials did you use to come up with the scripts?

A Reader's Digest, New York Times, Time, Newsweek, U.S. News, whatever I had laying around. I kept a file of issues that I thought might come into play in the campaign. Once I did the first ad for them I kept a Dukakis file and I -- whenever I saw something in the paper I'd rip it out and stick it in there.

I'm sure I was aware back in April when the issue first arose on furloughs, Senator Gore used it against Mr. Dukakis in the New York primary. I remember reading that, thinking that was -- I forget where -- I think I read it like New York Magazine, or -- there is a little squib item, sort of previewing what was coming, and that was the first real inkling I had, because I recognized right away this could be a potent issue. And then everything else is strictly what I read in the paper.

Q When you did your research did you use basically your own research from newspapers or did you use any other sources?

A I used one additional source. Once we agreed

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that we probably wanted to do an ad on the furlough program, Reader's Digest referenced the work of a newspaper called the Lawrence Eagle-Tribune, and it may be the something else Tribune, but something like it.

Q I think you have the correct name.

A And they had won the Pulitzer Prize for their work on investigating the furlough issue, specifically the case of Mr. Horton. Because the boy who Mr. Horton murdered and dismembered was from Lawrence. So they did I think in the area of 200 articles, and their reporting became the basis of everything else which was written and talked about and the whole Horton case.

I didn't see any other fact in any of the later -- or New York Times or other versions which wasn't in the Lawrence paper.

So when I read in -- I think it was Reader's Digest which ran in July, there was a feature article in July about the Horton case and the whole furlough program -- I said to Ms. Fediay, can you have somebody dig up all the stories from the Lawrence paper? And she said, yes she could. I believe she had an intern go to the Library of Congress and microfilm or microfiche, or

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whatever the technology is, and they gave me a huge stack of newspapers -- or newspaper stories.

Q And who was that intern?

A I do not know.

Q Is your understanding that you faxed the ads over to Ms. Fediay?

A I believe so, yes.

Q And where did it go from there?

A Then we simply discussed it. We agreed on what the wording of the spot would be. I gave her a budget for it and she said go do it.

Q Do you know any details about the budget?

A Not specifically.

Q When you were hired by Ms. Fediay did she express any concern or give you any notice or make any statement to the effect that you weren't to contact anybody from Ailes or ACI?

A Ms. Fediay was very explicit from the very first meeting saying that this was an independent expenditure and of course that I could have no contact with any part of the Bush campaign. I appreciated her word of warning. I already knew independent expenditures pretty well

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because when I was at ACI I worked for Senator Charles Percy who was defeated -- largely defeated by what I believed was an illegal independent expenditure done by Mr. Michael Goland.

So I knew from that case all the dos and don'ts.

Q Did you tell Ms. Fediay that you worked for ACI?

A She knew about that, yes.

Q She knew about it. How did she know?

A My demo reel included spots that I produced while at ACI. My bio mentioned it. And I'm sure we discussed it.

Q And she told you about the -- is that the first meeting that you had before she hired you that she told you this?

A I believe she did, and later on I signed a document saying that I had not communicated any of these details to any Bush committee or Bush agent.

Q Any idea when?

A I can't tell you, I don't know.

Q Was it before or after the campaign?

A It was --

Q I mean during the campaign.

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A During --

Q During it, okay.

A -- in terms of signing the document?

Q Yes.

A Yes.

MR. SULLIVAN: I'm sorry, can we clarify that? He signed the document during what campaign?

MR. MC DONNELL: During the Bush campaign. Before the --

THE WITNESS: Well, during the course of my work for NSPAC I signed a document stating that I had no relations or contacts with the Bush committee.

BY MR. MC DONNELL:

Q No relations with them at what time, did it say, or --

A I do not know the wording, but I believe it was professionally prepared.

Q Okay, well, you are just saying you referred back, so that means -- it makes it sound like it is in the past tense, that's why I was making you think it was after the campaign was over --

A No, no --

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Q You had no prior --

A No, no, it was in the midst of production. Exactly when that period was, I couldn't tell you exactly what date I signed it, but I did sign a professionally and very well-prepared statement that I had not had any contact with them.

Q Was there a statement to the effect that you would have no future contacts with them?

A I believe so, but I -- again that's -- I can't recall the wording. I simply -- Lillie said, you know, you have to sign what we've already agreed to, which is -- and I simply -- I'm not sure I even read it completely.

Q Do you have a copy of that?

A No, I don't.

MR. SULLIVAN: Excuse me. Could we go off the record for just one moment?

MR. MC DONNELL: Sure.

(Discussion off the record.)

BY MR. MC DONNELL:

Q Did you want to clarify the statement about when you signed or when you believe you signed the --

A From my very --

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THE REPORTER: Excuse me.

(Discussion off the record.)

BY MR. MC DONNELL:

Q -- signed the statement that you had no dealings with Ailes, ACI?

A From my very first meeting with Ms. Fediay she said that this was to be an independent expenditure campaign and of course there could be no dealings of any kind with the Bush committee. Having worked at the Senate committee and having worked in the Percy race which I played a large role, I knew the ground rules well. So I said I understand that.

And Ms. Fediay wanted to dot the i's and cross the t's, and she presented me with a document which I believe legal counsel had prepared stating that not only did I not have any contact with the Bush campaign, but I would continue not to have any contact. I knew that I would be off-limits for the remainder of the campaign. So I signed the document, and I believe it was either during, just before, or just after the editing of the very first commercial.

Q Was the document prepared specifically for you

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with your name on it in your situation, or was it a general --

A My guess is that it was a fill -- I filled in my name and signed it. But it was the same document that I believe others in the NSPAC orbit would have signed.

Q Did you receive a call from Mr. Ailes while you were with NSPAC or while you were doing work for NSPAC?

A Mr. Ailes called me -- the first commercial was finished, I'm not sure if it was actually on the air yet, and Mr. Ailes called me up -- and if you know Mr. Ailes at all it was a very typical conversation, he didn't -- he had heard a rumor that I had done this ad. He hadn't seen it yet, I don't think it was on the air yet. But he heard about it. I think his media buyer had learned that it was in the process of being placed. And he said, "who are these guys?" And I said, "they are a bunch of retired admirals." At that point I said, you know, "but Roger, this is an independent expenditure, I really can't talk to you about it." And he said -- sort of his closing throw-away line was "it is too bad because I was thinking about having you work on the Bush campaign." And I said, I appreciate that, but we couldn't talk about it.

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And I basically took Mr. Ailes's comment to be -- I'm trying to think of the correct word -- a throw-away, meaningless line, because he and I had not -- had very testy relations -- had not spoken since late December, early January of that year. We had not spoken at all.

As I took that, as just like the moral equivalent of "let's have lunch." There was no way that Mr. Ailes was going to retain me for the Bush campaign, he and I both knew it, but it was just his throw-away line.

Q Where were you when he called?

A Let's see, I would guess he called me at my residence which was also my office.

Q He had your home number at that time?

A Well, home and work are the same one.

Q You stated that the media buyer -- you believe the media buyer had something to do with telling him or --

A That would be my guess. That's usually the early warning system. Usually before you ever see an ad you learn that it is being placed, that your opposing media buyer is out purchasing time for the ad. I'm sure that's where they learned of it.

MR. SULLIVAN: Can I just take one minute with

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him?

MR. MC DONNELL: Sure.

(Witness conferred with counsel.)

THE WITNESS: That is only a guess on my part. I have no idea how they learned of it. But that is the usual way you learn of what the opposition, what the market is doing, is --

BY MR. MC DONNELL:

Q People speak -- they talk about other clients and --

A Oh, yes. The process is is that the sales reps for TV stations are always -- it's like a Middle Eastern rug bazaar, they always tell the other side what your opponent is doing in hopes that you will then, say, get excited and want to place more time with them.

So there is always enormous passing of what is alleged to be confidential information. But both sides know that as soon as you call up the first sales rep you have announced it to the world. It is a de facto press conference.

Q What would make them think you were opposing what Ailes was doing, do you have any idea?

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A They wouldn't necessarily -- they would just know that this is some weird -- I'm sure they couldn't know what it is at first glance --

MR. SULLIVAN: Excuse me, if I could interrupt there. I don't think there has been any indication that it was opposing Mr. Ailes. I think the question that you had in the telephone conversation was who are these people? I don't think there was an indication as to whether or not it was in opposition, support, or whatever with the Bush campaign.

MR. MC DONNELL: The question was opposition, referred to Mr. McCarthy's statement that the media buyers, the opposition --

THE WITNESS: Well, that's in the context of a normal adversary -- you know, Senate race in which -- or presidential for that matter -- in which there are two clearly opposed candidates. Independent expenditures are a rare breed. So I'm sure when the TV sales reps learned of multimedia making calls for an organization called "Americans for Bush" they immediately informed the Bush buyer of this -- whenever the -- I'm sure some sales reps are not used to what independent expenditures are, because

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they don't usually have to deal with them very often. So I'm sure they simply pass this back in an effort to curry favor with the Bush media buyer.

BY MR. MC DONNELL:

Q You believe that's the reason rather than he just saw the ad?

A It's possible. As soon as you -- the process -- you either learn of it from your media buyer or when the tapes arrive at stations or cable networks sometimes you will have a friendly ear or friendly person at the station who will show it to you or tell you about it, or you see it on the air. Those are the three ways you hear about it.

Q But Mr. Ailes definitely conveyed to you that he knew you were working for Americans for Bush?

A He wasn't sure. I don't believe he was sure. He had heard that there was an ad and he had heard a rumor that I had done it. So he was not sure.

Q Did he ask you?

A I believe he probably did. I said yes. I'm working with them and I -- what I related to you earlier -- and then I terminated the conversation.

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Q Just repeat again what you said about the statement? Why you terminated the conversation?

A Well, because I realized that any further communication with Mr. Ailes would be viewed unfavorably by people like yourself.

Q Did you tell Ms. Fediay about the call?

A I don't know.

Q Did you tell anyone else about the call?

A I don't know. My guess would be no. But that is strictly a guess.

Q What was your reaction when he called?

A I was surprised. I hadn't talked to him in several months.

Q Did you take any notes or anything?

A No.

Q Do you generally take notes on your calls?

A No.

Q Do you know where Mr. Ailes was when he called?

A No.

Q Did he say anything specifically about hiring to do negative ads for the committee?

A I can't remember the exact context. The context

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that I took from it to be that it would be working on Dukakis because they had done -- they had done a lot of their positive stuff already. And the only thing new to the equation would be the Democratic nominee.

Q Doing a lot of positive things about Bush, is that what you are saying?

A Correct.

Q Was Dukakis nominated at that time?

A I don't believe he was nominated, but I believe he had locked the nomination up.

Q I would like to go back and focus a little more on the Horton ad again. You faxed over the proposed drafts of the commercials, and then what was the next step? I'm not sure if you got into the actual decisionmaking or -- I would like to focus on the decisionmaking and then from there.

A I think I pretty well said it the first time. I'll do it again.

Q Sure, thanks.

A I faxed over the several different concepts, and the language and the ideas are usually very rough because I had no research other than what I already had mentioned

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to you. In the process of writing it I become convinced that the furlough issue is the best issue to go after. I let Ms. Fediay, Mr. Brown look at the drafts. And they came to the same conclusion I did which was that furlough was probably the best issue to go after. So it's at that point that I said to Ms. Fediay that I would like to get more research done not only for the facts involved, but you always like to have as many headlines and documentary pieces of authenticity that you can possibly to put in the ad itself.

MR. SULLIVAN: Excuse me.

MR. MC DONNELL: Sure.

(Witness conferred with counsel.)

THE WITNESS: Let me clarify an earlier answer.

BY MR. MC DONNELL:

Q Okay.

A I faxed over all the different options in terms of issues to go after, not only the furlough ad but also the pledge of allegiance and there was some third, ephemeral issue.

Q Okay. I guess my point -- I guess you kind of misunderstood my question, but I wanted to know what was

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the next thing that was relayed to you as far as the go ahead to do the ad and take it from there to the production of the ad? That's what I would like to focus on now.

A Okay. Ms. Fediay said that she would send her researcher, intern immediately to try and get the clips that I was seeking. She probably got them back to me within 24 to 36 hours. I went through them. I finetuned the ad in terms of language and how I worked the visuals and faxed it back to them and said this is -- you know, is this what we're going after and they said yes. Budgeted it. Gave them the number and they said yes, go. So then I booked -- I called Mr. Raiford and said, find out where we could get an editing room, which he did, and then we booked the editing room and made the spot.

Q Forgive me for my ignorance, but at that point did you already have the shots that you were going to actually use --

A I did not have the shots. They were -- I knew -- I had seen types of things that I would want to consider for visuals and I sought to get them. But I did not have them at the time they approved the spot.

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Q And where did they come from?

A It depends. Usually the sources for photographs are one of the photo agencies.

Q Do you know specifically which one you used in that?

A I'm not sure, there are several.

Q Was it somebody here in Washington or New York?

A I'm not sure. I believe -- are you talking about the photograph of Mr. Horton?

Q Yes, that's one of the questions I had, right.

A I'm not sure which photo agency supplied that.

Q It definitely was a photo agency, though?

A Absolutely.

Q Did it come overnight mail or anything? Do you remember anything about that or --

A I believe it came Federal Express but I couldn't tell you where it came from.

Q Did you order it or did Ms. Fediay?

A I believe Ms. Fediay arranged for that.

Q But it was sent directly to you?

A I'm not sure who it was sent to, but I remember looking in a packet which I believe was Federal Express

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and looking at the available photographs.

Q Did the other photographs you use come from the same source?

A I don't know if more than one photo agency was involved in that.

Q And you received them all through the mail? Not directly in person or anything?

A I'm not sure. Ms. Fediay was at the edit and she may have brought them.

Q She was at the edit?

A She was at the edit.

Q That's the first editing or post-production editing or --

A Well, in the case of an all-graphic spot there is only one. She came to the edit -- I'm not sure if anybody else was there -- I'm not sure Mr. Brown was there or not -- but definitely Ms. Fediay was there.

Q Where was that held?

A It was at an editing facility called Groupe Andre Perry here in Washington. A firm which no longer exists.

Q Do you know where they were located?

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A Either 20th or 21st Street Northwest.

Q How did you come to use that firm?

A It was available.

Q Did Mr. Raiford arrange that or did you?

A Mr. Raiford arranged that. Typically when you are trying to edit commercials on very short notice, you go to whatever editing facility has that time available. And those are very busy times for editing facilities because so much of the political's being done at that time.

Q Did you edit both commercials there, the Horton commercial as well as the other crime spot?

MR. SULLIVAN: Excuse me, what other crime spot?

THE WITNESS: You are talking about the --

BY MR. MC DONNELL:

Q Well, did you work -- I'm sorry.

A I did two commercials, very similar commercials. One commercial did mention Mr. Horton by name, did include his photograph.

I did a second commercial which did not mention Mr. Horton by name, did not include his photograph. I did

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that for the reason that American's For -- NSPAC was not an authorized campaign committee. Therefore TV stations and cable networks are under no obligation to run your ad. They can reject it on any grounds they see fit. I was not sure if this ad -- I was concerned that the version with Mr. Horton's picture and mentioning his name would be controversial, and since we were not an authorized committee they would reject it. So I created another version to meet that eventuality, or possibility.

Q So now you've established that you did have another version, did you produce both versions at the same facility?

A Yes.

Q How long of a time did it take you to do that?

A My guess from start of recording the announcer to finishing the video on both commercials, probably almost all day.

Q One day?

A One day.

Q You stated that somewhere you went back into the studio to make some corrections?

A I edited that spot on Thursday, just before

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Labor Day. And everyone was happy with the resulting product. And the spot was shipped to whichever outlets it was going to be aired on. The following day in the afternoon, because it was the start of the holiday weekend, I was going through the research material in preparation to filing it away.

Q Pardon me?

A I was going to file my research material away. I had no further use for it.

Q Okay, right.

A But I was simply organizing the papers and documents and there was a very large collection, they were predominantly newspaper clips which were all over the place and microfiche which made it even worse.

And as I was glancing through them I noticed a discrepancy, a factual discrepancy in different versions of the newspapers versus New York Times versus Reader's Digest. The discrepancy came over the number of weekend passes which Mr. Horton received. In the version that I had post-produced, I forget if I put 10 or 11 --

Q I think it was 10.

A And the -- and I did that on the basis of several

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clippings. But as I -- when I noticed the discrepancy I then went to every reference that appeared in the documentation. And I determined that it was a -- that the correct number was not the number that I had in the spot.

So I called Ms. Fediay and I said, I think we should change this. I tried to get into Groupe Andre Perry -- it -- when you make a commercial and have to change it you are far better to go to the place you made it at, because all the machines and all the screens and the editors all match, it is much, much easier. If you go to a new facility it is much harder.

So I could not get into Groupe Andre Perry over the weekend, which is what I wanted to do. So I was forced to wait until Tuesday morning when I made the correction.

Q You left off stating that you -- you didn't leave off but you previously testified that you sent the one crime spot without Horton's photo earlier; now when did you send the second crime spot -- the Horton one -- containing the Horton photo?

A I did not physically send them, that's the job of the media buyer. That was probably two days later.

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Q Did you ship them over to him or her?

A A messenger I'm sure came and got them.

Q Was there a screening of the two spots?

A Screening in what sense?

Q Did you show anyone else the spots for approval before you sent them over --

A No.

Q -- to the media?

A Ms. Fediay was at the edit. So she was the approval process.

Q And you say you don't remember if anybody else was there, besides Mr. Raiford?

A Mr. Raiford was there, the editor was there. I do not know if Mr. Brown was there. He may have been, I do not recall. I believe that was it.

Q Did you hire Mr. Raiford on your own or did Mrs. Fediay hire Mr. Raiford?

A I retained Mr. Raiford.

Q You did, okay. And do you know how much money he was paid?

A I don't specifically, no.

Q Do you know what he was paid for? I mean,

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bookkeeping and post-production services?

A Well, he paid all the subvendors. So, you know, for example NSPAC did not write a check to the announcer or to Groupe Andre Perry or to the photo agency or to Federal Express. All those checks were written by Mr. Raiford.

Q Why did he do it rather than yourself?

A I don't want to be -- I don't want to deal with that.

Q Do you remember who the announcer was in the company that he worked for?

A The announcer was Sheldon Smith.

Q Is he the sole proprietor?

A I believe he is the sole proprietor.

Q Do you have any idea how Mr. Raiford got in contact with him or why he --

A Mr. Smith is probably the leading political announcer in Washington.

Q And the video equipment, do you know where that was rented from?

A Groupe Andre Perry.

Q They provided it?

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A They provide everything.

Q So generally -- so in other words, Mrs. Fediay or NSPAC wrote a check out to Raiford communications for all those costs and they don't have any -- I mean you don't know if they have records, but they didn't have any direct dealings with those companies?

A Ms. Fediay?

Q Right.

A No, they were physically at Groupe Andre Perry but they did not cut a check to Groupe Andre Perry. When you do political work you generally have to pay right then and there from the editing facility.

MR. SULLIVAN: Excuse me, can I just take a second?

MR. MC DONNELL: Sure.

(Witness conferred with counsel.)

BY MR. MC DONNELL:

Q Did you have any role in the decisions regarding the airing of the commercials?

A Did I?

Q Yes.

A No.

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Q Who would be involved in that or who would be responsible?

A Mr. Fabrizio I believe.

MS. KLEIN: Would you have any role in the out let selection, in terms of who would actually receive the video?

THE WITNESS: No.

BY MR. MC DONNELL:

Q I'll ask the same question you asked, did you have any role in deciding what media you would use?

A No.

Q Do you know what media was used?

A Well, I --

Q The channel or stations?

A I know that a number of cable networks were used. I couldn't tell you which ones specifically, but several different cable networks were used.

Q Did you have any role in that or anything to say about that?

A No.

Q Were you ever exposed to any conversation about that?

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A I'm sure I heard it in passing, but I had -- it is basically a media buyers decision which cable network or TV station meets the desired demographics and price and time availability.

Q Did you have anything to do with the decision regarding the timing of the commercial?

A No.

Q When it was aired?

A No.

Q Forgive me, but I think -- didn't you say in "The New Republic" something about that you figured when Mr. Ailes would --

A Well --

MR. SULLIVAN: Excuse me, Larry. We're referencing a specific quote in The New Republic, would you get that so at least we're accurate as far as what's being said?

MR. MC DONNELL: Sure. Let's introduce this as FEC Exhibit 1.

(FEC Exhibit 1 identified.)

BY MR. MC DONNELL:

Q The second column over, fourth paragraph down.

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MR. SULLIVAN: Excuse me, may we just go off the record?

MR. MC DONNELL: Sure.

(Discussion off the record.)

BY MR. MC DONNELL:

Q Mr. McCarthy, could you identify this document?

A I believe this is a photocopy of an article which appeared in The New Republic magazine, the issue dated May, I believe 28, 1990. By Martin Schram, page 17.

Q Mr. McCarthy, could you turn to the second column and the 4th paragraph down and look towards the middle there, there is a quote there, could you read that? Read the quote that you made? It is quoting you.

A "'I know Roger very well,' said McCarthy. 'I just tried to run it as if I was Roger. I tried to spare him from doing some of these things. I figured they'll go negative [and begin attacking Michael Dukakis in their ads] by mid-September. So I said I'm going to lead them by about a week or two.'"

Q Now you just previously stated to the effect that you had nothing to do with the timing of the -- of the airing of the commercials?

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A Correct.

Q Could you explain why then these statements --

A I was answering a very -- well what I perceived to be a specific question. I did not know which particular day the commercials would start airing. I knew that it would be soon. That was a judgment made by Mr. Fabrizio in when he could get commercials on the air.

I knew that, I guess we made this commercial very end of August or first day or two of September. It was my professional judgment that this issue -- furlough issue would be used in the paid media by Bush for President.

I made that judgment based on, as I said earlier my experience, and also you can usually see, the leading indicators, if you will, of what will be in paid media will frequently appear in the rhetoric that a campaign uses for weeks beforehand.

If you look at the rhetoric of then-candidate Bush, all the Bush surrogates in that period, the furlough issue, and Mr. Horton specifically were prominently featured.

To me that said, even though I have no survey

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data and nothing other than what I read to base this judgment on, that they believe the furlough issue to be a cutting issue which would be damaging to Mr. Dukakis and helpful to Mr. Bush.

And I made the further guess that they would start running this type of commercial mid- to late September because I -- you always try to alternate your waves of your comparative media with your positive media. I knew if they were going to do some comparative media they would want to come back for a week or two and do some positive pro-Bush stuff. And then probably go back in again in mid-October and do some comparative again on Mr. Dukakis. That's a very classic, traditional pattern which is followed in nine out of 10 campaigns.

So I was simply making that surmise of what the Bush campaign would do, and I based my actions accordingly.

Q But you did convey that to someone?

A No, just myself. I probably offhandedly said to Ms. Fediay, Mr. Brown, I think furloughs are the best issue for us and I'm guessing that Bush will use it in some form or another mid to late September. I probably

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paraphrased to them what I said here in The New Republic article.

Q So in that respect you did have something to do with the timing of the airing of the ad?

A Yes, in the broader sense, yes.

Q Well, they were going to air it within a few weeks of when you talked to them, correct, when you made the ad?

A Yes. So to be clear, in the broad sense I was recommending a specific course of action for a specific period of time. But I was not the one choosing the exact start date or outlets.

Q With regard to the statement that you tried to spare him -- meaning Mr. Ailes -- from doing these things, could you explain what you mean by that?

MR. SULLIVAN: Excuse me counsel, again can we refer specifically in here?

MR. MC DONNELL: Okay.

BY MR. MC DONNELL:

Q Back to the same place we just referred. Did you say previously in your reading that you had stated that you "tried to spare him" -- meaning Mr. Ailes -- from

doing these things in The New Republic article?

A I did say that, yes.

Q Can you explain the basis for that?

A I was making the assumption that even though the Bush campaign and Mr. Ailes and others, and Mr. Atwater referred frequently to Mr. Horton both in their formal statements and their offhanded comments to press.

Even they referred to Mr. Horton specifically and colorfully that they probably would not use his picture on the screen or get very specific in terms of the case in paid media, in television commercials.

I made that assumption for the reason that I knew it would be controversial.

Q Why is that?

A Whenever you talk about crimes such as rape, kidnapping, murder, those are very volatile and sensitive issues. When you add in the fact that these crimes which Mr. Horton was convicted of were committed by a black man, that ads another element of volatility to it. I knew that the cry of racism would go up immediately. The cries had gone up beforehand even when the Bush campaign was simply using it rhetorically, and not invoking -- not specifically

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using the image of Mr. Horton. So I knew that the instant that I made an ad which put a criminal's picture on the screen, a criminal who happened to be black, I knew that would be controversial. I knew that the Bush campaign would probably shy away from it.

Q You knew the Bush campaign would use it very often during the campaign itself; correct?

A I think all of America knew it.

Q Is there anything specific that made you think that they would stop short of using the picture?

A No. It was my professional judgment that they would not do so for the reasons I just outlined. That it would be too controversial.

Q Did you convey these thoughts to Ms. Fediay?

A I'm not sure if I got as explicit with her as I have just done with you. But I probably did an offhanded version of it.

Q Do you remember when or where?

A In any of our conversations.

Q What was her reaction to that?

A Well, she was -- we were in the editing room debating whether to make the second spot. We knew to make

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a version including Mr. Horton's picture would be controversial and we were worried about, A, getting it on the air and, B, whether it would be counterproductive, whether the controversy over using the picture would be more detrimental than beneficial.

Q Did you ever discuss whether the Bush committee would approve of your use of that ad?

A No. From what little I knew of the Bush committee I knew that they were in constant friction with NSPAC over -- well, I believe they filed FEC complaints against NSPAC. So there was real and genuine hostility between the two at a -- at committee to committee level.

Q But you weren't concerned at all whether the Bush committee, you know, was pleased by the ad itself?

A No. I was doing what I thought best for my client and for the -- my immediate client, I was hoping that George Bush would win the election, I thought this ad would be beneficial to his candidacy.

Q And did Ms. Fediay ever discuss any concerns about whether the Bush committee would approve of this work?

A No.

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Q Is it true that you gave a copy of the Horton ad to the McLaughlin Group?

A I did not, no.

Q Is it true that NSPAC did?

A I read that in the article.

Q You had no idea before that that it had gone there?

A (No verbal response.)

Q You never discussed that with Ms. Fediay?

A Well, I knew that they were planning to get press attention for it, but I had nothing to do with any of their press efforts.

Q How did you know that?

A I think I heard it just mentioned casually. I think they asked for a cassette or two cassettes or three cassettes for their own screening or press purposes.

Q And you made them?

A Yes, Groupe Andre Perry made them.

Q Did you give advice to give any press attention?

A I don't deal in that area.

Q Prior to the time you did the Horton ad did you

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ever hear of Mr. Ailes' statements in the press about the use of the Horton photo?

A I'm not sure which specific quote you are referring to.

Q I'm not asking about any, I'm just asking if you heard anything in the press about anything specific -- about the use of the Horton photo?

A No, I can't recall ever hearing an Ailes quote about the Horton photo.

Q Do you have any idea how Mr. Ailes personally felt about the use of the Horton photo?

A No.

Q I have to go through a few questions here just for the record.

During the time you were producing the Horton ad did you ever see or hear from Roger Ailes?

A I saw Mr. Ailes at the airport in New Orleans a couple weeks earlier at the GOP convention, we exchanged pleasantries.

Q How long a period was that, just a minute or --

A A couple minutes.

Q Did you see him again?

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A No.

Q Any restaurants or anything?

A No.

Q Did you know Lee Atwater?

A I do know Lee Atwater, yes -- I did know Lee Atwater.

Q How did you know him?

A I worked on campaigns with him.

Q Which ones?

A The only one that I worked with him directly on was a special election in Texas in 1985 for Edd Hargett versus Jim Chapman.

Q Did you ever meet him during the Bush campaign -- while the Bush campaign was --

A I saw Mr. Atwater once in the course of that year. And that was at a Christmas party at Times Mirror's Washington office. I think it was the day or two after it was announced or leaked that I was going to be doing the Dole media. And Mr. Atwater congratulated me and said "I'm going to kick your butt."

Q That was in December of '87?

A Yes.

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Q Did you ever talk to Mr. Atwater while you were working for NSPAC?

A That was my last conversation with Mr. Atwater.

Q Do you know Jim Pinkerton?

A No.

Q You never met him, okay.

During the time you were producing or airing the Horton ad or the other crime spot, did you ever hear from anyone in the Bush committee?

A No.

Q Did you ever communicate during that time with anyone from the Bush committee?

A No.

Q Did you ever see anyone at all from the Bush committee during that time?

A No.

MR. SULLIVAN: See them in a meeting type of sense?

MR. MC DONNELL: Yes. See them.

MS. KLEIN: See them as in having a conversation or being present in the same room.

THE WITNESS: I had no substantive

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conversations. I may have seen someone on the street and said hello to them. But I had absolutely no conversation with any Bush committee official staffer.

BY MR. MC DONNELL:

Q Do you remember specifically seeing anyone on the street?

A No. I'm just saying, you know, it's a small community and you know all these people. So I don't recall anything specific. But I would be surprised if at some point I didn't run into -- or somebody had tuned in or said hi.

Q Do you know about any other communications between Ms. Fediay and anyone from the Bush committee?

A No.

Q Do you know if anyone from NSPAC ever provided the Bush committee with a videotape?

A No.

Q You have no idea?

A No idea.

Q Do you know if Ms. Fediay ever received a letter from Dan Quayle?

A I read that somewhere, it may have been The New

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Republic. But I had no knowledge of it at the time.

Q She never told you?

A No.

Q Did Ms. Fediay ever express any opinion about whether the Bush committee supported NSPAC to you?

A She already said that the Bush committee hated NSPAC.

Q She did?

A (No verbal response.)

Q Did that cause her any concern?

A I think she kind of enjoyed it.

Q Why is that?

A I think she thought they were being unreasonable in their complaints about NSPAC.

Q Which complaints are you referring to?

A I believe that there were allegations or charges or complaints going back to the preceding year about use of the name and fundraising.

Q Did she express that to you?

A In passing, yes.

Q What else did she tell you about that?

A That's about it. She mentioned that -- I'm not

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sure if it was an FEC complaint or what it was -- that there was at least a heated exchange of letters.

Q How many occasions did she discuss this with you?

A Once.

Q Just once?

A (No verbal response.)

Q And what was your reaction?

A You know, it was interesting but no reaction.

Q It didn't have any effect on your work?

A No.

Q Did you ever discuss Roger Ailes with her?

A No.

Q Never?

A Never.

Q After you finished doing the Horton ad when was the next time -- well, first of all, did you do any other work for the Bush committee?

A I never worked for the Bush committee.

Q I mean NSPAC? I'm sorry, NSPAC.

A I made one ad later in early October which featured Admiral Thomas Moorer.

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Q Can you tell us a little bit about that ad, please.

A It was an ad which was largely done to make the Admiral feel good. He was I believe the chairman of NSPAC and he wanted to get up there and talk about defense. So we scripted an ad and shot him and later edited him, and we all knew that this ad would air very, very lightly if at all.

Q How is it you came to do that ad?

A I figured crime had run its course and Moorer said he wanted to go after defense. That was the original purpose of NSPAC, was a strongly pro-defense PAC. He said he wanted to get up there and do -- bash Dukakis on defense.

So basically he wrote the ad, it was preordained. This was an ad we had to do. In many campaigns there are ads like that, that the client or someone in the client's organization says "we have to do this ad."

Q You also said that you felt the crime had run its course?

A Yes.

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Q After you finished the Horton ads -- the Horton and the crime ad and they were aired, what was the next contact you had with NSPAC and how did it come about?

A I don't recall specifically. My assumption would be that Ms. Fediay called me up and said -- and I will try to give you an accurate quote again -- "we have to do a goddamn ad for Moorer." She was not enthused. A, she had very little money left. And she was not at all enthused about doing a Moorer ad. And she said, he's got copy already. See if you can rewrite it into English and make it so people -- when non-professionals write scripts they always write about five minutes worth of copy into a 30-second spot.

So I went over to visit with the Admiral, and I knew he would be terrible on camera because he, at that time, was in his early 80s and not the forceful figure that he was during the Vietnam war. But nonetheless this was a given.

So we got the copy, I edited his copy a little bit to get it down to time. And we shot it and then edited it later on.

Q Where did you edit that?

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A My guess would be that it was either Groupe Andre Perry or a place called Interface Video.

Q Did you use Mr. Raiford for that?

A Yes.

Q Anyone else there besides yourself and the Admiral and Mr. Raiford?

A The crew was there. The crew that shot it. Ms. Fediay probably was there.

Q Did you keep any record of when you did that or --

A I may have it in a calendar, but even then I'm not sure of its accuracy because October is always busy for people who do politics, and these things tend to get penciled in and moved and not corrected -- but it was safe to say it was early to mid-October.

Q I see. Any idea when it aired?

A I don't know even if it did air.

Q You don't?

A My guess would be that Ms. Fediay and Mr. Fabrizio aired it once in a very small market someplace, and they tell the Admiral that it was being boomed across America.

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Q It was your understanding he was the chairman? Is that what you said?

A I believe he was the chairman.

Q Do you know what Ms. Fediay's position was at that time?

A I'm not sure what her title was. But I -- she was for all intents and purposes the executive director.

Q What was the next time after the June phone call from Roger Ailes that you had any contact with him other than that you saw him in the airport? And that was --

A I saw him in the airport. Somewhere during the summer I saw him at a restaurant. I said hello to him. He was with a reporter so we didn't talk.

Q Where was that?

A It was some restaurant downtown, I couldn't tell you which one.

Q D.C.?

A D.C. The next time I had any communication with him was mid-October of '88. I was going to do an article -- I was approached by the Gannett Center Journal.

They wanted to do a -- you know, how -- sort of the strategist's viewpoint from both sides. So I had

contacted the Dukakis media people, in the person of one Mandy Grunewald and I called Mr. Ailes and said, "they want me to do a relatively brief side by side, you know, it would take 15 minutes, would you do it."

I was going to base it much more on just basically my critique of the ads, than anything else. But I wanted to get a little bit of color into it as well.

And at that point the circumstances of the article changed in the sense that it was going to come out postelection rather than preelection. And it was going to be a much longer turnaround time between when I turned the copy in and when it finally appeared in print.

They were having -- either financial reasons or a printing problem or something. But -- so I was going to do a -- analyze a couple of ads from each side, get a couple of quotes from both sides and put it in there.

The Dukakis people chose not to participate which left me with not much of an article. And the increased lead time the article would have and the fact that it was now postelection rather than preelection left me with not much -- with very stale material to write about.

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So in the meantime Mr. Ailes had agreed to -- for 15 minutes -- and I wound up -- since I had nothing else to write about and was going to be -- and Mr. Ailes was so good on tape -- I basically transcribed his interview, wrote a very brief introductory section and submitted that as the article.

Q When was it that you first contacted Mr. Ailes?

A Probably around October 10 or so.

Q Where did you reach him?

A I probably called his New York office.

Q And you spoke to him right away?

A No. Usually he would call you back from wherever he was.

Q Do you remember the content -- did he call you back?

A He called me back. We set up a time which I believe was October 15. It could have been -- it's possible it could have changed a little bit. I remember it was I think at breakfast. A very quick breakfast in which basically I shook his hand, ordered, put the tape recorder on, and the rest is in the Gannett Journal.

Q Where was that?

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A My guess would be some restaurant right around 15th Street.

Q In D.C.?

A In D.C.

Q Were you surprised to here from Mr. Ailes when he called you back?

A He usually returns calls.

Q Then you proposed this to him, the interview?

A Yes.

Q Were you surprised that he agreed?

A I didn't know what he would say. You know, we still had had -- even though our relations were cordial, they were still contentious underneath because both were angry over the contract termination episode.

But I needed somebody who would give me good quotes, I knew he would. And he was always looking for publicity. So -- and he likes to talk to press. Sometimes he'll decline, but more often than not he will be quotable, so he agreed to do it.

Q How did you first get involved with the Gannett Journal?

A They -- I'd never done anything for them before.

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I do occasionally do freelance writing. I had never written for them. They had -- I believe the editor of the magazine at the time, a guy named Hunt Williams called a mutual friend of ours named John Ellis who worked for NBC News and said, do you know who might be good to write this kind of inside article?

Because the whole issue was devoted to election '88. And we wanted to have like a Chinese menu, one from column A, column B, all the way through. And their number -- virtually every aspect of media both commercial and journalism were covered in that issue, and I was to be the so-called media consultant type.

Q How much were you paid for that?

A I believe I was paid

Q Did you notify Mrs. Fediay that you were going to interview Mr. Ailes?

A No.

Q This was around the same time period that you were doing that commercial with the Admiral?

A The Moorer commercial was certainly written and shot. I'm not sure if it had been post-produced. But the creative work was done.

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Q So you had no concerns about contacting Mr. Ailes at that time?

A Ms. Fediay indicated that she didn't think the ad was going to run. But this was largely an ad created to keep Admiral Moorer happy.

Q Did you feel this was any chance of being in violation of your agreement with Ms. Fediay, as far as future contacts with Ailes?

A No. Because I was talking to Mr. Ailes as a journalist and the questions, as you -- if you read the article, you will see they are very broad and general in nature, and I was not going to discuss any campaign specifics in terms of -- in any way that would benefit the Bush campaign or NSPAC. So I did not feel there was any conflict there.

Q Well, the interview you discussed specific ads though; correct?

A Historical ads, yes, that occurred --

Q They were all finished by the time the ad was run --

A I had --

Q -- you were -- they were not airing anymore, the

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Bush ads?

A I had no knowledge of any Bush ads that did not run. I think I referred to the Boston Harbor ad. I think I may have referred to the revolving door ad, but those ads had long since run their course.

Q And the furlough ad?

A I believe furlough was well over -- furlough ad ran mid-September, and this was now -- and that ran I would guess for a week -- and this was several weeks after that.

Q Did you pretty much monitor the Bush ads as they were running?

A I watch TV. So I guess I --

Q No, I mean is that part of your job? Is that part of what you do or --

A No. I think you can generally tell from the coverage and each of the -- all the major news organizations which feature whatever ads are being run and have little analysis of what they are trying to do. So I generally -- to the extent anybody who reads Newsweek and Time and The New York Times knows which ad is on. I knew which ad was on.

Q When you asked specific questions you didn't

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know which ad he was going to refer to, you didn't know whether the ad was going to be over at that time or not, did you?

A I believe I only asked questions about ads which were by then history.

Q You didn't ask general questions like which ads work the best for you or anything like that?

A I believe I did ask a question similar to that, but I -- but clearly he was not going to tell me anything that they were planning. He was only talking to me as he would to any journalist, answering the ads in the historical context.

Q But it could be an ad that was currently running or still would be running its course --

A I do not believe Mr. Ailes referred to any ad that was currently running.

Q Did you talk to Mr. Ailes at the beginning of the interview about the possibility that you shouldn't have any contacts regarding future -- any discussion of future --

A No.

Q -- ads?

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A No. I knew that my NSPAC relationship was ending. And I knew that I was only going to talk to him about commercials which had already run their course.

Q Was ending but it hadn't yet ended?

A Well, I knew that Ms. Pediay might choose to post-produce a Moorer spot. But she indicated A, she was uncertain of it, and B, if it did happen it probably wouldn't air. And C, the creative work was already done, because the Admiral basically had written it.

Q You didn't discuss this with her at all?

A No.

Q Did you receive any compensation -- any other compensation from Ms. Pediay during the month of October?

A I would presume that I was paid a creative fee for the Moorer ad.

Q How much did you receive for the Horton ad -- and the crime ad, both?

A I'm guessing now. I would guess same as the first ad.

Q For both or each --

A It may have been but it was basically one ad done two different ways.

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MR. MC DONNELL: We're going to take a break now.

(Recess.)

BY MR. MC DONNELL:

Q You testified I believe at the beginning that you spoke to Mr. Ailes about three months ago; is that correct?

A Yes.

Q What was the nature of that call?

A Social. I hadn't talked to him in several months, just to see how he was doing.

Q You called him up?

A Yes.

Q So you are on a friendly basis now?

A Reasonably. I talk to him maybe two or three times a year, just how are you doing.

Q You discussed the past dealings or anything, the disagreements you had?

A No.

Q Did you ever do any other work -- other than what you have mentioned -- any other work at all for NSPAC?

A No, there is nothing else. I made four spots

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for them.

Q Four spots?

A Yes.

MR. MC DONNELL: Off the record a second.

(Discussion off the record.)

THE WITNESS: I should indicate that the interview with Ailes is virtually a verbatim transcript of the tape.

The only changes I made, I changed grammar slightly when the verb did not match the tense agreement. I did that in one or two cases. But basically it is a very colloquial and verbatim transcript.

MS. KLEIN: Have you retained a copy of that interview?

THE WITNESS: I basically tape over and over and over the same couple of tapes. I don't keep tapes beyond that.

BY MR. MC DONNELL:

Q You are saying there was no further discussion after the tape when off?

A No, it was hi, how are you doing, good luck.

Q Because in the article it says -- I don't want to

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introduce the article, but it says he says he wasn't going to speak with the tape recorder running, and then kind of left it --

A He was making -- Mr. Ailes did work for President Nixon, has a very macabre sense of tape, so he was doing a joke at that point.

Q Well, I guess while we're on the discussion of the interview maybe I should introduce a copy into -- would you put that as Exhibit 2.

I just have one question about the interview just for clarification.

(FEC Exhibit 2 identified.)

(Discussion off the record.)

BY MR. MC DONNELL:

Q Can you identify that?

A This is what I believe to be a photocopy of an article which I did for the Gannett Center Journal. I'm not sure of the issue date, but it basically came out in late November of 1988.

Q I just have one question about -- on page 66 which is the second page, the part there it is not very legible, but here's a more legible part (indicating).

Could you read that first paragraph where it says "Ailes said to Time magazine" -- and can you finish that paragraph off?

A "In the 1988 campaign Ailes said to Time magazine, 'the only question is whether we depict Willie Horton with a knife in his hand or without it.'" Do you want me to continue?

Q Yes. Continue, please.

A "Quotations like this are not only a reporter's dream, they also graphically summarize a basic question that faced the Bush campaign: to what degree could the Horton case be exploited before it started to backfire?"

Q The question I have is this was written -- is this written before the '88 election?

A This was written just -- probably the week preceding election day.

Q Could you explain basically how it was that you were so aware that this question -- you summarize "the question that faced the Bush campaign," can you explain to us how you are aware of that?

A Is that a serious question?

Q Well, you state that it is a basic question --

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this was a basic question that faced the Bush campaign. And that there is no indication of how -- you know --

A I think the best way to answer that is to reference our earlier discussions about whether -- my debate about whether or not to include a picture of Mr. Horton in the commercials or not.

And also the copious news stories which were written prior to any commercial being done and later analyses of the commercial that we did and later commercial that the so-called revolving door commercial which the Bush campaign prepared.

There was -- that was a theme which was heavily debated and written about not only in the journalism at the time but in the postelection campaign books.

Q Was it -- the theme was rather than just to use it but whether the Bush committee should use it, that was something that was written about in the press?

A Yes, I believe so.

MR. MC DONNELL: All right, thanks.

MS. KLEIN: We have one last matter which is that we will be preparing a witness check for you which we will forward to you.

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Before that we would need to know your mileage. I know it is an extraordinary check and you hold your breath until you receive it --

THE WITNESS: Well, I would guess that from my residence to here would be in the vicinity of -- somewhere between two and three miles.

MR. MC DONNELL: I would like to introduce just one more thing as Exhibit 3. Just so we can make a clarification on what this is.

MR. MC DONNELL: Would you mark that as FEC Exhibit 3, please.

(FEC Exhibit 3 identified.)

BY MR. MC DONNELL:

Q Mr. McCarthy, could you identify this document?

A These appear to be two photocopies of my calendar. I believe the first one is from January 1988, actually that's the last page of the '87 calendar. That's what accounts for the differences in format.

I'm not sure what is obscuring -- I don't think my photocopy that I provided you had this rather large obscure area in the middle of it. I'm sure that was not the case.

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MR. SULLIVAN: May we go off the record for a moment?

MR. MC DONNELL: Sure.

(Discussion off the record.)

BY MR. MC DONNELL:

Q Can you still identify what it is -- how this is responsive to our request? Can you or --

A This is -- somewhere in this page and I believe in the -- it may be on the -- I believe it is the first thing that is obscured which is the bottom part of January 4, 1988.

I believe there is a -- in my handwriting, a reference to Ailes or R.A. indicating that we had dinner that night which was the final termination of our contract.

And the next scheduled time that I saw him was October 15 '88 and I'm not sure -- that may be -- that may have slipped a day or two, but I know it was not lunch -- I don't think it was lunch -- so it is possible it may be a day or two beyond that.

Q And to a breakfast, you said?

A I think -- I'm pretty sure it was a breakfast.

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Q I don't think you mentioned the dinner before with Mr. Ailes, can you tell -- is that when you first -- well --

A That was the final termination of our agreement, ostensibly. He said he was going to terminate it in December. But --

Q That's when you received the phone call when he was very angry?

A Yes.

Q In December of '87?

A Yes.

Q Then you had dinner after that --

A This was the -- I think he had some qualms about the termination because I think he recognized -- even though he wouldn't tell it to me -- that the contract was valid and that I had lived up to my end of the contract.

And he wanted to -- I think the term grease the skids is the appropriate one here. So that was the final -- and we both knew it was going to happen -- it just was the final termination.

Q Where was that dinner?

A I'm guessing, but I think it may have been in

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his -- the dining room of his hotel, the Hotel Washington.

Q Did you ever consider taking any legal action with respect to that violation -- or that alleged violation?

A I considered it for a second or two. It was counterproductive.

Q Why is that?

A It would cost me more in legal fees and time than it would to recover the money involved.

Q One more question. Did you have any other commercial work or any other political work while you were working for -- at the time you were doing those four spots for NSPAC?

A I also did the commercials for the auto dealers.

Q That was in -- where was that?

A That was in -- all in October of '88.

MR. SULLIVAN: Excuse me one moment.

MR. MC DONNELL: Sure.

(Witness conferred with counsel.)

THE WITNESS: And I did produce one ad for the National Republican Senatorial Committee.

MR. MC DONNELL: I think that's about it. Yes,

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that's it.

MS. KLEIN: Thank you much.

MR. SULLIVAN: Thank you.

(Whereupon, at 12:44 p.m., the deposition was concluded.)

LAWRENCE C. MC CARTHY

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CERTIFICATE OF NOTARY PUBLIC & REPORTER

I, MARLENE KNOWLES, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn by me; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

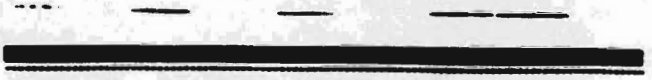
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Marlene Knowles
Notary Public in and for the
District of Columbia

My Commission Expires FEBRUARY 29, 1992

DEPOSITION EXHIBIT 1 FEC 3-21-91 MC

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The mug shot Roger Ailes couldn't touch.

THE MAKING OF WILLIE HORTON

By Martin Schram

Larry McCarthy, a maker of TV ads and political images, sat in his editing room, staring at three mug shots that had just come in the overnight mail. God, this guy's ugly, he thought. Mean-looking, downright menacing. "This is every suburban mother's greatest fear," McCarthy says now, recalling his thoughts of that day late in the summer of 1988 as he wondered whether he dared use in his new campaign ad that photo of—you guessed it—Willie Horton.

That decision by the relatively unknown McCarthy set off repercussions that Republicans have been trying to explain away ever since. Yes, it helped make George Bush what he is today. But it also fueled the now widespread public perception that Bush, Lee Atwater, and their Republican media-meister Roger Ailes used Horton's photo to exploit racism during the 1988 campaign.

The making of Willie Horton as a symbol that outlived the campaign and its promises is one of the more telling tales about the way our presidential politics really works. It was a visual symbol designed by McCarthy, who actually is a moderate and most unprejudiced Republican. And it was disseminated nationally mainly because McCarthy managed to con the television networks—not once, but twice.

Follow along: Larry McCarthy did not work for the Bush campaign. He worked for something called Americans for Bush, an independent group that was part of the hawkish National Security Political Action Committee, headed by retired Admiral Thomas Moorer, a former chairman of the Joint Chiefs of Staff. The Bush campaign, where Atwater was campaign manager and Ailes was the message strategist, had no official connection with—and publicly disavowed—Americans for Bush, which was raising its own money and running its own ads. In fact, the Bush campaign was barred by law from contact or coordination with this group.

But there were past ties. McCarthy used to be senior vice president of Ailes Communications. So he figured he could design a media ad campaign that would dovetail nicely with the one Ailes was planning for Bush—without consulting with his old boss. "I know Roger very well," said McCarthy. "I just tried to run it as if I were Roger. I tried to spare him from doing some of these things. I figured they'll go negative [and begin attacking Michael Dukakis in their ads] by mid-September. So I said, I'm going to lead them by about a week or two."

The Bush team had already used the Horton case in its campaign to illustrate how Dukakis was soft on crime—but McCarthy knew the Bush advisers had never used Horton's photo in making their case. Focusing on the Horton case was, surely, fair game. The case was so outrageous that it remains a mystery why any politician could fail to understand that Americans of all races would find it abhorrent. (Horton stabbed a teenage boy to death, dismembered the body, and stuck the penis in the cadaver's mouth. Horton was released on furlough ten times; on the eleventh, he fled, kidnapped a couple, raped the woman, and beat up the man.)

Now, about that photo: late in the summer of '88, as McCarthy looked at the close-up mug shots of Horton, he says he debated with himself. "I debated whether I could get this by the cable television network officials and on the air," McCarthy recalls. "This guy looked like an animal. . . . And frankly, because he was black, I

continued on page 19

thought longer and harder about putting him in there." McCarthy says he considered whether network officials would view the use of that photo as a racial appeal.

Then, he says, he began to think of reasons for using or not using a murderer's photo in an ad, reasons that he said had nothing to do with race but everything to do with whether the murderer looked menacing or mild-mannered. "If he looked like Ted Bundy [the serial murderer executed in Florida], I probably wouldn't have used his picture, because he looks perfectly normal—like a YR [Young Republican]," McCarthy explains. "But then I said, as an advertising guy, I should have been shot if I didn't use Horton's picture, because the picture says it all. It says this is a bad guy and Dukakis let him out. If it was a picture of a guy who looked like a crazy—an animal—but was white or Hispanic or Oriental, you'd use it. So I decided to put a criminal's picture on the screen."



Con Number One: Actually, McCarthy decided to make two ads. One omitted Horton's photo—that's the one he first sent to the cable networks: Cable News Network, Christian Broadcasting Network, Lifeline, and Arts & Entertainment. "I know they always look at the first spot hard," he says. A few days later he sent the second ad—the one with Horton's mug shot—as a replacement, figuring it would get less intense scrutiny. Each network routinely made the substitution as requested.

Con Number Two: McCarthy didn't have enough money to buy time for the Horton ad on the major broadcast networks. But he found a way to get more free airtime on commercial TV than he could ever buy. He slipped a videotape of his ad featuring the Horton mug shot to the producers of "The McLaughlin Group." They aired the ad on the next show, and the panelists discussed it. So now it was "news." Then the major network news shows aired it too—again, for free—by using it in stories about the ad.

The message was out. The commercial TV news and talk shows did McCarthy's work for him, for free. They carried the pictures that were his message. McCarthy knew that the TV news producers are always ripe for exploitation because they can't resist using any new videotape to wallpaper their news stories. Too many TV producers simply lack the discipline or the guts to just say no.

McCarthy believes it was smart to take his ads to cable networks first because they were less likely to balk at airing that photo of Horton. "The funny thing is, I don't think we could have cleared that spot with the commercial networks if we'd had the money to buy ad time with them," he says, contending the commercial network screening process is tougher. (A Turner Broadcasting System spokesperson says that's not the case with CNN, adding that Turner's vice president for sales, who screens all political and advocacy ads for CNN, has rejected ads that have appeared on the broadcast networks.)

A couple of weeks later Ailes aired his own Bush campaign classic: the revolving jailhouse door. Not only did the Bush campaign's ad not show Horton's photo, it never even mentioned his name. "We very carefully elected not to show him or mention him because we knew we'd be hit with racism," says Ailes. "Well, we still get hit with it. And the press still says I put Willie Horton's picture all over TV. They can't get it right."

Back when McCarthy's TV ad was spreading Horton's mug shot coast to coast, the Bush campaign protested loudly and publicly—with all the anguish of a pro wrestler pounding the mat in feigned pain. The independent Americans for Bush quickly announced it would be happy to yank its ad off the air if Bush campaign chairman James A. Baker III formally requested it.

And lo, Baker did just that—after the Willie Horton mug-shot commercial had run for twenty-five days and had just three days to go before its scheduled expiration.

Epilogue: In politics, as in basketball, some refs permit incidental contact, and others don't. McCarthy says he heard from his former boss once during the campaign. This incidental contact occurred just after McCarthy had begun working for Americans for Bush. "He called me up and he said—too bad, he wanted to hire me [for the Bush campaign] to do negative spots," says McCarthy, "but he couldn't now." Today Ailes says he doesn't remember making the call but doesn't dispute McCarthy's recollection.

Sticklers could argue that Ailes's comment was just the hint McCarthy needed to get the notion that he could help Ailes and Bush by making his own negative ads. Indeed, someone could have asked the Federal Election Commission sharpshooters to make a federal case out of that one phone call. But no one did.

MARTIN SCHRAM, author of *The Great American Video Game: Presidential Politics in the Television Age* (Morrow), writes a nationally syndicated column.

Roger & He

In the making of the notorious Willie Horton commercial, Larry McCarthy was not the only one with close ties to Roger Ailes. FEC records show that the ad was actually filmed by Raiford Communications, Inc., a one-man production company with an office in New York City. The proprietor is Jesse T. Raiford, thirty-two, a TV producer and director who, before he went solo sometime in 1988, spent six years making commercials (including dozens of political announcements) at Ailes Communications. The question is whether Raiford actually stopped working for Ailes before the hurried shooting of the Horton commercial for the National Security Political Action Committee during the last few days of August 1988. Ailes and Kathleen Ardleigh, his company's vice president for politics and public affairs, say that Raiford left their employ no later than January of that year.

A copy of Raiford's résumé says the same thing. But it also boasts that he worked on the 1988 Senate races of Republicans John Danforth and Pete Dawkins—both campaigns run by media consultant Ailes. Ardleigh says that Raiford did no work on either the Danforth or Dawkins races but did assist her with a commercial for Rhode Island Governor Edward DiPrete's re-election campaign.

It's also unclear exactly when Raiford left his job with Ailes. Thomas Kalamar, who subleases office space to Raiford Communications and who, according to NSPAC's FEC filing, also provided production services for the Horton ad, says that Raiford set up shop in August 1988—nine months after Raiford says he left Ailes. State filings show that Raiford didn't incorporate his firm until September 2, 1988—two days after the shooting of the Horton commercial. Curiously, the incorporation of this extremely small business was handled by Nixon, Hargrave, Devans & Doyle, one of the largest, most politically influential law firms in New York state.

Only a few months ago the political trade journal *Campaigns & Elections*—in its February 1990 "guide to political products and services"—listed Raiford as the contact for Ailes Communications. E. Clifton Smith, the magazine's director of advertising, said that the research for those listings was compiled between June 1989 and January 1990. "Each company was called individually," Smith said. "We went to great lengths to ensure that every listing was accurate."

Why does any of this matter? Shadowy election-year organs such as NSPAC owe their existence to an enormous constitutional loophole in the laws that limit campaign contributions and expenditures. The hole was created when the Supreme Court decided in 1976 that any laws prohibiting political expenditures by groups or individuals violated the First Amendment. So instead of regulating campaign speech, the FEC sought merely to restrict collaboration between official campaign organizations that accept federal campaign funding, such as Bush-Quayle '88, and so-called independent groups such as NSPAC. If Raiford was working for both Ailes and NSPAC in 1988, then he and/or Ailes may have transgressed the law—specifically the FEC regulation that forbids any form of compensation from the "candidate's committee or agent" to independent expenditure consultants.

Raiford isn't talking about the Horton commercial or his continuing relationship with Ailes Communications. When questioned about whether he worked simultaneously for Ailes and NSPAC, Raiford would only say, "I cannot answer any questions that have to do with my work." Only a few days after it was suggested to Ailes that Raiford's silence seemed suspicious did Raiford issue the following statement: "I emphatically deny that I ever communicated with Roger Ailes, his staff or clients, directly or indirectly, in any way, by any means, at any time, regarding any of my work with the National Security Political Action Committee. To my knowledge, there was absolutely no communication or coordination between anyone associated with the National Security Political Action Committee and Roger Ailes, his staff, or clients, regarding the NSPAC commercials."

Ailes too denies any connection between himself or the Bush campaign and the people responsible for the Horton ad. In April 1989 he issued a press release stating: "TO IMPLY COLLUSION BETWEEN ROGER AILES OR THE BUSH ADVERTISING CAMPAIGN AND THE POLITICAL ACTION COMMITTEE INVOLVED IN THIS AD IS TO ACCUSE US OF A FELONY." Ailes even says he didn't know that his ex-employee had produced it. "I heard much later that Larry McCarthy had something to do with it, and it surprised me. I didn't even know Jesse was involved." And regarding his own role: "I'm smart enough to know that there's a federal law involved."

The original aim of that federal law was to prevent the kind of underhanded financing that made Nixon's CREEP notorious. In those days secret cash corrupted national politics, and so did dirty tricks; now it is "soft" or "independent" money and dirty media. What makes an independent committee like NSPAC so destructive is its license to pursue gutter politics, often of a racist nature, while allowing the official campaign to maintain a smirking innocence. Against these maneuvers, even the most stringent FEC rules provide practically no barrier.

Moreover, as Ailes and his colleagues know, the chance that anyone, including the FEC, will probe the activities of an independent committee or search out its links to an official campaign is negligible. Although the circumstantial evidence linking the Republican consultant to the Horton ad is considerable, cooperation could be difficult to prove—even in an official inquiry.

"I'm against independent expenditure groups doing these kinds of things," a presumably sincere Ailes told *The Washington Post* in October 1988, because "people will get confused and somehow think that it's linked to the campaign." And that would be terrible. Wouldn't it?

JOE CONASON

Joe Conason, a New York journalist, is working on a national PBS news pilot.

The Selling of the President

An Interview with Roger Ailes

LARRY McCARTHY



Roger Ailes

This piece originally started out as a story about the $60 million that the Bush and Dukakis campaigns spent on television advertising in the 1988 Presidential campaign and quickly began to center around the specialty's dominant and most colorful figure—Roger Ailes.

I know Roger well. I worked for him for almost six years. In this past primary season, I worked against him as part of the ill-fated Dole for President campaign.

Ailes, at forty-eight, has been on the Presidential media stage for many years. He first achieved political fame in Joe McGinniss' *The Selling of the President* for his funny and profane ways as a television producer in the 1968 Nixon campaign. He began his career in TV producing *The Mike Douglas Show* in the 1960s, and he practices now the philosophy he preached then to the guests on his show—when the camera's on, be interesting, brief, funny and [illegible] knowing the next segment is going to feature a stripper [illegible] trained seals.

DEPOSITION EXHIBIT FEC 2
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Ailes often speaks in a series of deliberately outrageous, provocative and funny sound bites that sometimes overwhelm his more accurate observations. In the [redacted] *Times* [redacted] Horton [redacted], they also graphically summarize a basic question [redacted] the Bush campaign: to what degree could the Horton case be exploited before it started to backfire?

In the 1968 campaign, Joe McGinniss recorded Ailes talking accurately and colorfully about the problems of putting his client on television: "Let's face it, a lot of people think Nixon is dull. Think he's a bore, a pain in the ass. They look at him as the kind of kid who always carried a bookbag. Who was forty-two years old the day he was born. They figure other kids got footballs for Christmas, Nixon got a briefcase and loved it. He'd always have his homework done and he'd never let you copy.

"Now you put him on television, you got a problem right away. He's a funny-looking guy. He looks like someone hung him in the closet overnight and he jumps out in the morning with his suit all bunched up and starts running around saying, 'I want to be President.'"

As this Nixon description illustrates, Ailes can sometimes have a love-hate relationship with his clients. No one will work harder to get them elected, and no one will trash them more unmercifully for all their shortcomings. During one election cycle, Ailes would emerge from exhausting, marathon editing sessions and employ this offbeat way of blowing off tension. He would find a very large piece of heavy cardboard, draw a life-size outline of a body on it, place a head shot of one of his candidates at the top, and then get out his "Hell-thrower" hunting knife. Ailes would repeatedly hurl the knife into the "body" (with uncanny accuracy).

Suitably refreshed, he would then return to the editing session.

In 1984 Ailes served on the Reagan "Tuesday Team" and coached the President for his second debate with Walter Mondale. He also worked on John Connally's 1980 Presidential run. As George Bush's principal media adviser, Ailes wielded enormous power in this past election season. Virtually every Republican presidential campaign tried to hire him, so Ailes was able to carve out a lucrative and powerful role in the Bush campaign. He oversaw all of Bush's advertising, overhauled the Vice President's speaking style, coached him through all the debates, set up the ambush of Dan Rather on live nationwide TV, and provided innumerable jokes and lines for Bush appearances and speeches.

The following interview was recorded a few days after the second Bush-Dukakis debate.

Q: *What did it look like to you in April when you knew Dukakis would be your opposition? What did you think you'd have to do?*

A: I was worried about Dukakis because I picked him over a year ago as the likely Democratic nominee. I thought he was the coolest candidate under-fire in the primary debates. Studying his record, I found that he always finishes strong. He usually finishes negative. His whole history is to be very negative. He seems to be in a little bit of confusion as to which way to go now. But at the time, I thought we still had to define Bush because we still hadn't defined him.

I always felt it was a classic race. We had to define Bush and define Dukakis. And if we did, the American people would vote for Bush. And I never took my eye off that ball. Every single thing I did from debates to rhetoric to speeches to media was designed to define the two of them and push them farther apart.

Dukakis' strategy was to try and sound like middle America and tie himself to Republican rhetoric. At one point he even said that he was closer to Ronald Reagan on the Soviets. I mean, that kind of rhetoric wasn't believable.

Q: *Were you worried after the Democratic convention?*

A: I'm still worried three weeks out, with Bush eight points up. I'm not a guy who puts in third-stringers just because you're forty-two touchdowns ahead. I will play it until the gun goes off with the first-string. Yeah, I was worried after the Democratic convention. They had a seventeen-point lead. But up until then they had had a clear shot at Bush the whole time. The media actually helped us inadvertently because the Democrats trashed Bush so badly at the convention that we began to get a little bit of "nobody's this bad."

Then we arrive at our convention and they see Bush's family—it's beautiful—they see the documentary, they see he's a war hero. Then he gets up and hits a home-run speech out of the park. And the American people said, "Wait a minute. I think the media did it to us again. I think they're lying to us. The guy isn't this bad. This is bullshit." So I think we got not only a kind of eight-point surge on our own, I think we probably got an eight-point surge on people saying, "Goddamn, it isn't fair."

Q: *Do you think Dukakis missed an opportunity before or after the Democratic convention to go after Bush?*

A: It would have been a risky call because he would have been flying in the face of what was pretty good publicity for Bush. Had I been calling the shots there I would have taken the risk, however, because Dukakis never has had any legs. He is truly a bureaucrat. He does not understand vision at all. It's just off of his radar scope.

The best example of that during the general campaign was the second Presidential debate, when Bernie Shaw asked him a hypothetical question about his wife Kitty being raped and murdered. He became a defense attorney for the murderer, as opposed to the outraged husband of the victim. He literally took on the position of the defense attorney. And that said it all. That said it all.

Actually it was an outrageous and even unfair question and showed anger on the part of Bernie.

Q: *How did you structure your modus operandi?*

A: First, I talked to a lot of creative people. Many wanted to come aboard that I didn't want. But remember, when we were seventeen points down, they weren't exactly lining up. I've had a lot of offers in the last few weeks from Madison Avenue to come in and save me. Ever since we got six points up, I've had a lot of offers to save me.

I put Sig Rogich in as sort of director of advertising operations to oversee production teams. I interviewed and picked out four or five production teams and asked for creative ideas, had them come in and present story boards. Anything we liked, we budgeted. I brought in Jim Weller for the general from Hal Riney's operation—gave him the title creative director. [In the primaries, Weller was a volunteer for the Dole advertising operation and wrote the "Footprints" attack ad against Bush.]

Up until the general election, I wrote, produced, and edited every single thing that was done and still continue to do that to some degree, although we found a very creative group out in the Midwest called Frankenberry [Milwaukee ad agency of Dennis Frankenberry & Associates].

We used Messner Vetere [New York ad agency of Messner, Vetere, Carey & Berger] for the film at the convention, under my supervision. And Frankenberry did the "Harbor" spot for us and the prison furlough ad. I've basically been looking at ideas from anybody in the country that wants to give them to us. And if I like them, I put them in production. I did the ads out of the convention footage—"The Mission" and "I Am That Man." So it's a very streamlined operation.

I think one of the major mistakes made by the other side is they never could figure out who was in charge over there. They had a very top-heavy staff, a lot of Madison Avenue guys. I fought my turf battles early, staked it out, and said this is the way it is, live or die. It was probably the smartest thing we ever did. Not that it was me, but that one person was going to take responsibility.

Q: *How did the process work, say, in the Boston Harbor spot?*

A: We look at the issues and we see, OK, this guy has a terrible environmental record. It's his home. Theoretically the environ-

ment issue is Democratic territory, but let's go after it. We get research to pull together the facts and we ship it to a couple of creative teams. We ask them to come up with concepts and storyboards, fly to Washington and make a presentation. Frankenberry had the best. We had our production manager price it with their shop so that the budget didn't get out of control. Commissioned it. Sent Sig out with them and they went and shot it. Brought it back in. Looked at it. We re-edited it. They had a closing shot I hated. We fought over that for a while and I just said change it. They changed it and we aired it.

Q: *How long does the process generally take?*

A: For example, I came up with the idea for the "Bank" one week, wrote it on an airplane one night, took it to the senior staff meeting in the morning and got the authorization to spend the money. I had done it in seventy-two hours. It was originally planned to put it on before the second debate, as the lead-in spot, then I pulled away from that idea and went with the disarmament spot.

Q: *How many spots do you have on network at one time?*

A: I usually try to keep the messages tight. Not put too much stuff out there—rotate two :30s.

Q: *Which of the spots do you think were the most effective, and which the least effective?*

The most effective spot through the primaries was the basic bio and the Dole "Straddle" ad. But in the general campaign the bio is still working. The least effective stuff we focus-grouped and it just didn't air. Everything we've got on the air appears to be working, some a little more than others. "Furlough" appears to be strong. Originally we thought "Harbor" would work only in New Jersey and San Francisco. It seems to be working in other states because it says more than environment, it says the other guy is a fraud. So we decided to go to network with it. There was one spot designed tactically and used strategically.

I'm trying to think of anything I thought was ineffective. There was an old spot I produced in the primary called "Tough Test of Leadership" which really is just a simple accomplishment spot. [Bush strategist and pollster Bob] Teeter didn't want to put it on. He hated it. It never saw the light of day in the primaries. Finally I threw it on one of the tests for the general and it came out the number-one spot we tested. So that's now on the air.

Q: *Have you done much ad testing?*

A: Teeter does more than they even tell me because he likes to sneak out and test these things. Ad testing is five professionals in a room who say, "We don't know what to do, let's get twenty amateurs to tell us what to do." I think it's a hand job and basically

something new for the polling firms to market. It's like sending your commercial to a psychiatrist. Maybe it'll get better and maybe it won't, but unless it's real sick I don't have a lot of confidence in that process.

Q: *How does this race differ from 1968 and 1984, your other two major experiences in Presidential politics?*

A: The whole game has gotten out of control and nobody knows who's wrong anymore. There are four things the media are interested in. They're interested in polls, they're interested in pictures, they're interested in mistakes, and they're interested in attacks. Trying to get anything else across in free media is damn near impossible and useless and not worth the effort. Now they say, "Negative campaigning is the only thing we cover because that's all you give us." But they're also interested in advertising. What's amazing to me is that the network news leads in the evening with the new ads. In the old days you had to buy advertising time. Now you could theoretically run a race and just produce it for the news, get a run, and get a lot of points. If you think that "Tank" ad isn't going to make the news....

Q: *What have you thought of the Dukakis spots?*

A: The most effective stuff they had they pulled too early—the stuff with the graphics that said "crime down in Massachusetts." They put it on, I think it was helping them, and then they got into following everything we did. We talk about crime, they talk about crime. We talk about mosquitoes, they talk about mosquitoes. Then "handlers" became the issue and they decided they had this brilliant idea ["The Packaging of George Bush" series]. You talk to guys in Akron, they're not going to know who handlers are. It's a bunch of liberals talking to people on the Upper East Side of Manhattan. It's [Dukakis ad team member Bob] Squier and Scott Miller trying to pretend they're not handlers. Because they don't want Bryant Gumbel not to like them. So they spent $2 million of their candidate's money so Bryant Gumbel wouldn't dislike them.

Talk about missing the mark. "We'll get Ailes, we'll get these guys and we'll make them look bad." And the people at home are sitting there saying, "Whose commercial is that?" We did a focus group on one of them, the first one that came out, and they were totally confused as to whether it was a Dukakis ad or a Bush ad, so we didn't worry about it from then on.

A lot of people have said to me that I've become almost an obsession in this race, me personally. Anthony Lewis did a piece on me. Evil guy, manipulating the world. There's this sort of obsession with me over there. Apparently Susan Estrich has it, Sasso has it. They've been digging into my background trying to find dirt to throw at me. It's really bad. I get calls from all over the country.

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I've had death threats. A guy called me up one night, Friday night before the first debate, "Ailes, you're a dead man," tried to unnerve me.

Q: *Do you have security now?*

A: Got my own.

Q: *I won't even ask.*

A: But I tell you what bothers me is they write numbers next to your name. I had a guy call me up and demand $180,000. I said, "Why would I give that to you?" He said, "I have the secret that can win this race." I said, "Why don't you talk to us about it and I'll see if it's worth it." He said, "I'm not showing it to you until you give me the $180,000." I said, "I don't have $180,000 to give you." He said, "I read in the paper you're controlling $32 million. I just want $180,000 of it." That's John Hinckley time. The guy could be waiting across the street saying, "You didn't give me the $180,000, you're dead." I'm really doing everything I can to downplay publicity.

Q: *If Joe McGinniss had been lurking through the 1988 campaign, what do you think he'd have written?*

A: Well, unfortunately, Joe is trapped in the early 60s in his head, so he will be writing of the evils of the Bush campaign trashing this poor innocent virgin, Michael Dukakis. But from a mechanical standpoint, Joe is a good enough reporter to probably have to.... somebody's got to write the story pretty soon that the media have been trapped in the bubble, and now they're part of the process. What you had at the second Presidential debate were media interviewing media. They're the stars. They're part of the debate. You're sitting there watching media people interview each other about the world. That's different than the old days.

Also, the techniques have become a little more sophisticated. Frankly, simple stuff works. The most effective spot we did in the primaries was George Bush on-camera in New Hampshire looking into the lens saying, "You hear anybody say I want to raise your taxes, you tell them you know George Bush and that isn't so." The most effective things we did were George looking at camera, George in the debate, the bio spot, and brilliant thematic ads like "Revolving Door" or "Tank" that tap into something people believe. They're afraid of him [Dukakis]. They're afraid of this guy in the Mickey Mouse hat becoming Commander-in-Chief.

Q: *If you'd been running Dukakis' campaign, what would you have done differently?*

A: I'd have gotten my ad team together much differently. I'd put one person in charge that I had confidence in. I'd have made him a political media guy and I'd get a guy with a big enough ego to run it and a small enough ego to know he had to get outside

creative help. That's exactly what we did with Bush. That's the first thing they should have done.

Q: *Would you have used Dukakis more on-camera?*

A: I think I would have run a Rockefeller '76 campaign and kept the little bugger off-camera. The problem with him is - twenty-five dollars worth of Ceres.... There is a problem here. He has a Richard Nixonesque type of image on the left side.

Q: *Have you had any spots that you'd love to do but just can't for any particular reason?*

A: Yeah, but I ain't ever going to say it with a tape recorder running. (Laughter)

Larry McCarthy is a Washington-based political advertising consultant.

SUNDAY	MONDAY	TUESDAY	WEDNESDAY
3	4 9-12 ODC Topic 1-4 ODC Debate prep	5 NYC 11:30 OK	6 2:00 Natl 7:00
10 P.R. Sicily	11	12 DOY → 10:30 Budget	13 9:15 Board ~~9:00 Leadership~~ 6:30 Comm - Staff
17	18 TI	19 Site Dan Weld	20
24	25 TM?	26 NYC 9:30 TM	27
31			

DEPOSITION EXHIBIT 3
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8-21-91 MK

6/2 - 2?2 JAD 3 1 5 2 4

OCTOBER 1988

THURSDAY	FRIDAY	SATURDAY
		1 NO
6 1:00 [illegible] NCAA [illegible] 3:00	7 [illegible] GF? 11:30-1 ICALANAR	8 10:00 LM EDIT MASON?
13 3:00 NRSC	14 10:00 NRSC CONF CAL	15 NO OLYMPIA 12 AILES
20 PM?	21	22 ANNOUNCER SHOOT
27 EDIT DC	28 EDIT DC	29













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TRANSCRIPT OF PROCEEDINGS

UNITED STATES OF AMERICA

FEDERAL ELECTION COMMISSION

IN RE:
MUR 3069

DEPOSITION OF ELIZABETH IRENE FEDIAY

91 SEP 12 PM 1:45

Washington, D. C.

Tuesday, August 27, 1991

ACE-FEDERAL REPORTERS, INC.
Stenotype Reporters
444 North Capitol Street
Washington, D.C. 20001
(202) 347-3700
Nationwide Coverage
800-336-6646

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UNITED STATES OF AMERICA

FEDERAL ELECTION COMMISSION

IN RE:

M U R 3069

DEPOSITION OF ELIZABETH IRENE FEDIAY

Washington, D. C.

Tuesday, August 27, 1991

Deposition of ELIZABETH IRENE FEDIAY, called for examination pursuant to notice of deposition, at the Federal Election Commission, 999 E Street, N. W., Suite 657, at 1:01 p.m. before CINDY L. SEBO, a Notary Public within and for the District of Columbia, when were present on behalf of the respective parties:

XAVIER K. McDONNELL, ESQ.
LISA E. KLEIN, ESQ.
Federal Election Commission
999 E Street, N. W.
Washington, D. C. 20463
On behalf of Federal
Election Commission.

PAUL E. SULLIVAN, ESQ.
Wunder, Diefenderfer, Ryan,
Cannon and Thelen
1615 L Street, N. W.
Washington, D. C. 20036
On behalf of the Deponent.

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PROCEEDINGS

Whereupon,

ELIZABETH IRENE FEDIAY

was called as a witness and, having first been duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. MC DONNELL:

Q Good afternoon. My name is Xavier McDonnell. With me today is Lisa Klein. We represent the Federal Election Commission here today. Could you state your name for the record.

A Elizabeth Irene Fediay.

Q And you're represented by counsel here today?

A Yes, I am.

Q His name?

A Paul Sullivan.

Q Ms. Fediay, the Federal Election Commission has a statutory duty of enforcing the Federal Election Commission Campaign Act of 1971 as amended, title 2 of U.S. code. This deposition is being taken pursuant to a subpoena issued by the Commission as part of its investigation in MUR 3069. I think the reporter

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introduced some of the techniques here. I'm going to ask you a series of questions here today dealing with the matter. If you could just answer the questions and just with a verbal answer, not with a gesture or a nod of the head, okay?

A Fine.

Q Any time you want a break or anything, just let me know and we will take a -- we will probably take a few breaks throughout the time we're here. We don't anticipate it will be going too long.

A Okay.

Q Could you state your address?

A 3200 Morrison Street, Northwest, Washington.

Q Could you summarise your educational background starting with after high school?

A I have a degree in Soviet foreign policy from Colorado State University, I've done master's degree work at George Washington University in international business.

Q Could you summarize your employment history in chronological order, starting with your first job after completing your education, your undergraduate education.

A Yes. I went to work for the department for the

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-- excuse me -- the General Accounting Office to run a word processing unit. I subsequently went to go work for an organization called the Institute of Psychiatry and Foreign Affairs. I was its executive director. I went to -- subsequent to that went to work for the independent insurance agents, running their PAC. I then went to work as an executive director of the Institute of American Relations.

Q What year was that in?

A Institute of American Relations would have been 1979, to about 1981. Just after the election of Ronald Reagan. Subsequent to that I started a consultancy business and had a number of executive consultants in -- mostly fundraising, marketing, some political Soviet analysis. That ran for a number of years, on and off to today's date. There was a period in '84, '85 that I was a stockholder for Smith, Barney in New York. And National Security Political Action Committee was an organization that was begun in 1981, founded with myself and a number of retired military officers. And now I continue to be a consultant in a variety of other issues.

Q Through NSPAC or with your own company?

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A My own company.

Q What is the name of that company?

A Fediay & Associates; very imaginative.

Q Is that located in D.C.?

A It's in D.C.

Q Do you have an office?

A The office presently is in my home.

Q Is that incorporated?

A No.

Q Okay. Okay. What did you do to prepare for this deposition today?

A Basically went over documents prior -- from you all, as well as former affidavits that I had submitted, but that's it.

Q Okay. Did you speak to anyone about this deposition?

A Just my attorney.

Q Okay. You know Larry McCarthy?

A I know.

Q When was the last time you spoke to Mr. McCarthy?

A I would say within the past week or two.

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Q Had you spoke to him since his deposition was taken?

A I have not spoken to him since his deposition. I did speak to him prior to that.

Q You said you reviewed some documents?

A Yes.

Q Have you talked to anyone else about the deposition?

A No.

Q Okay. What is your current position at NSPAC?

A I'm secretary -- nonpaid secretary-treasurer, have been nonpaid since, I think, January of this year.

Q Okay. You said that you started in 1986; is that correct?

A '86, yes.

Q Who were some of the other persons that were involved in the forming of NSPAC?

A Admiral Thomas Moorer. Admiral Mark Hill. That's really more the founders. Subsequent people have came on to the board, but that's -- those were the founders.

Q Where are they located? Do they live in --

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A Here in Washington -- Washington, D.C. area.

Q Okay. Whose idea was it to form NSPAC?

A Mine.

Q Just yours?

A Yes.

Q Can you tell us a little bit about how you went forming NSPAC?

A As I have been involved -- as you can tell from my background, have been involved with political analysis, mostly in national security and foreign affairs, for a number of years, having gone to New York and served as a stockholder I came back to Washington with the idea that an organization could be created that would help candidates that believe in a strong national defense and run it in a very low key and efficient manner. So originally it was begun -- sort of discussed it as a matter of fact with Admiral Hill. And we decided we would form the PAC. I am its secretary-treasurer, have been from its onset. And that was really the formation.

Q Did you approach Admiral Hill?

A Yes.

Q You've known him prior to that time?

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A Preferably not very well. I had associations with Admiral Moorer when I was working with the Institute of American Relations, which was 10 years prior.

Q He was -- he was associated with them?

A Yes.

Q In what capacity?

A As a consultant, from time to time, a member of the advisory board.

Q Okay. So what was the actual purpose or goal of NSPAC, could you sum it up for us?

A To support candidates that believe in a strong national defense.

Q Did it have any focus on federal or nonfederal?

A All federal.

Q Just federal?

A Right.

Q Strictly federal?

A Yes.

MR. SULLIVAN: Excuse me. Can I take a moment there.

MR. MC DONNELL: Sure.

(Counsel conferred with witness.)

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THE WITNESS: We did form a state PAC in Illinois subsequent, but it was not founded for that purpose. The question, I believe, was founded?

BY MR. MC DONNELL:

Q Right.

A It was founded for federal candidates; we subsequently created a state PAC in Illinois.

Q What was the name of that?

A NSPAC State.

Q I should know that; right?

A Slash.

Q Do you have any idea when that was formed?

A It was after the '88 elections so it must have been in '89.

Q Okay.

A I don't remember the exact date.

Q Okay. Was national security strictly the focus of the committee did you say?

A And -- yes, I would say strictly the focus in conjunction with strong foreign policy, those usually go hand in hand.

Q Right. And during the '88 elections you had a

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project called Americans for Bush; is that correct?

A Yes, we did.

Q Can you tell us a little bit about the formation of that particular project?

A Americans for Bush was created as an independent expenditure specifically to focus on the candidacy of then-Vice President George Bush.

Q Anything more you can tell us about the formation or how you went about choosing that candidate?

A In my own mind, at this point, I had no other consultants in my own mind in assessing the candidates that had announced themselves. George Bush was the most viable, competent and experienced candidate, so for me it was if I was going to help promote a preferable candidate, the only preferable candidate was George Bush.

Q Did you bring that up with anybody else involved with NSPAC?

A No. Because I had not hired any consultants, at that point the project was begun and once funds were raised to do a variety of the projects that I had projected to do from television commericals to the grass roots lobbying that was going to be done, I needed the

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funds first before I could hire a consultant.

Q Okay. Who did you have working for you at that time?

A It was just myself.

Q Just yourself.

A Because the PAC began in 1986, the project was formulated in my mind in '87; we began fund raising for it in January, I believe the first consultant was hired in May.

Q Okay. We will get back to that in a minute. Could you tell us a little bit about the organizational setup of NSPAC?

A Could you clarify?

Q Sure. Tell me a little bit, the headquarters, the employees, you know, the offices and the --

A I have always run basically a bare bones operation, have hired people as they have been necessary, have utilized to the utmost extent volunteers, so from the onset the -- it was in my home -- I ran the PAC out of my home to keep overhead costs down. I subsequently moved it to an office space at 1919 Pennsylvania Avenue, a small one. I then had hired a secretary. This would have been

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May.

Q Of '88?

A Of '88.

Q Okay.

A We then grouped them generally and got two offices in that same complex, small offices in that same complex. And kept that for through most of the campaign. We then moved to a smaller office as we started to reduce; now the PAC is housed back in my home in an office in my home.

Q Okay. When you had the two offices you said who had occupied?

A Myself and a secretary and the consultants as they needed it.

Q Okay. Did you ever have more than one secretary there?

A There was a period of time from September to October where there were two secretaries. The chronology of secretaries was one was hired in May.

Q Who was that?

A John Dutten. One was hired in -- and then he subsequently left. He was there for about a month. And

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then -- actually, let me correct that. He was actually in June, the first consultant was May, John Dutten was in June. He was there for about a month. Darlene Dove who continued to be in my employ from August until February of '89. And Eileen McMulty who worked for us for a month, September end of August, September, something like this.

Q Why did Mr. Dutten leave?

A

Q Okay. What kind of services did he --

A Basically he was to answer the phone, deal with mail, serve in my absence to more or less keep things under control in the office.

Q I see.

A It didn't work out.

Q Okay. Did the secretaries have specific tasks that were they restricted to or did they get involved in all different types?

A No, basically support staff, Darlene, out of the all of the people that worked for me was also to take charge of the volunteers. And make sure they had things to do in most cases, volunteers specifically were involved in stuffing envelopes. Because God knows we had a lot of

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mail.

Q How did you go about recruiting the volunteers?

A Some had heard about us and had called to ask us if they could volunteer. Mostly college kids who wanted to be active in the campaign in one way or another. So their understanding was that they were working for an independent project because I made that clear from the onset as soon as the project was begun. In talking to anybody about the project it was described as an independent project. And not affiliated with the Committee. My illustrious attorney had drummed that into me.

Q Who was that?

A Mr. Sullivan.

Q When did you retain him?

A He was retained in May, end of May.

Q Right. Okay. I would like to focus now on the consultants you had working for you.

Who were the consultants you had?

A Floyd Brown. Craig -- not necessarily all at the same time.

Q Okay.

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A Floyd Brown. Craig Shirley at one point. Tony Fabrizzio, Larry McCarthy and that's really it.

Q How did you go about retaining their services?

A Floyd Brown was recommended to me because he had been a very good field operator for Dole for President and given that the Dole presidency at that point candidacy had dissolved or had, you know, just about lost its "oomph." I had brought him on board as a political strategist. Floyd Brown suggested that we talk to Larry McCarthy; it was his recommendation that we talk to Larry McCarthy because Larry was known for his superior work in doing political video spots. Tony Fabrizzio was just well-known in the field as being one of the top-notch time buyers, so it was -- his name had come up repeatedly from a variety of people, I wanted to hire the best.

Q Who was it that recommended Mr. Brown to you?

A I'm -- I really can't remember. I can't remember.

Q Okay. When -- you first retained Mr. Brown when was that?

A May, it would have been May.

Q What was his specialty; what did he do?

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A For me. He had been hired to be a political strategist to help in formulating what Americans for Bush were going to do.

Q Then he recommended Mr. McCarthy?

A He had recommended Mr. McCarthy.

Q When did you first meet Mr. McCarthy?

A In June, in June we had gone to see him in his office and he showed us some of his spots that he had done. We had a conversation making it clear to him, because I knew he was familiar with independent expenditures that what we were going to hire him to do was independent expenditures, I asked him whether he had worked for the Bush Campaign he had said no. Whether he was aware that in working with our project he would have to sever all ties with the Bush Campaign, he said yes. And we struck an agreement.

Q You struck an agreement at the first meeting?

A Well, within days. I mean it was -- because we wanted to do a spot, he was to do a proposal for me, to do the initial spot that we were going to do. And the initial spot was a profile of George Bush.

Q Now, you saw him at his office or did he come to

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your office?

A His office.

Q Where was that?

A 9th Street, it's in Southeast. I can't remember the exact address.

Q Okay. You talked specifically about that one spot?

A At that point, yes.

Q And did you come to some agreement?

A Not immediately, but shortly thereafter, he had proposed a script and I liked the script and so we said we would move forward and he budgeted it and then we moved forward to to.

Q Subsequent to that meeting he proposed a script?

A Right.

Q And how did you get ahold of it, or did he send it to you or did you see him?

A I mean -- I had written him a letter subsequent to the visit in his office with the -- you know, more or less outlining that I was pleased to meet with him, that we were really looking forward to doing a series of projects, spots, but that, you know, Americans for Bush is

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an independent project and we wanted to really focus on hard hitting spots but from a very positive point of view. So with that in mind, he suggested that we do a profile of George Bush because all along, all of my fundraising and most of my discussions of the candidate, George Bush, was talking about his experience.

Q Okay. It was his idea to do the Bush biography?

A No, not necessarily. I don't know if it was specifically his idea. It was more we had discussed a variety of topics, you know, in the context of conversation, a decision was made to do a spot on George Bush.

Q Okay.

A Outlining who he was.

Q Okay. At that first meeting, did you look at his resume or any of, you know -- anyway you knew what his prior work experiences were or --

A Mostly we had focused on the fact that he had done some spots for Dole for President and that's what we focused on mostly and he had sort of run through -- I did not look at his resume; we mostly ran through some of the work he had done.

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Q You stated a while ago that you asked him -- he stated that he severed all connections with the Bush Committee?

A He would have to if he had any -- he was working on an independent expenditure; there was to be no communication, no conversations at all with anybody affiliated with the campaign. And would he be willing to sign a waiver, which he said, of course.

Q Was there anything that made you you think he might have had conversations with the Bush Campaign?

A No, because every conversation I had about the project was to talk about the independent expenditure; I had the fear of God in me.

Q Okay. Did you know he works for Alies Communications?

A I was not aware. Or if I was aware, it didn't register.

Q What didn't?

A If he had mentioned it, I don't remember him mentioning it, that he had worked for Ailes. It was not -- it was not a factor in making a decision to use Larry McCarthy. The decision to use Larry McCarthy was very

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good.

Q Were you aware that Ailes -- had you heard of Ailes Communications at that time?

A I don't remember.

Q You don't remember.

A No.

Q Did you check any of his references?

A No, I just saw his work.

Q Did you generally check references for the other consultants that you hired or --

A No, in most cases it was literally they had been recommended by someone who I would have admired. So it was more I was using recommendations of people to hire them.

Q You mentioned you hired Mr. Fabrizzio?

A Yes, Tony Fabrizzio.

Q What was his role or --

A Time buyer for the spots once they were created.

Q Mr. Shirley?

A Craig Shirley for publicist, PR, that's really what he was hired to do.

Q Okay. Did you hire -- I mean, did you interview

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any consultants that you didn't retain?

A No.

MR. SULLIVAN: I'm sorry, could you perhaps clarify that?

MR. MC DONNELL: Okay. I'm not sure.

BY MR. MC DONNELL:

Q Did you interview any other consultants that you did not retain, did you not -- you don't understand that?

A Did I hire any other consultants, is this the question?

Q Did you interview any other people that you ended up not retaining their services?

A Oh, yes, oh, yes, definitely. Definitely, I misunderstood the question, I'm sorry.

Q Sure. Could you tell us who those people were or who were those agencies, any that you remember?

A I remember talking to Mike Murphy at that point. He had a difference firm though, it was Murphy & Castellanes and when I -- they had had some sort of conversation with the Bush Campaign. So they were immediately eliminated from any consideration. There was -- I can't remember, there was another PR firm that we

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discussed and it was the same, they were not willing to say that they would never go work for the Bush Campaign so they weren't -- it was more or less, that was more than anything else it was the independent aspect of the project. That eliminated a number of people that might have -- that I might have hired.

Q I see. Did you have any written procedures that you used to assure that the persons you hired as consultants would not have any consultations or connections with the Bush Committee?

A Yes. My attorney had drafted a waiver that we would ask all consultants past, present and anyone that I was considering talking to to sign. Once the project was begun.

Q So did Mr. McCarthy and Mr. Fabrizzio?

A Yes.

Q Mr. Shirley?

A Floyd Brown as well as all vendors signed a waiver.

Q Okay. Okay. I would like to go generally now to the campaign activities, generally of NSPAC.

Could you just describe NSPAC's campaign

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activities during 1988 election campaign the different -- I'm sorry?

A You can clarify.

Q Just a general -- categories of ways that you promoted the candidacy of George Bush basically.

A We distributed bumper stickers. We distributed brochures. We created a 20-minute video as a comparison, Bush-Dukakis. We prepared a number of television spots that were aired. The focus all along of the independent expenditure was to do a comparison of the candidacy of Dukakis and the candidacy of Bush. A lot of materials, the bumper stickers, there were yard signs. Brochures. We did -- on the first commercial we attached an 800-number to do and distributed in that manner political action committees -- excuse me, political action kits that included a bumper sticker a, a letter, a brochure, a yard sign.

Q Okay. That was -- did you do any direct mail work or --

A A lot of the bumper stickers were distributed via direct mail; we did a lot of direct mail.

Q That was in addition to the response to the 800

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ad?

A Yes, yes.

Q Did you do any -- a lot of that involved fundraising as well or --

A Not always.

Q Okay. Did you have any other fundraising events or anything that you held or was it --

A We did a breakfast in New Orleans during the Republican convention.

Q Can you tell us a little bit about that?

A That's right, we did hire -- we hired a fundraiser out of Texas, Ameria Fund.

Q Ameria Fund?

A Ameria Fund. To do the fundraiser in New Orleans. Events planner. And we did a breakfast in New Orleans, Americans for Bush.

Q How many people were invited or whatever?

A We had maybe 100 people invited; we must have had 30 people show up.

Q Do you remember the cost of that -- I mean, not the cost for you but was there a cost to get into the fundraiser?

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A I really can't remember.

Q Did you focus on certain type of people that you invited or --

A No, Republicans. No, I don't believe we focused on any particular kind of people.

Q Okay. You mentioned the media campaign that you had for NSPAC.

Can you take us through the different advertisings that you've done during the campaign?

A Certainly. We did the George Bush profile spot. We subsequently did --

Q When was that?

A That would have been June.

Q Of '88?

A Of '88.

Q Okay.

A We did a two-part crime spot focusing on the furlough program. We did a military spot, defense spot again focusing on the contrast of Dukakis and Bush.

Q Okay. Can you give us the time tables for the last two advertisements or three that you mentioned?

A The crime spots ran September, the defense spot

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ran October. I believe like the second week in October.

Q Okay. The second week. Anything else that NSPAC did as far as media?

A Those were the three commercials, yes, three commericals.

Q There was actually four, the crime spot?

A Yes, that's right; I call the crime spot one, but it's two 30-second spot, four spots; right.

Q Can we begin talking about the biography, the Bush biography, can you take us through the steps about how you went about doing that media campaign work or arranging it or what?

A What do you mean?

Q The basics, tell us, how about the idea you mentioned a little bit, can you tell some of the steps that you actually went through in the actual creation of it?

A Well, in my mind what we needed to do was to identify Bush, the candidate, Bush, the hero, Bush, who Bush really was, so it was called just that it was a profile on who George Bush was. And it went through his curriculum vitae basically.

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Q And then you said Mr. McCarthy drew up the scripts for it?

A Well -- yes, McCarthy drew up the scripts for it, yes.

Q Can you tell us what happened next?

A McCarthy drew up the script, sent it to me, I looked it over. I don't remember whether I made changes or not. I seriously doubt it, because he's a very good writer. And then we went forward. He sent me a budget on what it would cost to film this, we talked to Admiral Hill who was the spokesperson on the commercial, the profile spot. We filmed it and we went to the studio, I went to the studio with him. We cut the spot.

Q Okay. Was anybody else involved in the decision of choosing the Bush biography?

A No.

Q Was anybody else involved in approving it?

A No.

Q No, just you yourself?

A No, as a courtesy I showed it to my board, but it was more a fait accompli of what we were going to do, this was --

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Q Were you there during the actual production of it you said?

A Yes.

Q Where was that?

A The filming of it was at Iwo Jima. Plant production of it was in New York.

Q Who was involved in the filming?

A Larry McCarthy.

Q Okay. Who else?

A He had a makeup person, a cameraman. I don't know these people; they were people that Larry had hired to do the technical work.

Q He hired them all?

A Yes.

Q Okay. Did you have anything to do with checking with them about whether they had worked for the Bush Committee or have any involvement with them?

A He had signed the waiver, he -- in the waiver, it was worded that anyone working with him blah, blah, blah, blah, so I mean all of that was -- he had signed that the people worked for him had no affiliation with the campaign.

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Q Did you pay those people yourself?

A No.

Q How did they get paid?

A I assume through Larry McCarthy. I wrote a check, NSPAC I should say wrote a check to Larry McCarthy's production company which is that Raiford Communications it may have been. I don't remember the name of his firm.

Q He had a firm that you wrote to the checks to?

A Yes, it wasn't written to Larry McCarthy personally, no.

Q There were some checks that you believe -- you know on your disclosure reports there were some payments made to Raiford Communications?

A Right, that was his firm.

Q That's Larry's firm?

A Yes.

MR. SULLIVAN: Excuse me.

THE WITNESS: Actually, I don't know whose firm it is.

MS. KLEIN: Can we go off the record a minute.

(Discussion off the record.)

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BY MR. MC DONNELL:

Q So the filming of the Bush biography was done at Iwo Jima, then they did the post-production work in New York; is that correct?

A Yes.

Q Did you go there with them?

A Yes.

Q Where was that held?

A I have no idea. I do not remember.

Q Do you know anybody that was there besides Mr. McCarthy and Mr. Raiford?

A That was the only two people I knew.

Q Okay. Then did you have a showing of the film afterwards or --

A A showing of the film? What do you mean by that.

Q Of the commercial. Did you have -- did you have a showing of it to anyone?

A We had a press conference, is that what you're asking me?

Q Yes.

A We had a press conference to announce the spot

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was going to be running and the schedule that would be -- what the flight schedule was.

Q Okay. The next commercial, can you take us through the next commercial, the Horton crime spot?

A We decided that had we were going to run a second spot, the decision was -- what topic of the many topics that were out there to focus on, we had a meeting in August, late August, discussed a variety of topics what we should focus on for the spot. There were a number of issues in the news all the time. And the decision -- the decision was to do the crime spot.

Q Okay. You had an actual meeting in August. Who was present there?

A Floyd, Tony Fabrizzio, Larry McCarthy, myself and I believe Craig Shirley.

Q Where was that meeting?

A Somebody's office, it was not my office. I can't remember.

Q Okay.

A One of the consultant's offices, let's make that clear.

Q At the time of that meeting was the topic going

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to be what the issue was going to be for the next commercial?

A Yes.

Q Okay. Had you prepared anything beforehand?

A What do you mean by "prepared"?

Q Prepared any research on what the possible issues might be?

A No, we discussed, you know, what -- mostly discussed the topics, research in the sense, yes, I read the paper and yes, within the context of the paper there were a number of issues being bandied about of importance, school prayer, I don't remember all of them at this point, school prayer, the flag, crime certainly was amongst them, defense was another one. So it was really just going over what we saw in the paper and batting about a variety of ideas. And Larry -- from the meeting I had asked Larry to come up with scripts for each one of the topics. There was like three scripts and by far the one that was the most compelling was the crime issue.

Q Okay. Why was that?

A To me it was -- in my mind it was the one with the most substance.

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Q Okay. Can you remember a little more specific about -- I mean elaborate on what you mean by --

A Substance in the sense that crime is a very important issue. School prayer is an important issue, but not as important as crime, nor whether the flag is being honored is an important issue, but not as important as crime.

Q When you had -- at the meeting itself did anybody bring any materials with them as far as, you know, research materials about the topics?

A No. At that point it was just a round table discussion.

Q But Mr. McCarthy was there at that discussion?

A Yes.

Q Was anyone else there besides those persons you've mentioned?

A Not that I remember.

THE WITNESS: You weren't there, were you? I'm sorry.

No, no one else was there; it was a joke.

BY MR. MC DONNELL:

Q Was the decision to focus on the Horton and

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furlough issue, was that made by you alone?

A Yes.

Q It was?

A All decisions of what would happen with the -- the ultimate decision of what would happen with any of the thrusts or movements of the campaign were done by me.

Q Did anyone else have any input of that decision?

A Probably every newspaper in the country, but besides that probably not.

Q I mean within your organization, any of your consultants?

A No, no.

Q Did Mr. McCarthy?

A Everyone has input of course, I'm sorry, everyone has input, but as far as someone influencing me one way or another, I would say no.

Q Okay. Did Mr. McCarthy express to you how he felt about the issue, about the Horton furlough issue?

A What do you mean by -- I don't understand what you're asking me. I can't suppose what Larry McCarthy felt.

Q I asked you whether he did express anything to

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you. Did you say anything to you about that issue specifically?

A Not that I recall. We discussed a variety of topics, whether he focused or pushed one subject or another I don't really remember.

Q You don't remember, okay.

Following the looking at the script, can you tell us what happened next -- you made the decision to go forward with the crime spots?

A We had very short time spans, so once the decision was made, we went forward as quickly as possible.

MR. SULLIVAN: Excuse me. Counsel, I don't think it's been established yet at this meeting from Ms. Pediay what spot was moving forward.

THE WITNESS: Right.

MR. SULLIVAN: Perhaps if we could lay that as a foundation.

MR. MC DONNELL: I'm not sure I follow, what spot was what?

MR. SULLIVAN: I don't believe that it's been established yet which spot the group or Ms. Pediay elected

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to go with. You've referenced the Horton spot. But I don't think a foundation has been laid that there was at that point in time a decision made to go forward with that particular spot.

MR. MC DONNELL: I thought there was.

BY MR. MC DONNELL:

Q Was there a decision --

A Not at that meeting.

Q No, I said subsequently you decided --

A Subsequently yes, I had received scripts and seeing the scripts, it was decided to do the spot, but the decision -- in the -- the decision was made within days of that meeting because that meeting was in late August.

Q You made that decision?

A Yes.

Q Where was it taken from there?

A Once the decision was made and the script -- and you know the script was finalized, we went into production.

Q Okay. Did you meet with Mr. McCarthy again at that time when you were --

A What do you mean?

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Q Following that meeting that you had in August did you have another meeting with him?

A I don't remember. I did go to production when he did -- the time frame was so short, that I probably -- I don't remember; I probably had a phone conversation with him, the decision was made where we were going to do the production; I met him on the site of the production.

Q Where was that?

A Here in Washington.

Q Do you remember where?

A I can't remember the name; it was a production facility in Lafayette Center; I can't remember the name of the facility.

Q Were you involved in choosing that site?

A No.

Q Okay. Why were the time spans so tight or whatever you said?

A We were talking late August, I wanted to have a spot on the air in September. So production had to be very quick.

Q Why did you want to put it on by September?

A The election was in November. So we wanted to

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get it on the air as soon as possible.

Q Right. Then you met at the spot you said in downtown and who was there?

A Mr. Raiford and Floyd Brown.

Q What was Mr. Brown's role in the ad production?

A Nothing specific. I don't know. There was no assigned role.

Q What about Mr. McCarthy?

A Mr. McCarthy was the production person. His script, his baby.

Q Did you have any role in that?

A Excuse me?

Q Did you have a role that day during the production?

A Sure. As he's cutting the commercial we went through, you know, what pictures -- he had given me a choice all the way through, what pictures to use and there was a hesitation because we couldn't find a picture that was -- there was just a conversation of how exactly to structure it, but it was Larry's commercial and I was just there to watch the production.

Q Do you know where they got the pictures from for

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the ad?

A No, I assume from stock, but I don't know, you would have -- I don't know.

Q What do you mean by "stock"?

A They're photo, I'm using the wrong term, but there's a photolibrary.

Q Did any of your -- any employees or interns or anything have anything to do with coming up with the pictures?

A No.

Q Okay. Do you know who did -- who did that?

A I shouldn't say "I assume." I assume Larry, but I don't know.

Q It definitely wasn't you or anyone with NSPAC?

A I did not provide the photographs, no.

Q Did you do any research on the issue, outside research?

A Prior to, sure.

Q What kind of research?

A Well, there was a -- there were a boatload, 100 pages of articles about this issue that I had been gathering during the campaign. And we had all of these

articles, so I had given that to Larry in the articles for him to use in conjunction with writing the script.

Q Okay. Why did you get those articles from -- let me rephrase that.

Did someone do the work for you or did you do it on your own?

A I can't recall.

Q You don't know if anyone specifically assisted you in that if you remember?

A I can't recall. It could have been an intern. I don't remember.

Q Did you have any interns that were with you for very long?

A No, not really. Volunteers.

Q Do you remember any of the names of any of the interns?

A Oh, no. Because they were complete volunteers; they were unpaid.

Q So did you the production here in Washington, then did you have a private screening or anything -- of the Horton crime ads?

A We did a press conference.

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Q Okay. Do you remember when that was?

A The date of release of the crime spots which would have been first week in September.

Q What was conveyed during that press conference?

MR. SULLIVAN: Excuse me. Just for a clarification, conveyed by?

MR. MC DONNELL: By whoever gave the press conference.

THE WITNESS: We showed the spot and more or less discussed the flight schedule for the ad.

BY MR. MC DONNELL:

Q Do you remember what that was, the schedule?

A No, I do not remember.

Q You said Mr. Fabrizzio was doing a time buying?

A Yes.

Q Okay. Can you tell us about, a little bit about the airing of the commercial? How you made the decisions to air it and where to air it, et cetera?

A I had hired Mr. Fabrizzio, who was an expert in time buying to do a proposal for me of where it should run, what times, what stations, what shows and I had followed his advice to the letter.

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Q What was that -- where did he decide to air, for instance?

A It was mostly cable buys, I don't remember. I mean it was a fairly detailed proposal I don't remember.

Q Was that all written?

A Yes.

Q The proposals?

A Yes.

Q Was Mr. McCarthy's proposal written as well?

A I don't believe so.

Q What was the name of Mr. Fabrizzio's commercial -- I mean his firm?

A Multimedia.

Q Was a copy of the ad distributed to McLaughlin Group or something -- a copy of the crime ad?

A I'm sure it probably was. There were a number of -- during the convention, there were a number of TV stations where we had created a special -- whatever the format is, one inch format to be delivered to the various TV stations.

Q Okay.

A In most cases it was by request. Someone had

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requested it.

Q This was just generally all the TV -- national network TVs, not just the stations; you were doing time buying?

A Right, we had heard about it and requested it.

Q Who was involved in doing that kind of work in sending out the commericals and copies of the tape?

A The secretary, myself, whoever had hands that day.

Q You would be the one who would have approved everything; right?

A Yes.

Q So if McLaughlin requested a copy of the ad you would be the one who would approve of sending it to them?

A Yes.

Q Do you remember approving that?

A There were a number -- not specifically McLaughlin Group, but there were a number of stations and networks that had requested a copy of the spot.

Q You didn't send out any specific correspondence with these ads?

A No.

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Q Okay.

MR. MC DONNELL: Let's take a short break.

(Recess.)

BY MR. MC DONNELL:

Q I had -- I would like to focus now on the final commercial you said you did in October of 1988.

Can you tell us a little bit about the substance of that commercial?

A It was as all spots were, a comparison Bush and Dukakis on defense.

Q And who was featured in that?

A Admiral Moorer was featured in that spot. As well as, you know, the Bush stand and the Dukakis stand.

Q Who was involved in the production or airing of that commercial?

A Larry McCarthy.

Q Who else?

A I don't remember if Jessie was involved with that or not.

Q And the airing as well?

A What do you mean by "airing"?

Q Airing of the commercial, you know, like airing

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of the commercial?

A Fabrizzio.

Q Basically, the same crew as you had?

A Same crew.

Q During the time that you had retained McCarthy, did you continually retain him or was it sort of like did you stop and then call him again later or -- how would you characterize your relationship with him?

A Project by project.

Q Okay. Was it your understanding though that he was in your employ during that time?

A It was my understanding that he was a nonretainer consultant, who was working ongoing with me project by project.

Q How many times did you meet with him during that time period?

A I don't recall.

Q Was it more than once?

A More than once, at least three times, since we did three commericals.

Q You met each time to do a commercial?

A Basically -- obviously a few meetings in

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between, I don't remember.

Q Was there an understanding when you started about how long your relationship would go on, your employment relationship?

A No. We did all of our work when funds were available, so in the onset, I don't know that I'm going to have funds to do a third commercial.

MS. KLEIN: Did you ever suggest that you envisioned doing three commericals or four commericals?

THE WITNESS: I don't know that a number was ever stated, it was more as funds come in that was our goal to do as many as -- as soon as the money comes in to do a commercial and as more funds came in, we would do another commercial so it was really reactive to what funds were available.

BY MR. MC DONNELL:

Q Okay. Was there ever any discussion with people, your consultants or anyone else about whether the Bush Committee had used the Horton furlough issue during the campaign?

A No.

Q You never had a discussion about that?

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A No.

Q Did you have any concerns about that at all?

MR. SULLIVAN: I'm sorry.

MR. MC DONNELL: About whether the Bush Committee had used the Horton issue.

MR. SULLIVAN: Excuse me, Counsel, I don't believe it was established at a particular time that the Bush Campaign had used "the Horton issue." If we're talking early on, I think it would be helpful if we would confine it to a certain time period and also establish that the Bush Campaign had in fact "used the Horton issue" if that's your question.

BY MR. MC DONNELL:

Q Were you aware that the Bush Campaign had used the Horton issue during the campaign?

A No.

Q You never --

A Furlough issue had always -- had been bandied about in the newspapers for months, in fact the first time it had come up was during the Democratic debates. I believe it was either Gephart or Gore and subsequent to that there were -- as we learned when we started to try to

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do research on articles, there were stacks of articles written on that issue, so we -- yeah that's where that came from.

Q You were aware -- were you aware that the Bush Committee had used a furlough issue?

A No, I don't know that we ever focused on what the Bush Campaign was using, what issues.

Q Okay.

A In retrospect, I know there was one furlough commercial that they did at some point, I don't even -- you know it's in retrospect, not reactive.

Q Larry McCarthy never mentioned to you anything about the Bush Committee doing the furlough issue?

A No, no.

Q Okay. Did Mr. McCarthy ever express to you anything about the timing of the commercial and about the timing of the Horton commercial?

A No, because there would be no way to say that we're going to time it at a particular issue when there weren't funds. We did commericals as funds became available, so as funds became available we decided to do a commercial.

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Q Okay. Did Mr. McCarthy ever talk to you about how he felt about using the Willie Horton photograph in the ad?

A No. I just remember my trepidation about using Willie Horton's photograph.

Q What was that?

A I wanted to find a picture that made the person look less threatening, but that was the nicest picture we could find.

Q I see. How did you go about looking for the picture?

A There were a series of photographs that we were to choose from in using -- as in producing any commercial, there are series of graphics and photos and one sort of goes through them all and selects amongst them.

Q And do you know who decided to use that particular photograph or do you remember who it was?

A I don't remember.

Q There were a series of photographs of Mr. Horton there?

A There were -- in the production room there were a series of photographs.

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Q And who decided to use that particular photograph or those particular photographs that you used?

A I have no idea.

Q Would it be either you or Mr. McCarthy?

A I did not bring photos to the production facility.

Q Okay.

MS. KLEIN: Did you select which photograph from the photographs that were there would be used for the spot?

THE WITNESS: Ultimately yes, it would be my decision. I mean at the production in all cases. With the commercial in case there was a decision that needed to be made. I wanted to be the one making the decision which photograph to use or which terminology to use ultimately.

BY MR. MC DONNELL:

Q Do you remember any of the discussion about the use of that photograph? Was there a discussion about the use of the photograph?

A In what sense? I mean in what sense?

Q You just testified a minute ago that you were --

A I was certainly -- I was hesitant to use -- I was

hoping that there was some sort of photograph that was not as -- the man is hideous looking, I mean I was looking for a photograph that would have made him less hideous.

Q Why?

A Concerned, I guess, about the perception in using the photograph.

Q Perception by who?

A By the general public. My idea going into the -- in doing the commercial was to focus on the furlough program, Willie Horton being the worst example of the furlough program going wrong. My idea was not to go into the production to feature a commercial on Willie Horton.

Q Was it your understanding that Mr. McCarthy had seen those photographs before the production?

A I assume someone in connection with production of it had brought the photographs there.

Q Do you remember Mr. McCarthy ever stating anything about the Bush Committee's plan during the campaign?

A No. From beginning of the project to the end was always very concerned about maintaining independence and that was any discussions that had to do with the Bush

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Campaign, I would just cut off. Because that's -- that was not pertinent to what we were doing.

Q But there were discussions about the Bush Campaign?

A Not that I'm aware of. As I say, not that I'm aware. If the Bush -- -- if someone said to me the Bush Campaign wants I would say I don't want to hear it. So I really can't tell you that --

Q You weren't really concerned with what the Bush Campaign wanted?

A No. We were running an independent expenditure.

Q You didn't feel you needed their approval?

A No.

Q Did you ever hear anything about what their view of NSPAC was?

A I had received a letter asking that we not use the President's name in reference to the project.

Q Did you receive any other communications from the Bush Committee or --

A Yes. There were a series of letters beginning in May asking not to use the Vice President's name in

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conjunction with the project. Subsequently, a letter -- it seemed to have escalated onto a personal level and I had written a letter to Mr. Atwater in reference to the allegations made about me personally in the initial letter. Mr. Atwater responded and referred it to legal and then there was a third letter done to Mr. Baker along the same lines.

Q Are you aware that American -- I mean the Bush Committee has filed a complaint against NSPAC?

A Yes, I'm aware of that.

Q Do you remember when that was?

A When that was?

Q Yes.

A It would have been June.

Q Of?

A '88.

Q Okay. Did Mr. McCarthy ever mention to you that Roger Ailes had called him?

A No.

Q During June of 1988?

A No.

Q Never did?

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A No.

Q Did he ever mention that he had any communications at all with Mr. Ailes?

A No.

Q Okay. Did Mr. McCarthy ever express to you that he thought the Bush Campaign would go negative by mid-September of 1988?

A I don't recall that specific statement or statement along those lines.

Q Okay. Okay. During the 1988 campaign did you write a letter to James Baker, the III?

A Yes, I did.

MR. MC DONNELL: I would like to introduce this into evidence here.

(FEC Exhibit 1 identified.)

BY MR. MC DONNELL:

Q Can you identify this document, Ms. Pediay?

A This is a letter that was addressed to Mr. Baker from myself as chairman of National Security Political Action Committee on September 8th, 1988.

Q Right. Can you tell us the purpose of this letter?

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A This really stems back to the letter I had received from Mr. Baran, Jan Baran.

MR. SULLIVAN: Excuse me. Do you want to take a moment to review this? Can we go off the record for a minute.

(Discussion off the record.)

THE WITNESS: This really stems from the request not to use the Vice President's name in our project. That was, as I say, an ongoing thing from may.

BY MR. MC DONNELL:

Q Okay. That was the basis of the complaint as you understand it?

A Yes.

Q Was there any --

A There were a number of other issues in the complaint that were scurrilous, I don't know what else to say, were just sort of personal attacks on myself. That was more my concern.

Q Can you read that first paragraph there?

A "It has recently come to my attention that our independent effort to support the election of Vice President George Bush to the presidency of the United

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States has caused concern among some middle level staffers within the Bush Campaign."

Q Can you tell us the basis of that statement for the concern of middle level staffers?

A I was alluding to Jan Baran.

Q What was that?

A He had asked me -- he had addressed a letter to me asking that we not use the Vice President's name in our project.

Q Okay. And the second to last paragraph where you state, "while we have heard the grumblings of some middle level staffers."

Who were you referring to there?

A Again Jan Baran.

Q Just Mr. Baran?

A The same letter.

Q Yes. Is there any other staffer that you're referring to or just --

A No.

Q You thought that was just -- your understanding was that there was just a complaint against the use of the name Americans for Bush?

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A Yes.

Q Okay. What was the purpose of writing to him? I'm not quite clear on that. You wanted him to --

A Just sort of end this -- just to close the book on this. Because we had been completely independent, as I had stressed in the letter. We had not asked for their guidelines in any way. We were not in any way looking at what they were doing or trying to coordinate our efforts with them in any way, shape or form. So --

Q But were you concerned?

A Basically, I wanted to just proceed with the -- my independent advocacy of Bush for President.

Q Was there some reason why you wrote this letter to him something you were looking for from him or something or --

A No, just to sort of close the book. In my mind it was really to sort of stop the conversations about the use of the name, because it was certainly within my right in the FEC code and legally to do the project.

Q You had already -- you know, filed a response to that, haven't you, by then?

A Yes, yes, there was a number -- which has nothing

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to do with this letter, there were a number of things in the complaint that -- the letter was more in reference to the use of the name.

Q But your counsel had already responded to those allegations prior, hadn't he?

A The FEC complaint was still in the process of discussions, I believe, at that point. I don't remember the exact chronology.

Q Okay. Did you receive a response of that letter from Mr. Baker?

A Yes, I received a response, I believe it was late September.

Q Do you remember generally what that response was?

A Generally the response was that he quoted the -- I believe his letter quoted the Jan Baran letter with reference to the name and that he considered Jan Baran not a middle level staffer.

Q Were you aware that Mr. Baran was the general counsel for the Bush Campaign?

A Yes, I was.

Q You still thought he was a middle staffer?

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A I guess.

Q Yes. Okay. You mentioned before I believe, that you wrote a letter to Lee Atwater?

A Yes.

Q I guess I should introduce this letter as well.

MR. MC DONNELL: Could you mark that FEC Exhibit Number 2.

(FEC Exhibit 2 identified.)

BY MR. MC DONNELL:

Q This is letter from Mr. Atwater?

A This is the letter from Mr. Atwater; right.

Q Okay. Can you identify that letter?

A Yes. This is a letter I had received from Mr. Atwater on September 12th, '88.

Q Okay. Do you remember the basic content of this letter?

A Again, I had written to Mr. Atwater asking that -- concerning the administrative complaint that was filed by the committee to the FEC on the activities of National Security Political Action Committee. There were a number of allegations there that were completely false. And I was asking that Mr. Atwater intercede in the sense

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and to stop sort of scurrilous, truly scurrilous accusations against me when anybody called the Committee that they were told there was a lawsuit filed against the Committee, which was not a valid statement.

Q You felt that was hurting NSPAC?

A Yes. And me personally, sure.

Q Generally, you did these things on your own in addition to your counsel?

A Yes, with help of counsel.

Q With help of counsel, okay.

MR. SULLIVAN: If I can go off the record a moment.

(Discussion off the record.)

MR. MC DONNELL: I guess we should introduce this letter, as well, as FEC Number 3.

(FEC Exhibit 3 identified.)

BY MR. MC DONNELL:

Q Whenever you're done just let me know, okay, Ms. Fediay.

(Pause.)

THE WITNESS: This is the letter I alluded to a moment ago. It's a letter I had written to Mr. Atwater on

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August 25th, 1988 asking that -- or explaining, I should say, that Jan Baran of the Bush for President Committee had filed a complaint against Americans for Bush, National Security PAC with the Federal Election Commission. There were a number of unsubstantiated comments that were totally false, that I wanted to remove from the complaint prior to it becoming public record. Because they were just addressed to me personally.

BY MR. MC DONNELL:

Q Again, there was an appeal on your own to correspond directly with Mr. Atwater?

A Right, yes. Specifically on this issue.

Q Okay. Did you receive any correspondence from a former Senator or then-Vice President candidate Dan Quayle?

A I received a letter in September, I believe, from Senator Dan Quayle at that point. We had taken the TV spot that we had done and distributed it all through Capitol Hill.

MR. SULLIVAN: Can you give me one moment?

MR. MC DONNELL: Sure.

(Counsel conferred with witness.).

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THE WITNESS: We sent out, I believe it was the George Bush profile spot as well as the crime spots and distributed it by messenger to all the Senate and House office buildings with -- as we would a press release. And --

BY MR. MC DONNELL:

Q Every one?

A Pardon me.

Q Every one of the Senate and House offices?

A Yes, I believe so, yes.

Q Okay.

A I believe so.

Q All right.

A And amongst them was Senator Dan Quayle.

Q Okay. Did you send that out to anyone else?

A No.

Q Who was responsible for doing that work for you, that actual distributing of that?

A I don't recall.

Q Do you remember -- do you know who made the copies of the videos for you?

A Dub Center.

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Q Dub Center?

A Yes.

Q Where are they located?

A Virginia somewhere.

Q Do you know who owns them or who your contact was there?

A I don't recall, they're strictly, you know, a duplication, video duplication service.

Q Okay. Okay. You sent that Bush biography out as well to every member of House and Senate?

A Yes, it was simultaneous, that all went out.

Q Do you remember when that was?

A It would have been probably the same time we released the crime spot, I would say early September.

Q Do you know -- do you know when Dan Quayle became vice presidential candidate?

A August.

Q At the time it was sent there, but it was -- it was sent to him as senator, is that what you're saying?

A Yes.

Q It was not sent?

A As a vice presidential candidate, no.

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Q Okay. Did you have any or correspondence with Mr. Quayle or --

A No.

Q Did you receive any letters from -- did you receive any letters that you remember from the senators or congressmen acknowledging the receipt of those videos?

A There were a number of acknowledgments.

MR. MC DONNELL: I would like to introduce a document. Can you mark that FEC Exhibit Number 4.

(FEC Exhibit 4 identified.)

BY MR. MC DONNELL:

Q Can you identify that document, Ms. Fediay.

A Yes, this is a letter that was signed "Dan Quayle, U.S. Senator, dated October 22nd, 1988."

Q Okay.

A Addressed to me.

Q Right. And this letter is in response to the videotapes?

A This letter is in response to the videotapes that were sent to all the senators and congressman.

Q Okay. And in response to the Commission's document request, did you provide a videotape to us?

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Nationwide Coverage

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A Yes, I did.

Q Okay. Is that the videotape that you're referring to a moment ago when you testified?

A Yes, it is.

MR. SULLIVAN: May I just ask for a clarification, Counselor.

MR. MC DONNELL: Sure.

MR. SULLIVAN: There's been reference to several videotapes here. Can we specify what videotape was produced and whether in fact that was the one definitely that was referenced here.

MR. MC DONNELL: Okay.

BY MR. MC DONNELL:

Q You produced -- do you know the name of the videotape that you produced in response to the Commission's subpoena request?

A It was a copy of the crime spots, both of them.

Q That includes the one that featured Willie Horton?

A Yes, that's the one that features Willie Horton.

Q That's the videotape that you provided to Dan Quayle?

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A Yes, it is.

Q Did you provide any other videotapes to him?

A I believe so. I believe we also sent the Bush profile spot, which was the first spot.

Q Okay.

A That we did.

Q Okay. The fact that you sent those videotapes to him has nothing to do with the fact that he was at that time vice presidential candidate?

A No.

Q When you received this letter, did you feel that there was any support by the Campaign?

A No. I had received a number of what our basically autopen letters -- this, I believe is also an autopen letter.

Q In other words, you don't believe that's a genuine signature or the actual --

A Judging by the initials on the side of the letter, I would say this was probably written about an intern.

Q Did you always feel that way about it?

A Yeah.

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MR. MC DONNELL: I would like to introduce FEC Exhibit Number 5.

(FEC Exhibit 5 identified.)

BY MR. MC DONNELL:

Q Could you identify this document?

A This is a copy of an article, I'm assuming -- I don't assume, New York Times, I'm not sure.

Q That's right.

A New York Times. There's no masthead on here.

Q Dated November 2nd, can you see that?

A I see it's dated November 2nd or the date line is December 2.

Q Can you turn to the second page of this document.

Could you look at the first full paragraph, of the last sentence it refers -- could you read that last sentence?

A "In the letter," is that what -- the one you're referring to.

Q The sentence before that in the last paragraph of the first full paragraph.

A "They say"?

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Q Yes.

A "They say an October 22 letter of praise over the signature of Mr. Bush's running mate, Senator Dan Quayle, is evidence of what they call the campaign's true sentiments toward their activities." I'm sorry if I find that a little amusing.

Q You do. Why is that?

A Having been misquoted on the newspapers in many occasions I find that that -- this is a supposition, not a quote of mine.

Q You never felt that way about the letter?

A No.

Q You didn't think that there was any evidence?

A I would have never used this letter as evidence that the campaign approves of my activities, no.

Q Did they ask you that day about the letter?

A To tell you the truth I don't remember whether they had asked me about the letter or not. I don't remember specifically giving this interview. I know that there was nobody that came to my office and took an interview with me. It was more than likely a telephone conversation.

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Q I see.

A But I don't recall.

Q Do you have any idea how they might have gotten the letter from you or did they get a letter from you?

A I don't believe they got it from me.

Q Do you have any idea how they would know about the letter?

A I have no idea. I certainly -- no, I have no idea.

Q Did Mr. then-Senator Quayle announce anything about it to anyone that you know of?

A No. I don't know.

Q Did you tell anyone else about the letter?

A I can't recall. I, more than likely, would have shown it to the consultants.

Q You don't remember specifically, though?

A No.

Q Does it cause any kind of reaction receiving that letter?

A Amusement.

Q You thought it was amusing?

A Yes.

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Q Why is that?

A Just in context of everything that had been sent out. I had received a number of these sort of thank you or acknowledgment of receipt of the tape. It just seemed ironic that Mr. Quayle's office was one of the offices that had responded.

Q But you never took any sign that the Bush Committee approved of your work?

A No, no.

Q Can you turn then to the three paragraphs down where it begins, it says, "But Elizabeth I. Fediay."

A "The committee's 34-year-old founder, said in an interview today that she believed the letter was genuine. 'Officially,' she said, 'the campaign has disavowed themselves from me. Unofficially, I hear that they're thrilled about what we're doing.'"

Q And did you make those statements?

A I don't remember.

Q Does it sound --

A I certainly would have never said that I thought the letter was genuine.

Q No?

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A No.

Q Do you remember the part saying "Officially, the campaign has disavowed themselves from me. Unofficially, I hear that they're thrilled about what we're doing"?

A Specifically, I don't know it could be out of context I'm not sure. My premise -- well, I can't -- I shouldn't suppose what I was thinking. Because I really don't recall.

Q You're not -- you wouldn't -- you're -- would you deny that you ever made that statement?

A I could not deny I could have said it.

Q Okay. Do you remember hearing anything that the Bush Committee was thrilled?

A No.

Q You don't remember hearing that?

A No. There was never -- no, there was never any question about whether the Bush Campaign was thrilled or not. I mean, if anything, it was that the Bush Campaign was disavowing me. And that I read in the newspapers.

Q Would this be completely contradicting what you thought then, this statement?

A Right.

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Q Does it surprise you that you would make that statement?

A I was exhausted at that point. No, it doesn't surprise me. I don't know what -- in what context it was said either. It's very difficult for me to pinpoint that without knowing where this came in the conversation.

Q I want to step back again to the time that you first announced the running of the Horton commercial.

A Yes.

Q Did you have a letter hand delivered to Mr. Baker, do you remember, Mr. Baker, the chairman of the Bush Committee?

A The letter was hand delivered during the press conference or subsequent to the press conference showing the spots.

Q And was that a letter that you produced in response to the Commission's subpoena?

A Yes, that's the same letter that we just entered in as Exhibit -- whatever.

Q Is that FEC Exhibit Number 2, the letter of September 8th?

A No, no, no. Exhibit 1.

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MR. SULLIVAN: Counsel, this FEC Exhibit 1, is that the Baker letter you were referencing in your previous question as to the one that was delivered?

MR. MC DONNELL: Yes; that's correct.

BY MR. MC DONNELL:

Q Is that the letter that you're responding to to my question?

A That's the letter.

Q Is that the letter that you're stating that you delivered on that day?

A Yes.

Q Is there anything else that you delivered that day?

A No, that was it.

Q Was there some reason that was sent on the day that the commercial was first aired?

A No.

Q There's no relationship between the letter and the --

A No.

Q Was the commercial -- the Horton commercial, was that aired for the full length of time that it was

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originally scheduled to be?

A Yes.

Q It was never stopped earlier, ceased earlier than anticipated?

A No.

Q That's not true?

A No.

Q Have you ever spoken to Mr. Ailes, Roger Ailes?

A Yes.

Q When was that?

A 1989, bumped into him.

Q Oh, really.

Where was that?

A At an annual dinner fundraiser award ceremony for political consultants.

Q Any other time?

A No.

Q Did you ever speak to him on the phone?

A No.

Q Ever send any correspondence to him?

A No.

Q Okay. Ever receive anything from him?

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A No.

Q Did you ever call to your knowledge -- did he ever call, to your knowledge, NSPAC?

A No.

Q During the 1988 campaign, did he ever, other than the correspondence that you've provided, did you ever receive any correspondence from Lee Atwater?

A No.

Q Or send anything to him?

A No.

Q Did you ever have any phone conversations with him?

A No.

Q No.

Okay. Mr. Baker. Did you ever receive any correspondence other than what you've provided today from Mr. Baker?

A No.

Q Did you ever send anything to him?

A No.

Q Did you ever speak to him on the phone?

A No. I like this part.

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Q Okay.

A It's so easy.

Q Now, to your knowledge, had anyone from the Bush Committee ever called up your office in NSPAC, of NSPAC --

A Not to my knowledge.

Q -- during the campaign?

A No.

MR. MC DONNELL: I would like to introduce another document.

(FEC Exhibit 6 identified.)

BY MR. MC DONNELL:

Q Whenever you're ready, can you identify that?

(Pause.)

THE WITNESS: This is a letter addressed and -- it's September 22nd, addressed to Jim Nathanson of Bush-Quayle '88 in Columbus, Ohio from me. I do not recall what spurred this letter.

BY MR. MC DONNELL:

Q You don't?

A But it is a description of our activities. I don't recall. I mean, in reading it, I would say it was probably in response to him asking who Americans for Bush

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was.

Q Okay. In the first opening sentence could you read that for us?

A "You may have heard some rumors recently involving the activities of Americans for Bush, a special project of the National Security Political Action Committee. I am writing to you" --

Q "Today," okay. Just the first sentence. Do you know anything about the rumors that you're referring to there? Did you hear some rumors yourself that you can elaborate on?

A I had received correspondence addressed to Bush for President, which I mean and it came to my address by accident, so I directed, without opening it, wherever it is it went. So I'm assuming there was also a number -- a lot of people were confused. I had to clarify this with a number of correspondents. When I talked to him the National Security PAC was an independent committee.

Q The rumors you're referring to there was the difference between --

A The general public, yes.

Q All right. Did you send other letters like this

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to other -- did you send letters similar to this to other committees?

A I'm sure, he had written to me I'm sure and that's what I was responding to. No, I did not initiate --

MR. SULLIVAN: Excuse me.

MR. MC DONNELL: Sure.

(Counsel conferred with witness.)

THE WITNESS: This is probably what my attorney is pointing out very nicely -- this is similar to letters that were sent out to anyone requesting a refund of a contribution.

BY MR. MC DONNELL:

Q Okay. Was this letter sent in response to the complaint filed with the Commission or in any way related to that?

A I'm not sure. I would seriously doubt it, given the September 22nd date.

Q No, I mean the procedure you took there by writing the letter out, did it have something to do with the complaint itself that was filed?

A I don't recall.

Q Okay.

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MR. SULLIVAN: Counsel, you're referencing the earlier complaint with the FEC that is now closed.

MR. MC DONNELL: That's right, MUR 2638.

THE WITNESS: I doubt it, I don't know.

BY MR. MC DONNELL:

Q Are you aware that Larry McCarthy interviewed Roger Ailes for the Gannett Journal?

A I learned of that recently.

Q You didn't know at the time?

A No.

Q Okay. Do you know when the interview took place?

A I don't recall. It was in the article. It must have -- I don't know. I don't recall.

Q Did Mr. McCarthy request permission from you to do that article?

A No.

Q Are you aware that he interviewed Mr. Ailes?

A Now, I am.

Q Yes, yes.

A At the time I was not.

Q At the time you were not. Okay. Did Mr. -- I

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might have asked this before, but did Mr. McCarthy ever mention any communications he had with me Ailes?

A No.

Q What was your reaction to finding out that he had interviewed Mr. Alies, "he" being Larry McCarthy?

A I was surprised. I mean, I was surprised given his familiarity with keeping independent expenditures and keeping the distance of the campaign, I was just surprised to hear that he had done the interview.

Q When did you first learn about the interview?

A Actually, recently in that article, whatever that national journal article was.

Q Who was -- who did most of the bookkeeping at National Security Political Action Committee?

A Myself and the secretary, Darlene Dove.

Q Was there more than one secretary for the account?

A No.

Q Just you. Would you yourself do most of the bill paying or did you sign checks or what were the procedures you used?

A We had a checking account that was just mine and

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then there was an escrow account in reference to direct mail.

Q I'm going to ask you to name a few agencies or corporations; I just want to know if you can identify them, they showed up on your reports.

Carman, Carman and Ugal, a consulting firm?

A Yes, David Carman who was a consultant, who was involved in producing a 20-minute video for me.

Q Which one was that?

A It was a video called Experience Versus Experiments.

Q Was that released?

A No.

Q Why is that?

A I couldn't afford to buy 20 minutes worth of time.

Q Okay. Columbia River Associates?

A Floyd Brown, that is Floyd Brown's.

Q That's his company. Anybody else involved in that company? Does anyone else own that company?

A No, I think it's a sole proprietorship; I'm not sure.

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Nationwide Coverage

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Q FANNSS, have you ever heard of them?

A When would that have come out? Give me a date.

Q I think it would have been October of '88. I can look it up if you want. It was September 30th consulting fee.

A Can I see that?

Q Sure. I didn't want to introduce that, but I will if you would like.

(Pause.)

THE WITNESS: There was somebody; I know exactly who that was, forgive me. Somebody who did research for the defense spot.

BY MR. MC DONNELL:

Q Okay. What kind of research?

A Just -- it was just a general sort of conversation of defense issues, what's important in defense issues; he's a defense specialist.

Q And J.T. Finn, Redondo Beach, California?

A That's probably a video reproduction. That sounds familiar. Yes, that's the video.

Q That's the -- which one was that?

A Duplication, it's a duplication of the video

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spot.

Q Which video?

A I don't remember which one; I would have to look at my records, if you really want to know which one it was, one of the TV spots that ran.

Q Okay. $30,000, that's a lot of copies or --

A A lot of copies; we did a direct mail piece to our top-dollar donors.

Q That's right. And do you remember the name of Larry McCarthy's firm? If that comes to you, could you provide that to us or if he had a firm or how you paid him?

A I knew the checks were written to Raiford Communications.

Q Okay. All right.

A That's all I know. I don't know -- the check was made directly to Raiford Communications.

MR. MC DONNELL: We're going to take a short break, okay.

(Recess.)

MR. MC DONNELL: We're all done here today. Thank you for coming, Ms. Fediay. You will be getting a

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witness fee, a check for $40. It went up since the last time we talked, I believe and your mileage went up -- went up from 30 to 40.

BY MR. MC DONNELL:

Q How many miles is it for you to come in?

A Oh, I have no idea.

Q Say 4 or 5?

A I live in Chevy Chase, D.C. It's going -- it's got to be 4 or 5.

Q I would say 5 each way.

A In front of the circle.

MS. KLEIN: 8.

MR. MC DONNELL: 8 miles. Thanks for coming.

(Whereupon, at 3:05 p.m., the deposition was concluded.)

ELIZABETH IRENE FEDIAY

ACE-FEDERAL REPORTERS, INC.

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CERTIFICATE OF NOTARY PUBLIC & REPORTER

I, CINDY L. SEBO, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn by me; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

2204038471 1

Notary Public in and for the
District of Columbia

My Commission Expires FEBRUARY 14, 1995

National Security
Political Action Committee

National Security Advisors
Adm. Thomas Moorer, U.S.N. (ret.), Former Chairman, Joint Chiefs of Staff
Honorable Jeremiah A. Denton, U.S. Senator, 97 - 99th Congresses
Rear Adm. C.A. "Mark" Hill, Jr., U.S.N. (ret.)
Vice Adm. Gerald E. Miller, U.S.N. (ret.)

September 8, 1988

The Honorable James A. Baker, III
Chairman, Bush for President
733 15th Street, NW, 8th Floor
Washington, D.C. 20005

Dear Mr. Baker:

It has recently come to my attention that our independent effort to support the election of Vice President George Bush to the Presidency of the United States has caused concern among some middle-level staffers within the Bush campaign.

It is not our intention to impede in any way or obstruct the election of the Vice President.

Presently, we are the single largest independent group effort that supports the election of George Bush. To date, as public records show, we have spent in excess of three million dollars of which over ninety percent has gone directly into voter contact programs supporting the candidacy of the Vice President. This has included $800,000 in television air time and $400,000 in political action kits.

While we have heard the grumblings of some middle-level staffers in the Bush campaign, senior advisors such as yourself have remained silent. In fact, I find it hard to believe that anyone at the Bush campaign would oppose an independent group exercising its First Amendment rights to support the Vice President.

However, as Chairman of the Vice President's campaign, we would be interested in your wishes with regard to independent public advocacy of George Bush for President.

I anxiously await your reply.

Yours for a greater America, I am

Sincerely,

Elizabeth Fediay
Chairman

22040337112

DEPOSITION EXHIBIT
FEC 1
CLS

Bush 88 Quayle

733 15th Street, N.W.
Suite 800
Washington, D.C. 20005
202/842-1988

September 12, 1988

Ms. Elizabeth I. Fediay
Chairman
National Security Political
Action Committee
3200 Morrison Street, N.W.
Washington, D.C. 20015

22040911713

Dear Ms. Fediay:

I have received your letter dated August 25, 1988, concerning the administrative complaint recently filed by George Bush for President, Inc. (the "Committee") concerning the activities of the National Security Political Action Committee ("NSPAC"). As you know, the Committee filed this complaint following NSPAC's refusal to accede to the Vice President's express request that NSPAC cease using his name in connection with its fundraising activities.

The Committee has received numerous expressions of deep concern and irritation from the public about NSPAC and its fundraising activities. Indeed, there is substantial evidence that NSPAC'S tactics have in fact misled members of the public and particularly senior citizens into believing that they are being solicited by the Vice President's official campaign committee. In addition, the Committee is troubled by

DEPOSITION EXHIBIT FEC 2 9/27/11 CLS

substantial evidence, contained in the NSPAC'S own FEC reports, concerning the amount of money paid by NSPAC to you and its vendors, in proportion to payments made to the candidates and causes NSPAC claims to support. The potential for abuse of the public trust inherent in such activity cannot reasonably be disputed; nor can the Committee's right to express its concerns about such matters to appropriate regulatory authorities. The Committee will continue to take such actions of this kind should it again become appropriate to do so.

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It is my understanding that your lawyer has been in touch with our counsel and has discussed your concerns with him at great length. I would appreciate it if, in the future, you would address any further comments you care to make to Lee Levine, Esquire at Ross, Dixon & Masback 555 13th Street, N.W. Suite 1300 East, Washington D.C. 20004-1109.

Yours sincerely,

Lee Atwater

National Security
Political Action Committee

National Security Advisors
Adm. Thomas Moorer, U.S.N. (ret.), Former Chairman, Joint Chiefs of Staff
Honorable Jeremiah A. Denton, U.S. Senator, 97 - 99th Congresses
Rear Adm. C.A. "Mark" Hill, Jr., U.S.N. (ret.)
Vice Adm. Gerald E. Miller, U.S.N. (ret.)

August 25, 1988

PERSONAL & CONFIDENTIAL

Mr. Lee Atwater
Bush for President, Inc.
733 15th Street, N.W.
Suite 800
Washington, DC 20005

Dear Mr. Atwater:

I am Chairman of National Security PAC and Americans for Bush, a special independent expenditure project of National Security PAC (NSPAC). As you are likely aware, your legal counsel Mr. Baran, has recently filed a complaint against Americans for Bush with the Federal Election Commission.

That complaint contained unsubstantiated comments alleging that I was receiving undisclosed funds from various vendors and was conducting the activities of Americans for Bush in a fraudulent manner.

On July 18, 1988 my legal counsel wrote to Mr. Baran stating that there was no basis for any of the allegations in the complaint and that I was distressed by the damage that the allegations would have towards myself personally and towards the PAC. (See attachment A).

Mr. Baran in turn, apparently hired Mr. Lee Levine of the law firm of Ross, Dixon and Masback to negotiate a settlement of this matter. My counsel on August 9, 1988 forwarded a letter to Mr. Levine setting out the four items which I believe would settle the concerns I have.

The reason I am writing to you is in an attempt to move the negotiations off center.

On August 12, 1988 Mr. Baran, on behalf of the Bush for President Committee, filed an amended complaint with the FEC which only deleted one of the references which we requested of Mr. Levine in our August 9, 1988 letter. (See Attachment B).

DEPOSITION EXHIBIT
FEC 3
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As you can appreciate, this entire matter will go on he public record once the FEC has concluded its investigation. Worst of all however, is the fact this matter has already hit the "Washington grapevine" and I have had to go to great lengths to dispel the allegations which were included in the original complaint.

I am only looking for a letter of apology stating that there were no grounds for the various allegations contained in the complaint and get the FEC to expunge the public record of the offensive language. This I am demanding, in order that other vendors or contributors who want an explanation will have that explanation directly from the Bush for President Committee. Though in other situations this activity by your counsel would warrant a lawsuit, that would not give Americans for Bush the remedy we need; namely, to restore our credibility nor would it do any good for Bush for President.

I would appreciate whatever assistance you can provide to get the lawyers moving and settle this matter in a way that will do justice.

As you may know from the public record, Americans for Bush has already sent out over 7 million bumper stickers, 200,000 Action Kits which contain yard signs, bumper stickers and instructions on how to organize events in the neighborhood for Bush for President, produced a 20 minute video tape which has been getting strong demands throughout the country and purchased over half a million dollars in T.V. time to air a 60 second pro-George Bush commercial. Our goal is similar to yours, that being the election of George Bush as the next President.

I regret that these type of legal complications interfere with our respective time and monies. I still do not comprehend why your counsel filed this complaint in the first place, though my interest now is only to move forward and promote the candidacy of George Bush.

Lastly, it has come to my attention that some members of the Bush Campaign are stating a lawsuit has been filed by the Bush Committee Against Americans for Bush. I would appreciate it if you would correct this misinformation since no lawsuit has been filed. Again, this is only adding fuel to this bushfire.

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I would like to conclude this matter as soon as possible and any assistance you could provide towards that end would be greatly appreciated. I look forward to meeting you after the election and our independent expenditure efforts - let's keep the lawyers happy.

Very truly yours,

Elizabeth I. Pediay
Chairman
National Security PAC

cc: Paul E. Sullivan

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Bush 88 Quayle

733 15th Street, N.W.
Suite 800
Washington, D.C. 20005
202/842-1988

October 22, 1988

Elizabeth Fediay
1919 Pennsylvania Avenue, NW
Suite 300
Washington, D.C. 20006

Dear Elizabeth:

Thank you for the exciting and inspirational video tape on George Bush.

The support, encouragement, and effort we've gotten from private organizations and individuals such as yourself has been a source of real encouragement as well as a great boon to our efforts.

Again, thank you for the video tape. Keep up the great work, and we'll march on to victory in November!

Sincerely,

Dan Quayle,
U.S. Senator

DQ/dh

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DEPOSITION EXHIBIT
FEC 4
4/24/91 CS

Horton Ad's Creators Claim Quiet Backing of Bush Staff

The following article is based on reporting by Richard L. Berke, Michael Wines and Stephen Engelberg and was written by Mr. Engelberg.

Special to The New York Times

WASHINGTON, Nov. 2 — The political commercial that raised some of the strongest doubts about Gov. Michael S. Dukakis's record on crime seems certain to win a place in the annals of campaign advertising.

The commercial appeared nationally on cable television for 28 days this fall. It featured a police photograph of a glowering Willie Horton, a convicted murderer who, after escaping while on a weekend pass from a Massachusetts prison, raped a Maryland woman and stabbed her fiancé.

Although disavowed by the campaign of Vice President Bush, the commercial is the work of an advertising team with long-standing ties to the Republican Party. It was filmed by a former employee of Roger Ailes, the Bush expert on the communications media. And now, in the waning days of the Presidential race, leaders of the National Security Political Action Committee, the independent group that sponsored the advertisement, are declaring that they have the tacit support of senior officials in the Bush campaign.

The group's activities are a case study in how independent political committees can have a major impact on a national campaign and provide a vehicle for carrying out attacks with which a campaign organization cannot be associated. And the controversy that has evolved over the group's role also illustrates the competition and sometimes outright hostility between campaigns and political action committees as they vie for contributions.

A Letter of Praise

Senior Bush campaign officials have used strong language to disclaim any connection to the National Security Political Action Committee, which raised some of its money with mailings sent out under the banner of "Americans for Bush." The general counsel to the Bush campaign, Jan W. Baran, has called the group "bloodsuckers," while Mr. Ailes has said of such independent expenditure groups, "I hate them."

As for the Vice President himself, a May 4, 1988, letter that the campaign sent to the committee says the candi-

Continued on Page B20, Column 4



A campaign ad featuring a convicted murderer who raped a woman after escaping while on a weekend pass from a Massachusetts prison.

DEPOSITION EXHIBIT
FEC 5
8/27/91 CLS

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date "does not endorse nor approve of your activities."

The committee's principals may have complied with Federal election law, which bars independent organizations from coordinating their spending activities with Presidential campaigns, but they argue that the Bush camp protests too much. They say an Oct. 22 letter of praise over the signature of Mr. Bush's running mate, Senator Dan Quayle, is evidence of what they call the campaign's true sentiments toward their activities.

In the letter, Mr. Quayle offered thanks for a copy of another videotaped attack on Mr. Dukakis that was financed by the committee, and called its efforts "a source of real encouragement as well as a great boon to our efforts."

A spokesman for the Senator said that he knew nothing about the letter and that it had been written by an intern who, the spokesman said, signed it with an automatic pen.

But Elizabeth L. Fediay, the committee's 34-year-old founder, said in an interview today that she believed the letter was genuine. "Officially," she said, "the campaign has to disavow themselves from me. Unofficially, I hear that they're thrilled about what we're doing."

Surge From Obscurity

Ms. Fediay, who has no significant previous experience in political fund raising, runs the committee from one windowless room in a downtown office building.

In the past two years, that committee has emerged from obscurity to become the biggest spender among independent political organizations. The Bush campaign charges in a complaint filed with the Federal Election Commission that the committee has misrepresented itself as an arm of the campaign and has thus sought to benefit financially. Most of the committee's vendors are several companies controlled by a group of Virginia-based direct mail specialists.

Ms. Fediay said she met Ronald Kanfer, one of the principals in those companies, nearly 10 years ago, when he was a copywriter at a Washington fund-raising concern and she was working for the Institute of American Relations, a conservative organization directed by her father, a former aide to two conservative Republican senators — Jesse Helms of North Carolina and Strom Thurmond of South Carolina. She said the idea to form the committee came to her suddenly in 1988, after she had consulted with several friends on Capitol Hill.

Mr. Kanfer said in an interview that his companies were but contractors for Ms. Fediay and other political experts who run the day-to-day operations of the political action committee. "We do the job she tells us to do," he said. "We have no say in their commercials, where they run, their grass-roots operations or any of that."

A 30-Second Spot on Crime

Special to The New York Times

WASHINGTON, Nov. 2 — "Weekend Passes" is the title of the 30-second advertisement about Willie Horton.

As side-by-side photographs of Vice President Bush and Gov. Michael S. Dukakis flash on the screen, an announcer says, "Bush and Dukakis on crime."

Flash to a picture of Mr. Bush.

"Bush supports the death penalty for first-degree murderers."

Then a picture of Mr. Dukakis.

"Dukakis not only opposes the death penalty, he allowed first-degree murderers to have weekend passes from prison."

Flash to a mugshot of a glaring Willie Horton.

"One was Willie Horton, who murdered a boy in a robbery, stabbing him 19 times."

Flash to another blurred black-and-white photograph of the convict, looking like he is being arrested by a police officer.

"Despite a life sentence, Horton received 10 weekend passes from prison," the announcer says. "Horton fled, kidnapped a young couple, stabbing the man and repeatedly raping his girlfriend." As the announcer gives these details, the words "kidnapping," "stabbing" and "raping" flash on the screen.

The last photo is of Mr. Dukakis. The announcer says: "Weekend prison passes. Dukakis on crime."

The latest Federal records show that the National Security Political Action Committee has spent $7.682 million on behalf of Mr. Bush's candidacy, of which $3.4 million has been paid to companies owned by Mr. Kanfer and his partner David Kuzko.

Using telephone banks and letters to an array of potential contributors culled from conservative donor lists and other sources, the group has raised about $9 million since its founding in the spring of 1988. All but about $1 million has been raised in the last 10 months, mostly in donations of less than $50.

A Letter to Baker

There is no evidence that the committee, in devising the Horton commercial, received any direction from the Bush campaign. Kathleen Hall Jamieson, professor of communications at the University of Texas, said the Vice President could have suffered a backlash had his organization sponsored such an advertisement.

"To have Willie Horton's picture in the Bush ad would have been extraordinarily damaging to Bush," she said. "It would have raised much earlier the question of 'Is this a negative ad?' "

Democrats have asserted that the Horton commercial has racist overtones, partly because it includes the photograph of Mr. Horton, who is black.

Lee Atwater, the Bush campaign manager, said in an interview today that the campaign had "a firm policy not to use Willie Horton in any of our ads." Asked if the National Security Political Action Committee's use of the Horton commercial was beneficial to Mr. Bush, he said, "We have no way of evaluating that."

The Bush campaign does appear to have passed up a chance to remove the Horton advertisement from the cable airwaves.

On the day that Ms. Fediay announced the 28-day run for the commercial, she had a letter hand-delivered to James A. Baker 3d, chairman of the Bush campaign, offering to call it off, according to Tony Fabrizio, a Washington-based media buyer who helped plan the advertisement and buy the television time.

Mr. Baker responded with a letter three days before the commercials were to conclude their scheduled run with a letter that recounted Mr. Bush's earlier expressions of disapproval.

"If they were really interested in stopping this, do you think they would have waited that long to send us a letter?" asked Floyd Brown, the group's political consultant.

Mr. Atwater said today that he wrote the committee "a very strongly worded letter" months ago, making clear that he opposed its efforts. "I don't know what else we could do," he said. "Everybody involved knows that they didn't have our approval in any shape, form or fashion."

The Campaign's Decision

Bush campaign strategists decided as early as last spring that the Horton case would be a potent weapon against Mr. Dukakis. By focusing on this failure of the Massachusetts furlough program, campaign officials believed they could raise fears that Mr. Dukakis was soft on crime.

Polls show that this decision was one of the most important in the campaign and that the sharp rise in Mr. Dukakis's negative ratings after the Democratic National Convention in July resulted, in part, from the effective exploitation of the furlough issue.

The television advertisement that followed from the National Security Political Action Committee was produced by Larry McCarthy, who had been an aide in Senator Bob Dole's Presidential campaign and who was once an employee of Roger Ailes's company.

ATTACHMENT 1-
Page 2 of 3

National Security Political Action Committee

National Security Advisors
Adm. Thomas Moorer, U.S.N. (ret.), Former Chairman Joint Chiefs of Staff
Honorable Jeremiah A. Denton, Former U.S. Senator
Rear Adm. U.A. "Mark" Hill, U.S.N. (ret.)
Vice Adm. Gerald E. Miller, U.S.N. (ret.)

September 22, 1988

Jim Nathanson
Bush-Quayle '88
43 1/2 East Gay Street
Columbus, OH 43215

Dear Mr. Nathanson:

You may have heard some rumors recently involving the activities of Americans for Bush, a special project of the National Security Political Action Committee. I am writing to you today to set the record straight.

Americans for Bush was the first and is now the largest independent expenditure established to support to the candidacy of George Bush. To date, we have raised more than $3 million through our fundraising efforts, all of which is being channeled into our campaign on behalf of the Vice President.

Our most recent effort has been a $500,000 nationwide TV advertising campaign, in which our spots will be shown a total of 892 times, reaching more than 80 million people.

We've concentrated our efforts on motivating the many thousands of supporters George Bush who strongly want to become active in the political campaign.

In July, Americans for Bush spent $300,000 to air a profile spot of George Bush, highlighting his military record. This spot including a toll-free 800 number, with which viewers could call to receive free action kits. From this ad alone, we received more than 80,000 requests for the kits, and the requests keep rolling in.

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1919 Pennsylvania Avenue, N.W. • Suite 300 • Washington, D.C. 20006

DEPOSITION EXHIBIT FEC 6

These kits allow supporters in "grassroots" America to become more involved in the political process, as they included yard signs, bumper stickers, fact sheets, and "how-to" materials on registering voters and generating support for the Bush campaign. (See enclosed material.)

Thus far, Americans for Bush has mailed out more than 200,000 action kits. The results are already evident, as people with Americans for Bush signs are showing up at Bush rallies (and Dukakis rallies as well), and cars with our bumper stickers have been spotted across the nation.

It is this "grassroots" support that we hope will give the Vice President the boost he may need to win a very close election in November.

Since Americans for Bush was organized earlier this year, we've been very careful to keep our activities separate from those of the Bush campaign, as required by law. Nevertheless, some have expressed concern that people might confuse the two organizations. While we hope that would not be the case, we will accommodate anyone who mistakenly contacted the wrong organization.

Our goal is the same as yours -- to ensure that George Bush is elected President on Nov. 8, 1988.

I hope this settles any confusion you might have about Americans for Bush.

Sincerely,

Elizabeth Fediay
Chairman, Americans for Bush

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TRANSCRIPT OF PROCEEDINGS

UNITED STATES OF AMERICA

FEDERAL ELECTION COMMISSION

ORIGINAL

- -x

IN RE:

MUR 3069

- -x

DEPOSITION OF ROGER E. AILES

Washington, D. C.

Thursday, August 29, 1991

ACE-FEDERAL REPORTERS, INC.
Stenotype Reporters
444 North Capitol Street
Washington, D.C. 20001
(202) 347-3700
Nationwide Coverage
800-336-6646

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UNITED STATES OF AMERICA

FEDERAL ELECTION COMMISSION

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IN RE: :
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M U R 3069 :
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- -x

DEPOSITION OF ROGER E. AILES

Washington, D. C.

Thursday, August 29, 1991

Deposition of ROGER E. AILES, called for examination pursuant to notice of deposition, at the Federal Election Commission, 999 E Street, N. W., at 10:00 a.m. before MARLENE KNOWLES, a Notary Public within and for the District of Columbia, when were present on behalf of the respective parties:

XAVIER K. McDONNELL, ESQ.
LISA E. KLEIN, ESQ.
Federal Election Commission
999 E Street, N. W.
Washington, D. C. 20463
On behalf of the Federal
Election Commission.

JAN WITOLD BARAN, ESQ.
CAROL A. LAHAM, ESQ.
Wiley, Rein and Fielding
1776 K Street, N. W.
Washington, D. C. 20006
On behalf of the Deponent.

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PROCEEDINGS

Whereupon,

ROGER E. AILES

was called as a witness and, having first been duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. MC DONNELL:

Q Good morning. My name is Xavier McDonnell. With me today is Lisa Klein, and we represent the Federal Election Commission here today. The Commission has a statutory duty of enforcing the Federal Election Campaign Act of 1971. This deposition is being taken pursuant to a subpoena issued by the Commission, and as part of its investigation of Matter Under Review 3069.

Can you state your name for the record.

A Roger Ailes.

Q Are you represented by counsel here today, Mr. Ailes?

A I am.

Q And his name?

A Jan Baran and Carol Laham.

MR. BARAN: If it would be appropriate at this

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time to interject, counsel --

MR. MC DONNELL: Sure.

MR. BARAN: We would like to at this time provide counsel to the Federal Election Commission with four pages of documents that are being produced pursuant to the subpoena as it applies to Ailes Communications, Inc. And I would like the record to reflect at this time that I am handing over those documents to Mr. McDonnell.

MR. MC DONNELL: Thank you.

BY MR. MC DONNELL:

Q Mr. Ailes, have you ever had your deposition taken before?

A Yes.

Q So you are familiar with the outline of it?

A (No response.)

Q Okay. I'm going to be asking you a series of questions today and you can just answer them to the best of your ability. If you don't understand a question just ask me to repeat it and I will. And please answer verbally as a yes or no, okay?

A Okay.

Q At any time you want to take a break for any

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reason just let me know and we'll take a break. We'll take probably one or two breaks throughout the deposition today.

A When you get about a half hour before the end if you would let me know so I can get a car -- call a car.

Q Sure, definitely.

Could you state your address, please.

A 440 Park Avenue South, New York City, zip code 10016.

Q Could you summarize your educational background starting with college.

A Graduate of Ohio University, Athens, Ohio, bachelor of fine arts degree.

Q Could you state your --

A Honorary doctorate from that same school.

Q Could you state your employment history in chronological order starting with your first job after completing your education?

A First job was KYW in Cleveland, television station, channel 3. That station was later transferred because of the FCC to Philadelphia. I was transferred as an employee of Westinghouse to Philadelphia where I worked

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as producer and executive producer of the Mike Douglas Show, a nationally syndicated television show.

I resigned in 1968. I set up my own company in 1969 and have been self-employed since.

Q You say you set up your own company. What was the name of that company?

A The original name was REA Productions. It had a couple of names, Roger Ailes & Associates, and I think about eight or nine years ago it became Ailes Communications. It's basically the same.

Q Is that incorporated?

A Yes.

Q Where is that incorporated?

A It was originally incorporated in Pennsylvania.

Q And currently?

A I think it is still incorporated in Pennsylvania, but doing business in New York.

Q Mr. Ailes, what did you do to prepare for this deposition today?

A I talked to my lawyers a little bit about it.

Q Did you talk to anyone else?

A No. I asked members of my staff to try to

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locate any paperwork that might be useful for you in this deposition. But that's all.

Q Were they able to come up with anything?

A That was submitted.

Q Do you know Larry McCarthy?

A Yes, I do.

Q When was the last time you talked to Mr. McCarthy?

A In late March of this year I believe.

Q What was that conversation about?

A He called me and asked me to go to lunch and I went to lunch with him. We discussed the fact that I was producing a network television special. Mr. McCarthy would like to become a writer. I think the purpose of the lunch was to suggest his services as a writer for the network television show that I was producing, or the possible use of him in some writing capacity in the future.

Q Was there any discussion about this matter under review 3069?

A No.

Q Nothing?

locate any paperwork that might be useful for you in this deposition. But that's all.

Q Were they able to come up with anything?

A That was submitted.

Q Do you know Larry McCarthy?

A Yes, I do.

Q When was the last time you talked to Mr. McCarthy?

A In late March of this year I believe.

Q What was that conversation about?

A He called me and asked me to go to lunch and I went to lunch with him. We discussed the fact that I was producing a network television special. Mr. McCarthy would like to become a writer. I think the purpose of the lunch was to suggest his services as a writer for the network television show that I was producing, or the possible use of him in some writing capacity in the future.

Q Was there any discussion about this matter under review 3069?

A No.

Q Nothing?

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A (No verbal response.)

Q Did you have any discussion about the 1988 campaign?

A No.

Q I would like to focus a little bit on Ailes Communications. You own the company; is that correct?

A I'm the majority shareholder.

Q And who else holds shares?

A There are other shareholders in --

Q Is it a public company?

A No, it is a private company.

Q Any other major shareholders that you could identify for us?

MR. BARAN: I would ask at this time, or at least reflect on the record, that since Ailes Communications, Inc. is a private corporation, to the extent that there is any stockholder information relevant to this investigation, Mr. Ailes is perfectly willing to discuss that, but not for the purposes of disclosing otherwise irrelevant private stockholders of this company.

BY MR. MC DONNELL:

Q Could you tell me, Mr. Ailes, if any employees

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of Ailes Communications have stock in the company?

A Yes.

Q Could you tell me if any former employees of Ailes Communications have stock in the company?

A No.

Q Could you tell me specifically whether Mr. Larry McCarthy has stock in the company or ever has had stock in Ailes Communications?

MR. BARAN: Object to a compound question.

MR. MC DONNELL: I'll rephrase it if you would like.

MR. BARAN: I think that would be simpler for the record.

MR. MC DONNELL: Okay, all right.

BY MR. MC DONNELL:

Q Could you tell me if Mr. McCarthy has ever owned any stock in Ailes Communications?

A I don't know that answer for sure. Some employees have a very minimal amount of stock. If he did have any at that time -- and I haven't reviewed that -- when he left the company that would have been repurchased, but I don't believe he had stock.

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Q And with respect to Mr. -- do you know Mr. Jesse Raiford?

A Yes, I do.

Q Did Mr. Raiford ever have any stock in Ailes Communications?

A No, not to my knowledge.

Q Not to your knowledge, okay. Can you describe the business of Ailes Communications?

A Ailes Communications is a media consulting firm. We create and define messages for clients in politics, business, entertainment industry and assist them in reaching target audiences with those messages, many times through the production of videotaped commercials, promotions, et cetera.

Q Would you say that Ailes Communications has any specialty within the field?

A We're the best at what we do.

Q You wouldn't say that you specialize in political consulting as opposed to just commercial --

A Half of our business is probably political, the other half is commercial.

Q How many employees -- okay, let's focus -- we're

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focusing on the 1988 election cycle and a period prior to that time. How many employees would you estimate worked at Ailes Communications at that time?

MR. BARAN: May I just for purposes of clarification inquire whether your question refers to the calendar year 1988?

MR. MC DONNELL: No, I'd rather -- okay, talking basically from 1987 through 1988.

MR. BARAN: So the question refers to calendar years 1987 and 1988?

MR. MC DONNELL: Yes.

MR. BARAN: Thank you.

THE WITNESS: The number of employees fluctuates usually between -- somewhere between 16 and 17 and 25 or 26. In early '87 there would not have been as many as the peak of the political cycle 1988, when there were probably 25 would be a good guess.

BY MR. MC DONNELL:

Q What would be the peak of the political cycle?

A Well, politics is a cyclical business, there is an election year and an off year. During the actual election year all companies in my field tend to staff up

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and add additional people to the staff just for that cycle. Once the campaigns are over they are usually released.

Q Any certain type of employees that you would be referring to that you would staff up on?

A Generally they are of secretarial, research, and production, meaning what we call in our business below-the-line technical type people as opposed to executive or creative type people.

Q You mentioned that you had commercial and political accounts. Is that divided into different divisions at that time?

A Yes, during that period of time we had two separate divisions.

Q Were certain persons heading one or the other division?

A That's correct.

Q Could you tell us a little bit about the executives who worked there then?

A Well, the -- currently or during that period of time?

Q During that period. All these questions refer

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to that period.

A In politics Mr. McCarthy, at that time, had the title of senior vice president, and he was really my assistant in helping with campaigns -- one of my assistants, I had others. He was a producer and general account executive. He was one of two or three that we have working with me.

On the corporate side, I have a president of the corporate side of the business and he doesn't work in politics.

Q Generally he headed off the whole division of people who especially worked on commercial accounts or was it --

A Many of the people under these two heads occasionally -- for instance, the research department of the business may provide research to a corporate account or to a political account, but the top people in the division separate strictly politics from corporate --

Q Who were the other persons who had a similar position to Mr. McCarthy?

A Cathy Ardleigh, senior producer with our firm. Clay Rawson, who is a senior producer with our firm. I

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can't recall any others, but --

Q Okay. Was Cathy Ardleigh there at that time?

A Yes.

Q She was, okay. How would you characterize your role in ACI?

A I'm chairman of ACI.

MR. BARAN: Can we clarify for the record that ACI refers to Ailes Communications, Inc.?

MR. MC DONNELL: Yes, thank you.

THE WITNESS: I'm chairman of ACI and I do the majority, probably, of marketing for the firm as well as a great deal of the creative work. I probably do a lot less of the administrative work.

BY MR. MC DONNELL:

Q During that time period you were on the road quite a bit or --

A Yes.

Q You referred to Mr. McCarthy's position. How would you characterize his role within the company?

A He would be characterized as a producer. In a small firm like this people often double -- his skill was writing so he would write commercials, do general media

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interpretation and work as an account executive to clients.

Q What did that entail, working as an account executive?

A Meetings with campaigns, strategy work, helping to design their commercial messages.

Q Did you work closely with Mr. McCarthy?

A During that time?

Q Yes.

A Yes.

Q Did you generally approve everything that he did before it went on to a client?

A Many times yes, sometimes no.

MR. BARAN: Just for purposes of clarification, again, the questions are regularly referring to a period of time being the entire 1987, '88 calendar years?

MR. MC DONNELL: That's right.

MR. BARAN: And I don't think it had been clarified that Mr. McCarthy maintained the same role during that entire period of time.

MR. MC DONNELL: Okay.

MR. BARAN: So I don't want the record to be

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misleading or --

MR. MC DONNELL: Right, okay, okay.

THE WITNESS: Thank you. That's true, Mr. McCarthy left the firm in 1988. So I was thinking back to 1987 -- actually the 1986 election cycle. 1987 was an off year. 1988 was an on year, but by that time Mr. McCarthy had left.

BY MR. MC DONNELL:

Q So all those answers were referring to when he was a permanent employee?

A That's correct. All those answers referred to when he was a permanent employee.

Q Was Mr. McCarthy involved in production work as well?

A Yes.

Q Could you describe his role in that?

A Mr. McCarthy's background was not primarily production. Meaning that he did not have a film or videotape background. He learned that somewhat in our firm, and later did some simple production of commercials and so on. He was not considered a top expert in the cinematography, film, videotape field, but could assemble

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commercials, and did.

Q When you developed a commercial was it generally done on the premises or --

A No.

Q Did you have any production facilities on your premises or --

A The only production facilities we have on the premises is what is known as off-line editing, which is relatively inexpensive, 3/4-inch videotape machines, unsophisticated, used primarily to pull what are called selective takes from footage. That footage is time coded and then we go to outside production facilities to finish commercials.

Q Did you have a production team working within Ailes, I assume?

A Did we?

Q Yes.

A Yes.

Q And who were some of the persons during that period of time who worked in the production team?

A 1987?

Q Right.

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A It would have been Cathy Ardleigh, Jesse Raiford, I believe Felycia Sugarman, Chris Dukas; we had another production assistant, I can't remember. We had five or six probably permanent production employees in that operation.

Q After you go through the initial production within your studios -- within your studio, or whatever, then where did it go from there?

A Once the rough cut of a commercial is done then it goes to an outside production house. Usually that's on bid. We tended to work with the same houses over and over, but it was a matter of having the facilities -- and a lot of these are technical terms -- the facilities to complete a commercial.

Q Are there any certain facilities that you would normally use?

A We would frequently use a facility known as National Video in New York City.

Q During that time period how many offices did you have? "You" meaning ACI.

A I don't recall specifically when we started the Washington office. We now have a Washington office. I

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believe that was started after Mr. Stevens took over the producing role, which would have been early 1988. Mr. McCarthy did work from Washington for some period of time from his apartment for me, and that would have been --

Q For you?

A Well, back in 1986. In '87 he spent most of his time in Washington, and I think working out of his apartment.

Q Did ACI have weekly meetings or monthly meetings or daily meetings with the executives?

A No.

Q Let's say I was a client of ACI on -- a political client, how many persons would generally work on developing ideas and working on my account? How many within the executives?

A It varied tremendously.

Q Did you generally work together or was it -- were certain persons assigned to accounts?

A Generally somebody was assigned the lead on an account and would only bring in others if needed.

Q What would be the determining factors when that was necessary?

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A Inability to think of a good idea.

Q When did Mr. McCarthy leave as a permanent employee?

A He notified me that he wanted to leave the company after the 1986 election cycle. So it was probably in November of 1986 that he told me he was thinking of moving on. I believe he left sometime in early 1987, a few months later.

Q And why did he leave?

A You would have to ask him. I heard various reports of what he said to others. He told me he was a little burned out and that he wanted to be a writer and he wanted to move on and do his own thing.

Q What were some of the other things you heard from others?

A That he was upset with me, that he was tired of me getting credit and him having to work too hard. I was unaware of his feelings toward me at the time, but apparently he had some hostilities towards me.

Q Would you say he was one of the most important producers you had, or the most important producer?

A During his employment there he would have been

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considered an important employee.

Q When he left ACI did he continue in any other capacity with ACI?

A Not initially, but then I think that he was trying to line up clients, and as we were moving toward the 19 -- the next election cycle, he approached me about working as a consultant to the firm, and ultimately I did employ him as a consultant for one of our United States Senate races.

Q And who was that?

A Senator Danforth, Missouri.

Q He initiated the contact with you?

A That's the way I recall it. I can't be 100 percent positive, but that's the way I recall it.

Q Were you aware if he had any other clients at that time?

A Pardon?

Q Did he have any other clients at the time when he approached you?

A I have no idea.

Q Do you know where he was located at that time?

A No. I mean, he was in Washington.

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Q He was in Washington?

A Yes, he was in Washington.

Q Could you tell us a little bit about the subcontracting arrangement you had with Mr. McCarthy?

A It was strictly related to one Senate race. He was to provide general consulting services to that campaign, be available to them and offer a similar type of ideas that he might have offered when he was a staff member at ACI.

Q And can you describe the fee arrangement?

A It was, I believe, initially a month, with some escalation, and I believe it was ultimately a contract -- but I can't remember -- should he complete the entire election cycle.

Q And that would have been through until -- what year was the election?

A 1988.

Q '88 election?

A Yes. The heavy dollars for that came at the end, not the beginning, so he had a --

Q Okay. How often did you communicate during this -- the period when he was subcontracting with ACI?

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A As needed.

Q Could you estimate how often you would speak to him or --

A It would be highly speculative. If he had a question -- if I were forced to make a guess, probably a couple times a week.

Q Generally questions about the Danforth account?

A Entirely.

Q Did you meet with him during that period?

A I don't recall.

Q Did he have access to your offices at ACI?

A That's a good question. I don't know if he had keys or not. He certainly could come there for a meeting, but I have no idea if he had -- usually when someone leaves the company -- well, no, I would say he did not have independent access. He certainly could come there for a meeting.

Q There was nothing anticipated in the contract that he would have access to the facilities of ACI for his work?

A Not to my recollection.

Q Was there a written contract?

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A I believe there was.

Q Would you have a copy of that now?

A No. I mean -- somewhere or --

Q Yes.

A Somewhere I might. But I would have to find it. It would be 1987?

Q Right.

A We moved offices sometime in, I think -- in 1989 we moved offices and a lot of stuff -- I don't know where it is, but it is in boxes somewhere now.

Q Did any other -- did he have any other employees from ACI working with him on this account?

A Well, he wouldn't have had any permanent employees. If during that time he did any production -- and I don't recall whether at that time he did -- he would have access to call on the technical production people to produce work. But since this was the fall of '87 I don't recall whether Senator Danforth did any production at that time or not, or whether it was later in the spring. And by that time Mr. McCarthy had left. So technically he might have, but I don't believe it happened.

Q Were you satisfied with his work as a

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subcontractor?

A Satisfied is probably the right -- probably okay.

Q Could you elaborate on that or --

A No.

Q Were there any problems between you at that time, between you and Mr. McCarthy?

A I began to hear reports that he was not happy about working with me particularly, but I discounted them or didn't pay a whole lot of attention to them. I try not to get too involved in rumors and hearsay.

Q And who was that you heard that from?

A I don't recall.

Q It wasn't -- was it specifically from the Danforth people or --

A No.

Q Were the Danforth people -- Danforth campaign, were they satisfied with the work he was doing?

A As far as I could tell they were.

Q Could you give us some specifics about what type of work he actually had done at that time?

MR. BARAN: Can you please clarify the time period you are referring to, Mr. McDonnell?

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MR. MC DONNELL: Sure.

BY MR. MC DONNELL:

Q When Mr. McCarthy was subcontracting with you on the Danforth campaign, could you tell us some of the specific projects he had done for you?

A I don't recall. But during that period of time there is generally not a lot of heavy lifting in those campaigns. That's the fall of the year before the election. So my guess is he probably had meetings and went through press clippings and looked at research, if any existed, and did the part of our business that's called hand-holding.

Q During that time period you are referring to when Mr. McCarthy was subcontracting, did members of the Danforth campaign come to your headquarters to meet with him and yourself?

A I don't believe so.

Q But during that particular year you had maintained -- did you maintain contact with the Danforth campaign yourself?

A Occasionally.

Q When did the subcontract with Mr. McCarthy end?

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A I can't give you the specific date, but I believe it's on a letter that we submitted. I terminated Mr. McCarthy's contract verbally in January of 1988. I believe that during that time I was -- I made a decision, once he signed on with the Dole campaign, that he had to go. I was trying to find a replacement. During that period of time I finally was able to get to Washington and meet with him on that date when I terminated him, and I believe I gave him an extra couple weeks' pay or some such thing.

Q So you terminated the contract because he had joined the Dole committee?

A I felt that I was working to elect George Bush president, and Mr. McCarthy was in violation of his agreement with me to work for a direct competitor of a client of Ailes Communications, and that there was no way I could continue a relationship with him if he was trying to elect Bob Dole president and I was trying to elect George Bush president. There would be a conflict or perceived conflict.

Q Was it a violation of the agreement you had with Mr. McCarthy as --

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A It was my judgment that it was.

Q Did any particular language within the written agreement bar Mr. McCarthy's working for Senator Dole?

A I don't recall the language of that agreement, but it was my clear feeling that it was in direct violation.

Q And you had a meeting with Mr. McCarthy at that time?

A That's correct.

Q And what was his reaction?

A He was a gentleman about it, but he was clearly upset, perhaps angry and certainly disappointed.

Q How would you characterize your relationship -- your relations with Mr. McCarthy at that time?

A Strained.

Q I would like to focus a little bit -- you mentioned Mr. Raiford worked for Ailes Communications?

A Yes.

Q When did Mr. Raiford work for the company?

A I don't know the exact dates of his employment, but I believe he came aboard before the 1984 cycle, which means he would have started probably in late '83. And he

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left, I believe, in 1987.

Q Do you know which month?

A Early, but I don't recall the month.

Q Early in '87?

A I believe so.

Q Could you describe his position -- Mr. Raiford's position at the time when he was a permanent employee of ACI?

A During his time at ACI he was originally hired as a go-fer, which is go for this and go for that. He became a production assistant, which is a go-fer with stripes. He then became a production manager, which meant that his job was to handle the technical side of production, line up film crews, worry about lighting, budgets, the technical side of production.

And he worked in that capacity until near the time he left. He was at the stage where he wanted to become a producer. He didn't feel he was progressing fast enough in our firm and decided to go out and set up his own private business as a producer.

So during a few months there at the end I think he perceived himself to be a producer and wanted to go out

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on his own to be. But Jesse is a -- or had been -- or was, and always been known to me as production manager, a very good production manager.

Q Did Mr. McCarthy do any bookings or budgeting for commercials, spots?

A I don't have any knowledge of that. I'm almost positive he didn't do budgeting. And I don't know if he ever picked up the phone and booked anybody or not. Sometimes our producers did book their own crews.

I never -- I haven't booked a crew in 15 years. So I'm not totally aware of how the producers function there other than to say that once we knew an event had to be covered the producers had a certain amount of latitude in selecting from a pool of approved people that we knew, that we had worked with before, to provide the technical services to the shoot.

Q Did -- after Mr. Raiford terminated as a permanent employee, did he have any other relationship or any other -- do any other work for Ailes Communications?

A Yes.

Q And what kind of work was that?

A I was unaware of it at the time, but our

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producers continued to use him in a freelance capacity. When we had an overload in the office and needed a freelance production manager, we would hire him as an independent contractor/vendor to put together film crews or the technical side of shoots or to do budgets. So in effect he became a freelance production manager.

Q A little clarification here. I think Mr. Raiford may have left in January of 1988. Would that be -- is that what you want to say?

A I guess that's right. I was thinking '87. I guess it may have been --

Q That would be 1988?

A Okay. That may be, okay. These dates are very difficult for me because I don't remember, but --

MR. BARAN: If I may, Mr. Ailes has submitted a year ago an affidavit to the Federal Election Commission in connection with this matter, and I want the record simply to reflect that he is today being asked questions without reference to his earlier affidavit, and he is depending on his current recollection to the best of his ability.

And to the extent that there may be differences

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of recollection, it is simply a reflection of the passage of time. We would be glad to reconcile any apparent inconsistency with his earlier affidavit if you would like.

MR. MC DONNELL: Okay.

BY MR. MC DONNELL:

Q Basically, Mr. Ailes, I would just like to get clarification on that. If you would like we could introduce the affidavit as evidence.

A Whatever is in that affidavit I'm sure is true, I just -- the dates -- during this period of time I was working 17- to 20-hour days seven days a week, operating from two cities and handling over 150 decisions and phone calls a day. So dates get a little confused when you are doing a presidential race, four Senate races, a governor's race and some congressional races and running a commercial business.

Q We understand. Or we can try to understand anyway.

MR. BARAN: As long as you can appreciate it, that's important.

MR. MC DONNELL: Right.

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(Laughter.)

BY MR. MC DONNELL:

Q At the time when Mr. Raiford was doing shoots for you, as you put it, how often would Ailes Communications use his services?

A I have no knowledge of that.

Q Who would be the one who would decide to retain him?

A Any one of the senior producers on staff, most likely Cathy Ardleigh or Clay Rawson.

Q So you had no idea how often he was used on your --

A No.

Q -- used on your spots?

A No. And he wasn't used specifically on spots or advertising. Clarification. When you get somebody to cover an event, that's different than creating an ad. Let's say a candidate is going to get off a train in Pittsburgh and you need a shot of that. That isn't specifically a commercial; that is what we call covering an event. Just like a news crew.

So that we have in effect library footage of

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that particular shot which might later be used in advertisements or what have you. Mr. Raiford was not responsible for any advertising per se, or spots per se, but for collecting library footage.

Q Do you have any idea how big -- how large the pool of persons were that you used for these services that you referred to just now?

A I would say that the total number of technical people that we might hire could be as many as 20 different people around the country, maybe more, that we would pull from. Although in the specific category of production manager, I would assume that there are at least four or five that could be pulled for an event, but it is usually a small group, maybe only three or four that could be pulled and that are trusted to bring it in on budget. That's -- their basic job is to be sure the equipment is in the right place at the right time and that it comes in on budget.

Q So at the beginning of the 1988 campaign you had lost two of your pretty important employees; is that correct?

A Yes.

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Q Mr. McCarthy and Mr. Raiford?

A Right.

Q Did you hire replacements for them?

A Yes.

Q Who did you hire to replace Mr. McCarthy?

A Greg Stevens, who had been Governor Tom Kean's chief of staff in New Jersey, who worked in media for Black, Manafort & Stone Consulting Company, had produced media for Jack Kemp's presidential campaign. And he came aboard to replace McCarthy.

Q I want to step back again to Mr. Raiford. I forgot one question. When Mr. Raiford was doing these shots did he ever -- did he come by ACI offices to do some work?

A I don't know.

Q You don't know, you weren't there or --

A I don't recall ever seeing him there, but that doesn't mean he wouldn't come there to confer with one of the producers or to look at something on videotape. Our production facilities -- our editing and production facility is usually away from the executive group of offices and it's possible that somebody could go to that

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editing room without ever seeing me.

Q Did the production team work as a team on projects? Or did they -- on --

A Occasionally.

Q Who headed the production team at the time period?

A What time period?

Q For both 1987 through 1988, the production team at your studios -- studio?

A Well, various people handled various productions. Each shoot is considered different. There is a senior producer in charge generally of each shot or -- and it depends on the size or what the purpose of that shoot is. By that time I was -- by January of '88 I was living most of the time in Washington, so I wasn't aware of who was doing what necessarily in New York for the other shoots.

Q I would like to focus a little bit now on ACI and the Bush account. Could you tell us how you first became involved in the Bush campaign?

A Somebody approached me and asked me to meet with Vice President Bush about the possibility of working on

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his campaign.

Q Who was that, do you recall?

A I don't recall.

Q And what --

A The reason I don't recall is because several people were saying to me, gee, you ought to work for George Bush. So I don't know, there are several fathers of that idea running around out there loose.

(Laughter.)

Q And when was that?

A Either late 1986 or early 1987, I don't recall.

Q And you went ahead and met with Mr. -- the then-Vice President Bush?

A Correct.

Q And can you tell us about that meeting.

A I'm not sure it is relevant for me to discuss. May I discuss or --

MR. BARAN: Is this relevant?

BY MR. MC DONNELL:

Q Okay. When was it that you first met him?

A Well, I had known him -- had Republican fundraisers for years, so I can't recall when I first met

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him.

Q When did you first meet him to start discussing your possible work for him?

A The closest I can come is what I've said, probably very late '86 or sometime in the spring of 1987, more likely the latter.

Q Did you have some specific proposals with you at the time?

A No.

Q Did you bring with yourself some of your work that you had done?

A No.

Q Did you have more than one meeting with him at that time -- with Mr. Bush -- President Bush?

A Yes.

Q Did you have negotiations with him about forming a contract?

A No.

Q No negotiations?

A No.

Q Did you reach an agreement at the first meeting?

A No.

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Q But you reached an agreement with him as far as performing services for President Bush?

A Eventually I was offered an agreement by the senior membership of the Bush team. The vice president to my knowledge was not involved directly, or I don't know whether he was then.

Q Who was that who approached you?

A I don't recall specifically. It would have been one of two or three people, Lee Atwater, Bob Teeter, Craig Fuller.

Q And then what happened next?

A I think we reached an agreement for me to provide services to the Bush for President campaign sometime in the summer of 1987.

Q And that was a written agreement?

A I believe it was. I don't recall seeing it but I believe it was.

Q Can you tell us generally the terms of the agreement?

A It was understood that I would provide generally media services, be the senior media advisor to the campaign. And my specific areas would be the creation and

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placement of advertising for the campaign.

Q Was there an anticipated amount of time to donate to the committee, the committee being the Bush committee?

A I do believe there were some provisions about my services. But I don't recall what they were. But in general to provide the majority of time to the election campaign.

Q Basically you stated that you were going to work on the media advertising. Was there any other services you were anticipated -- you were anticipating to offer?

A I was a member of the senior advisory group and therefore offered whatever advice came into my head.

Q You stated that you believe that you entered the contract in the summer of 1987. At that time did you -- do you recall how often you worked with the Bush campaign from the summer through the end of 1987?

A No, but it was frequently.

Q Frequently involved, okay. Was anyone else within ACI working on the Bush campaign?

A No.

Q You were the only person?

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A Yes.

Q Do you recall specific projects that you worked on in 1987?

A No.

Q Did you work on any campaign -- media spots or advertisements or --

A I don't recall when we started the production on the advertising. When you say "work on," I'm sure I was writing and thinking and preparing, but I don't know what we produced when; I can't recall. I've done too many races since then.

Q Did you work on -- during 1987 when you were working for the Bush campaign, did you do any work at your offices in New York?

A Probably some, yes.

Q Did you seek any advice from any persons working within the organization?

A No.

Q Why is that?

A Their job was to handle other accounts. They were seeking my advice occasionally on Senate races or something, but I was very careful about anything I said

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about the Bush campaign to anybody.

Q And why was that?

A Because I didn't want leaks.

Q Even though it was within your own organization?

A I generally function on a need-to-know basis, because -- well, I trust the people completely, I just felt if it is not necessary to have that information floating around so that somebody could talk about it at a party, it is not necessary. So --

Q Okay. Was this something specifically discussed with any persons within the Bush committee?

A No.

Q Did anyone on the Bush committee ever discuss with you or give you advice on communicating with members of any independent expenditure groups?

A No.

Q They never did?

A No.

MR. BARAN: Could I have a moment?

MR. MC DONNELL: Sure.

(Witness conferred with counsel.)

(Discussion off the record.)

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MR. BARAN: I would like the reporter to read the last question.

(The reporter read the record as requested.)

MR. BARAN: During what time period?

MR. MC DONNELL: Do you want me to ask the question over again?

MR. BARAN: I would like counsel to please clarify the time period that he was referring to in the question preceding the last lengthy response from Mr. Ailes.

BY MR. MC DONNELL:

Q Mr. Ailes, did anyone ever give you any advice on communicating with members of independent expenditure groups while you were at the Bush campaign?

A Sometime in the fall of 1988 after an advertisement was aired by an independent expenditure group I raised at a senior staff meeting the question of who in the hell was responsible for that, and why can't we get it off the air.

At the time I was advised by the chairman of the campaign that a letter was either being written or had been written, but the campaign counsel also cautioned

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discussing independent expenditures at all, and that we couldn't contact those people because it would look as if there were some sort of collaboration going on. And so since I heard from both the chairman of the campaign and counsel, it appeared that it was under control. I dropped the subject.

Q What ad were they referring to?

A I raised the question based on an ad known as the Willie Horton ad.

Q What is your view on that?

A On which?

Q On the Willie Horton ad.

A Well, I was extremely disturbed by it, which was well known in the campaign, for several reasons.

Q What were some of those reasons?

A One, I have a long history of being opposed to independent expenditures, because as the media person in the campaign my job is to create, place, and control the advertising messages as they are received by the public. Once that is taken out of my hands by an independent expenditure group it can destroy a strategy that I had planned.

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Two, the inferior production quality of independent expenditure ads are such that for my own ego purposes I would never want to be associated or responsible for.

Three, in the case of the Willie Horton ad it was very clear to me that that ad would generate a backlash among the liberal media -- which is an oxymoron, as you know -- and I felt it was unnecessary.

Four, it was very clear to me as a media strategist that we needed to be on offense in September and October, and it was my feeling that the Willie Horton ad would generate a position where we were on defense. And you don't win on defense. And since my goal was to win, I was very upset about that particular advertisement.

Q At that time did you know who produced the advertisement?

A I believe I learned sometime thereafter that it was Larry McCarthy. But I didn't connect it when I first saw it. My first reaction to it was this is awful, we have to get it off the air.

Q Did you know the name of the group who paid for the advertisement?

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A I knew it was something called Americans for Bush, which was another reason why I thought it might be confused with the campaign.

Q And that was the first you had heard of them or --

A Well, I think I had heard of them earlier in the summer. And I don't know when, what time frame it was, because during this period of time I was looking at hundreds of commercials a month from all of our creative teams in the field, the Dukakis, all the Senate races, the stuff we were producing. So it is a blur of commercials in my mind.

But somewhere along the way this same group apparently did a biography which I was also upset about. That went on pure grounds that I had already produced a biography ad and -- which was far superior to the one I was seeing that they did, and I frankly didn't want to be associated with the one they did.

Q And what did you do next?

A I don't recall. As I say, I didn't feel -- I just felt it was a badly produced ad, but I didn't do anything.

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Q Did you tell anyone about it?

A I don't recall. It was not -- I did not have the same reaction to that ad as I did the Willie Horton ad. The Willie Horton ad made me furious -- and by the way, not because it was a Willie Horton ad. I happen to think Willie Horton is a bad fellow. But that's not the point. The point is the Bush campaign had absolutely nothing to do with the Willie Horton ad. And I was afraid it might be confused with us, and I was very upset about it.

Q And you stated that during that meeting when you brought up the Horton ad that somebody told you that you shouldn't contact the Bush -- that committee?

A Didn't say I shouldn't contact. Said that they were in the process of either sending a letter or had sent a letter, and basically butt out, there was nothing I could do, was the message I was getting.

Q Didn't you say before that any communication by you or anyone from the Bush committee would be construed --

A Yes, counsel did raise that. But that was one of the sensitivities of this kind of a situation.

Q Back to when you were first negotiating with the Bush committee. At that time did anyone ever notify you

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or advise you that you should not have any contact with any person who was a member of a -- or any person who was a member of an independent expenditure group?

A Not to my recollection.

MR. MC DONNELL: Let's take a short break.

THE WITNESS: Sure.

(Recess.)

BY MR. MC DONNELL:

Q Mr. Ailes, you testified that you had seen the Bush biography done by NSPAC; is that correct?

A Yes, I believe I saw it one time.

MR. BARAN: Can you confirm what NSPAC stands for.

MR. MC DONNELL: Okay. That's National Security Political Action Committee, also known as Americans for Bush.

BY MR. MC DONNELL:

Q When was it that you saw the Bush biography?

A In the summer of 1988 I guess. I don't know exactly when, but the summer.

Q You previously testified that Mr. McCarthy had left as a subcontractor, that relationship was terminated

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in --

A Late January.

Q -- January of '88; correct?

A (No verbal response.)

Q Okay. When was the last time you had spoken to him -- when was the next time you had spoken to him after that meeting you had in January 1988?

A I don't know.

Q You referred earlier to the viewing of commercials that you had done. How was that -- how is it that you view those commercials? Was it something that was arranged for you by your staff or --

A An ongoing process in a variety of ways, including watching television a great deal, having a television set on all day and all evening, wherever I was. Plus having a VHS tape recorder or a 3/4-inch tape recorder wherever I went so I could look at rough -- what is called rough cuts of spots that were in process and finished spots prior to going to air and so on. So I was looking at commercials all day long.

Q You stated that you felt a little disturbed by the Bush biography. Could you tell us a little more about

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that?

A My first reaction was that it was a spot that I didn't want anybody to think that I had done. And my second reaction was I hate independent expenditures and this is a pain in the neck, but this one probably won't do any damage, so I just went right on.

Q What was it that you disliked about that commercial?

A It was inexpensively put together and was not nearly as good as the biography that the campaign had actually produced to George Bush.

Q Do you recall calling Larry McCarthy in June of 1988?

A No.

Q Do you know if you called Mr. McCarthy during the summer of 1988?

A I believe I did. I don't know exactly the time frame, but it was sometime after I learned he was doing independent expenditure work, and there had been some consideration about -- not by me, but by others, that about McCarthy -- you know, possibly we were thinking of staffing up for the fall and who was available and so on.

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His name came up. I informed him that he could not be used by the Bush campaign under any circumstances since he was clearly now working for an independent expenditure group.

Q You informed him how?

A I called him up, I suppose, I believe that's how I did it. I don't recall the specific phone call, but I think I just phoned him, told him that. I hope I made that call. Because that makes it clear that I know the difference between independent expenditure groups and campaigns. I had been aware of it for years and know the illegalities of it, and I hope I made that call and informed him to forget about it.

Q You had heard that he had some interest in working for the campaign or --

A I think there were some other people who -- I think he obviously would like to work on a presidential campaign; everybody did. And so I guess I had heard from somebody that he was considering it at one time, maybe back in the primaries, but wasn't sure how I would react to that because I had basically fired him.

Q Who did you hear that from?

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A I don't recall.

Q Could you state the content of that call as best you recall it?

A I've said everything that I know that I said to him that I recall.

MR. BARAN: Assuming you said it.

THE WITNESS: Yes, assuming I said it. I think I made that call. I hope I made that call. But I'm not 100 percent positive, but I -- that would certainly have been my sentiments, and I think I expressed that he could do no work for Bush.

BY MR. MC DONNELL:

Q And you told him that you knew he was working for an independent group?

A As best I recall I have said everything I can recall about it.

Q And what was his reaction?

A I don't remember.

Q Did you speak with anyone within the Bush committee about that call?

A No.

Q Was it someone within the Bush committee who

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recommended or stated that he might be interested -- he being Larry McCarthy -- might be interested in joining the committee, the Bush committee?

A It is possible, but I don't recall who or when. But since I was spending full time there and talking to people all the time, it was very possible. It also could have been from some outside vendor, creative production group that we were working with.

Q Did you discuss with him that you had seen the Bush biography?

A No.

Q NSPAC's Bush biography?

A No.

Q Where did you call him?

A Where?

Q Yes.

A If I called him I would have called him at his home, which was also his office, I think.

Q Did you say anything to him about that the Bush committee was considering using him to do comparative spots?

A I don't recall that. That's the only reason we

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would have hired him, for negative, but -- not for positive, but I don't recall those specific words, but it would not be uncharacteristic for me to say something like that.

Q Why is it that you would hire him for those type of spots?

A In my judgment he was better at that type of thing than he was at the positive ads.

Q Any particular ads you can think of that he did that made you come to that conclusion?

A No. But usually comparative ads are filled with, contrary to popular opinion, they are filled with facts and heavy research. Because if they are wrong they can get blown off the air. And I considered one of McCarthy's strengths writing and research as opposed to creative pictures for ads and so on.

Q Are comparative ads synonymous with negative ads?

A They are not the same thing in my judgment.

Q What's the difference?

A Negative prejudice is the description of the ad by the term -- presumably they are ads that point out

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things about a candidate's record or his actual comments which in fact are both true and fair.

It is my judgment that you can do an ad about a candidate's actual record which is not negative, but which might create a negative feeling about that candidate. As long as the ad is both true and fair I don't perceive that to be negative.

Comparative ads tend to compare the record of one person against the other on a specific issue or set of issues.

Q Would you consider whether a committee is going to do comparative ads part of a political strategy?

A Probably, yes. Yes.

Q And yet you just testified that it would be characteristic of you to maybe say to Mr. McCarthy that you were considering using him to do comparative ads?

A No, I didn't say that.

MR. BARAN: Can I interrupt here. It is my client's obvious zeal to be cooperative. I've obviously allowed you to ask and him to comment on what can only be characterized as highly speculative questions and answers. He's trying to answer to the best of his

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knowledge, which is hardly specific, and I'm objecting at this point to a line of questioning which really is asking Mr. Ailes to speculate on what he might have said if he had in fact did something in a conversation that he is describing thus far as he thinks he may have actually had.

So I'm going to in the future here object to both the speculative nature of any question and confer with my client before offering any speculative answers.

MS. KLEIN: Well, I don't think, Counsel, that we would agree with your characterization of the nature of the questions here, but to expedite matters, why don't we move along and see whether we can obtain the information that we believe is necessary.

MR. BARAN: Sure.

BY MR. MC DONNELL:

Q I would like to focus a little more now on generally your work for the Bush committee. Your basic work was media consulting and you said you gave your advice in other areas. Could you tell us a little bit about some of the other areas that you worked on?

A Well, I didn't say it came in other areas, I

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said I said whatever came into my head, and I can't recall anything like that at the moment.

Q Did you work on -- any work developing speeches --

A No.

Q -- for Vice President Bush?

A No.

Q Did you do any coaching?

A I would like to talk to counsel about this.

MR. MC DONNELL: Okay.

(Witness conferred with counsel.)

THE WITNESS: It is my judgment the president doesn't need any coaching.

BY MR. MC DONNELL:

Q But did you do any coaching during the 1980 election cycle?

A No, a couple of times I assisted him in preparing for a speech, but drawing a diagram of the hall he was going to speak in and showing him where the podium was.

Q Did he have other speech writers working for him?

A Yes. "Other speech writers," as if I'm a speech

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writer? I'm not a speech writer.

Q No. I'm sorry. Did he have speech writers working for him?

A Yes.

Q As part of your work for the Bush campaign, did you develop any slogans that were used by the president?

A I don't recall. I mean I -- that were used by the president? Clarification here: Slogans to me meant on commercials, what was a tag line for the commercials, that would not have been used by the president in his speeches. So those are two different things. I did develop some slogans for advertising not used by the president.

Q So you never developed any slogans that were used by the president during speeches?

A Not that I recall.

Q Within the Bush committee, and you mentioned the senior advisor group, who was responsible for idea development -- idea development pertaining to the media campaign?

A Everybody in the senior group offered ideas, I believe.

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Q And how did that operate as far as coming to decisionmaking?

A A general bull session, and then I would go away and work with the advertising creative groups and talk about how to develop ads and so on. We'd read the research and develop advertising from that.

Q And what type of research was that that you would read?

A Both quantitative and qualitative research, public opinion research.

Q Could you tell us a little bit about that?

A All campaigns take polls of public opinion to determine saliency of issues. And from that messages are often developed.

Q So these are paid pollsters and research firms?

A Right, generally outside vendor research firms.

Q Generally the spots for the Bush committee, how many would you say that were -- that you produced and aired?

A I have no idea.

Q Would it be like 50?

A Probably.

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Q 10? More like 50 than 10?

A Probably.

Q Did ACI have any role in that, in the production of those commercials or --

MR. BARAN: Do you understand the question?

THE WITNESS: No.

BY MR. MC DONNELL:

Q Okay. I'm sorry. Did the crew or any employees of ACI have any role in the production, development of any of the commercials for the Bush committee?

THE WITNESS: Let me talk to counsel for a second.

MR. MC DONNELL: Okay.

(Witness conferred with counsel.)

THE WITNESS: No.

BY MR. MC DONNELL:

Q Did ACI have any role in the media buying for the spots that you did for the Bush committee?

A Yes.

Q And what was that?

A We were in a partnership with a company known as Farrell Media for media buys.

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Q Could you tell us about that relationship?

A What would you like to know?

Q Is that pursuant to a contract?

A I don't know. It was a contract between Ailes Communications and Farrell Media, yes.

Q Did Ailes Communications have any interest in Farrell Media?

A Yes. I'm not sure of the structure -- I'm not sure if it was a joint venture or whether it was a -- how it was set up. But the answer is we were partners, or involved, yes.

Q And who else was involved -- who was involved in Farrell besides yourself -- or ACI?

A The owner of Farrell Media was Cathy Farrell. That's the only other person that was involved to my knowledge.

Q Who would you say had the final say in whether to develop an advertisement or not?

A In the primary campaign it was generally decided by a small group of people. The same in the general election campaign. Although occasionally I would make a decision to go ahead and produce an ad on my own, more

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often I would get a sign-off from the campaign chairman or campaign director.

Q And who were those persons, the chairman and director?

A James Baker, Lee Atwater, occasionally Bob Teeter was in the loop saying let's develop this or not. But I would say generally one of those four people made the decision to go into production on a spot.

Q So you would present the ideas to them?

A Right. Or one of the creative teams would present their ideas. I would look at it, get it to the stage where I thought it was ready to be presented and ask the creative team to make the actual presentation.

Q Who was on the creative team?

A There were a half dozen different creative teams from different agencies around the country; they were freelance people. They --

Q Who was --

A They would submit ideas to me and I would then decide.

Q Who hired those teams or those companies?

A Myself and my assistant in the campaign.

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Q Who was that?

A Sig Rogich.

Q Did you hire him or --

A Yes.

Q Where was he from?

A He was from Las Vegas, Nevada.

Q Was he with a firm when you --

A I believe he owns a company called R&R Advertising in Las Vegas, Reno.

Q How is it that you came to hire him?

A Mr. Rogich worked in the 1984 Reagan race as one of the principals of the Tuesday Team advertising group.

Q Generally, you said you had your hand in every advertisement that was produced and aired?

A Yes.

Q Did you have any involvement in choosing the studios where the ads were going to be shot?

A No.

Q Were you generally on location when an ad was shot?

A Occasionally, but not frequently. In the primary more than the general election.

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Q Well, what would you say were the most important advertisements that the Bush committee produced and aired?

A I have no way of determining that off the top of my head.

Q Do you have any opinion on that?

A No, it would be highly speculative on my part.

Q Let's focus a little bit on early summer 1988. The then-Vice President Bush had the nomination in the bag; would you agree with that?

A When was this?

Q In the summer of '88.

A Yes.

Q Okay, what was the -- what was your campaign strategy at that time?

MR. BARAN: I'm going to express for the record here some concern with respect to a United States government agency asking someone involved in the political process as to what was or was not their political strategy at any given time.

I at the same time recognize as an issue of law there are terms used in the FEC regulations that concern plans and strategy and so forth. And I would simply make

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a request that the questioning be a little more precise in terms of soliciting more narrow answers from Mr. Ailes rather than something as broad as what was your strategy.

MS. KLEIN: Well, would it address your concerns if we rephrased the question as to what in the early summer of 1988 was your campaign media strategy?

MR. BARAN: Well, let me suggest that as a legal matter perhaps the question isn't so much, you know, what was anybody's strategy, but what was the nature of any sort of information that may have been exchanged between people in organizations. And was there certain types of information exchanged?

I think that Mr. Ailes would be prepared to testify that with respect to some of the principals involved with the so-called independent expenditure group, he did not discuss any information regarding the Bush campaign, whether it was plan, strategy, or personnel or anything they -- in fact he wasn't even discussing it with his own employees back at his company. So --

MS. KLEIN: Are you instructing the witness not to answer the question as to what was the media strategy at the time?

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MR. BARAN: Yes, I'll object to that question and instruct my client not to answer that. I think it is an intrusion to his First Amendment rights with respect to his political participation, and that of the campaign.

MS. KLEIN: Are you going to ask the witness not to --

THE WITNESS: If I could say something on the record here?

MS. KLEIN: Sure.

THE WITNESS: The term "strategy," even "media strategy" is so generic, so subjective, that what I might be thinking about strategy at that moment might not even reflect the campaign strategy or -- strategies in campaigns are free-floating organisms that sort of change daily. It is almost impossible to answer that question.

BY MR. MC DONNELL:

Q Can you tell us what the media plans were at that time, early summer 1988?

A What the media plans were?

Q Right.

A To produce commercials that would win the election in the fall.

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Q Did you have any certain tone that you wished to establish at that time, early summer '88?

A All campaigns run on two tracks, defining your candidate and assisting in defining the opponent.

Q And what was the track that you were on -- you were on a certain track at that time?

A Helping define George Bush as a world leader with experience and judgment.

Q That would be more defining the candidate then; is that how you would put it?

A Yes.

Q Within the political consulting industry is there a certain time period when a campaign would go negative or maybe go comparative?

A The general rule of thumb is that if you are behind you tend to be more aggressive with your advertising or with your public remarks. That was not the case in 1988. In 1988 Michael Dukakis was ahead at the Democratic convention; they went 100 percent negative on George Bush early.

Q And what do you mean by early?

A Well, it was unusual for somebody that far ahead

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to be that negative.

Q And that was in --

A That would be during the summer of 1988. We were doing positive messages on George Bush. They were doing negative messages on George Bush.

Q And how did the campaign react to that -- to the Dukakis committee going so negative?

A Who's the campaign?

Q How did persons within the Bush campaign --

A Each one probably had a slightly different reaction.

Q Could you tell us about that?

A Nobody has the same feelings about things that they see, they tie it in to their own experience politically and otherwise, and that's what makes human beings different. So it is very hard to characterize a group of people as all feeling exactly the same about something, although it was quite clear at the time that Michael Dukakis had decided to run a negative campaign.

Q What was your reaction to it?

A My reaction to it was that they were stupid.

Q Did the Bush committee have an official reaction

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to it --

A Not that I recall.

Q -- that was implemented by certain spots?

A Not during that time period.

MR. BARAN: I don't think the campaign issued a press release saying that Dukakis is stupid.

THE WITNESS: No.

BY MR. MC DONNELL:

Q So generally you would say that whether a campaign was positive or comparative would depend more on how they are in the polls than it would on the time period before the election or anything like that?

A Each media consultant probably makes an individual decision for a whole set of complicated reasons, and that's probably too simplistic of a characterization. But in general, length before the election when comparative advertising starts is only a minor part of that decision.

Q To your knowledge within the campaign industry is there a practice of going negative or comparative in September or October of the year preceding a November election?

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A I have no knowledge of that historically or -- I don't remember ever hearing that.

MR. MC DONNELL: Let's take a break.

(Recess.)

BY MR. MC DONNELL:

Q Mr. Ailes, I'm sure you are aware of the Mass furlough program in 1988 -- Massachusetts furlough program in 1988 and the Willie Horton issue?

A Yes.

MR. BARAN: Wait. I didn't understand --

MS. KLEIN: Furlough.

THE REPORTER: Excuse me.

THE WITNESS: The furlough program on the Willie Horton issue.

BY MR. MC DONNELL:

Q Is that what I said? I don't believe I said that.

And you are aware that was an issue during the 1988 campaign?

A Yes.

Q Did the Bush committee use the furlough issue at all during the 1988 campaign to your knowledge?

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A Yes.

Q How was that?

A It was part of a tactical strategy to point out that the so-called miracle of Massachusetts was essentially Massachusetts myth. And that things in Massachusetts with regard to crime, the economy, jobs, was not the picture that the Dukakis campaign was painting. So it was a tactical leg of one of the strategic points.

Q And whose idea was that?

A I have no idea. You could probably find a thousand guys who think it was theirs.

Q What was that?

A I said you could probably find a thousand guys who think it was theirs.

Q Were you involved in coming up with the idea or --

A No, probably not. I'll take credit for it. It was a good idea. But I'm not sure it was mine.

Q Do you know how the idea was implemented during the campaign?

A I only know in terms of my specific piece of it, which was the advertising.

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Q What was that?

A An ad was produced called "the revolving door," which demonstrated the policy of weekend furloughs for lifetime prisoners and others.

Q Was there research done on that issue?

A I don't have knowledge of it. But I am positive there was research done, it just wasn't in my area.

Q Whose area was that?

A Research department.

Q Did you request that they do research on that area?

A Whenever we did a script for an ad we would send it to the research people to verify. But prior to that ever happening we probably had a presentation by the research department to the advertising group stating that these are facts.

Q Do you know who came up with that information?

A I do not.

Q Were you involved in the decision to use the furlough issue on the media level?

A I was involved in the decision to use the revolving door ad, yes.

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Q Did you present that at your meeting with the media advisors or the --

A The senior advisors?

Q The senior advisors.

A I'm sure I did. I don't recall the specific time or place, but that would be normal procedure.

Q Do you know if the candidate, then-Vice President Bush mentioned the Horton or furlough issue during speeches?

A I do not have any specific knowledge of it. May I say something here?

Q Sure.

A You must understand that at this time in a campaign, September, October, everybody who's responsible for his specific area is operating at maximum adrenaline flow and operating on 17, 20 hours a day, sometimes three hours of sleep a night. And we are often unaware of what speech writing or research or field operations might be doing. My job was to handle the advertising and that was a full-time job.

Q So you had no role in the use of the Horton commercial in President Bush's speeches?

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A Absolutely not.

Q Did you ever come up with any slogans about the Horton issue?

A No.

Q Did the Bush committee have any policy regarding the use of the Horton furlough issue?

A No.

(Witness conferred with counsel.)

THE WITNESS: Let me make a clarification.

MR. MC DONNELL: Sure.

THE WITNESS: You are referring to it as the Horton issue. The so-called Horton issue really became an issue because of the free media surrounding it and the fact that it was raised to an issue. It was never, to my knowledge, in any senior meeting discussed as a strategy or to be used specifically as an issue in the campaign. That's why I'm answering this way, because the world has a perception that this was somehow a key element of our strategy or what have you. It never was.

That is not to say it wasn't used. It wasn't a tactical support to a weakness on crime issue. But that's specifically what it was.

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BY MR. MC DONNELL:

Q And how was it used?

A I don't have any knowledge because I didn't touch the Willie Horton issue during the entire campaign as a part of the advertising.

Q But how was the furlough issue used? Other than what you already mentioned in your revolving door ad.

A That's all I'm aware of is how I used it in the advertising.

Q Did the Bush committee have any policy about not using Mr. Horton's photograph?

A I have no knowledge of that. I personally rejected the use of Mr. Horton in the advertisement.

Q How is that?

A A young researcher brought me a picture of him sometime and I tore it up and threw it in the wastebasket and said we're not going to do that.

Q And why is that?

A I knew the issue would backlash because of the liberal media.

Q And what was that about?

A When Republicans see Willie Horton they see a

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criminal, and when Democrats see Willie Horton they see a black.

Q Did you discuss this with anyone?

A No.

Q Did you discuss it with the intern?

A Other than to say we're not going to use it, throw it away.

Q What was the person's name?

A I don't know. I don't remember. They had a bunch of young runners around there.

Q You didn't say "intern," anyway, did you? You said --

A I think it was a young junior research type. It could have been an intern, because they had interns, but I don't know. Some junior person who's probably at Harvard now.

Q Did anyone else -- did anyone from the Bush committee ever discuss with you the use of the Horton picture within the advertisement?

A Not to my knowledge.

Q Did you always feel opposed to using Mr. Horton in advertisements?

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A Absolutely.

Q Did you ever make any statement to the press about the use of Mr. Horton's picture in the advertisement?

A Yes, I did say something to a reporter for Time magazine in a joke. It was meant as a joke, and unfortunately, when you -- it got a big laugh at the time, but when you read it in the press it isn't quite as funny. But anybody who knows me knows two things: one, I might say something outrageous in the press; and I never say anything to the press I'm actually going to do.

Q So what was the quote that -- what was it that you said in the press?

A I don't recall it specifically. Something about whether we would use him with a knife in his hand or out of his hand. I wasn't sure. And I would like to note that both of you are smiling as I say that. You got the joke, which is good news.

(Laughter.)

Q You stated that you saw the Horton commercials that were produced by NSPAC -- what you referred to as the Horton commercials --

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A Commercial, I think.

Q Commercials, okay. Your reaction was you did not approve of them; is that correct?

A That's correct.

Q Is it basically because you thought -- you mentioned it was a -- five or six characteristics previously. Did you think they were inferior to yours or -- to your work?

A No question about that.

Q Were you upset with the persons who created the commercial?

A I'm not sure I personalized it at the time at all. I just thought that that's not what we needed, and it was not good for the Bush campaign to have them on the air.

Q And you stated that you discussed this with others in the committee at a meeting?

A At one early morning staff meeting I raised the question.

Q Were you aware that Larry McCarthy and Jesse Raiford were involved in the production of the Horton commercial?

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A Actually I'm not sure I knew Raiford was involved certainly at that time. I later became aware of that. And I'm not sure when I knew Larry was, but, yes, I knew Mr. McCarthy was in it. Again it was my reaction that the commercial itself could do damage to the Bush campaign, and that was my primary concern.

Q That was basically because of the picture of Mr. Horton?

A I don't recall the commercial specifically enough to state that. I just remember my reaction to the commercial being this is not good for George Bush.

Q And you stated that you did -- that the Bush committee did its own commercial on the furlough issue called "the revolving jailhouse door"?

A There was a revolving door commercial produced by the Bush campaign that neither mentioned Willie Horton nor had a picture of Willie Horton.

Q Do you recall when that was aired?

A I do not.

Q Was it in the fall of 1988?

A Yes.

Q Do you recall that it was subsequent to the

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airing of the NSPAC's Horton commercial?

A I have no knowledge of the media schedule whatsoever of that independent expenditure group. I have no idea when they went on the air, how much air time they had, where they had it or when they went off the air with anything.

Q Do you recall whether you released the revolving jailhouse door commercial after NSPAC's commercial -- after you had seen NSPAC's commercial?

A I don't have any idea.

Q Do you know the time period in which the revolving jailhouse door was developed?

A Not specifically, no. It would have been developed probably sometime within a six- to eight-week period prior to airing. But there would be no way of determining when or where exactly. This was presented by an outside -- one of the outside vendors as an idea.

Q It was?

A Yes.

Q Who was that?

A I don't recall the name of the firm, but one of the six advertising firms had it in their -- they usually

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would come in with five or six spots and say here's an idea, here's an idea. This was originally developed as an outside -- by an outside vendor.

Q Do you recall doing an interview with Larry McCarthy for the Gannett Journal?

A I didn't know what it was for, but I do remember doing an interview with him, yes.

Q And when was that?

A It seems to me it was very late in the campaign, October sometime, late October probably.

Q How did that come about?

A Mr. McCarthy called me one day and said he had an assignment to write an article on the campaign that wouldn't come out until after the campaign, would I give him an interview. And I said sure.

Q What were your relations like at that time?

A I would say it would be very difficult to characterize. We hadn't seen each other. I was -- I couldn't characterize it one way or the other. You would have to be more specific in the question.

Q In between the time that you had last spoken to Mr. McCarthy, which I believe was in June of 1988, and the

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time of the interview, had you spoken with Mr. McCarthy at all?

A I don't know. But I believe that a couple times Mr. McCarthy called me with jokes. He was in some kind of a joke network and would call up and give me the latest joke. It was my goal to get off the phone as quickly as possible since I had so many phone calls. So I sort of vaguely remember getting a couple of jokes plugged in here or there, but nothing more than that.

Q Was there any discussion about the media campaign for the Bush committee at that time?

A None whatsoever.

Q Was there any discussion about NSPAC's campaign work?

A None whatsoever.

Q And do you recall where you were when he called you?

A No. Probably Bush headquarters. But it could have been anywhere.

Q That's here in Washington?

A Right.

Q Did you ever see Mr. McCarthy during that time

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period, between June and October of 1988?

A I don't recall seeing him.

Q Did you have any written correspondence with Mr. McCarthy during that period?

A Not to my knowledge. Nothing turned up in our search, so I don't recall.

Q You have the interview with Mr. McCarthy in October 1988. Where was that interview held?

A I believe it was Ebbitt's Grill, which was near the Bush headquarters.

Q And what was that about?

A What was what about?

Q The interview.

A I don't recall the interview very well, and I don't even recall reading the article, so I'm not positive, but it seemed to be about, to the best of my knowledge, it was about Dukakis and the campaign commercials in general.

Q Did you discuss your work for the Bush committee during that interview?

A No -- I mean -- well, clarify that. I don't understand.

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Q Okay. Did you discuss the work you had done for the Bush committee at that time?

A Probably I discussed things in the past that I had done, commercials I would guess, why I did certain things or what have you, perhaps.

Q Were you aware at that time that Mr. McCarthy was affiliated with an independent expenditure group?

A Well, I would have been aware that he had done those commercials back sometime before. I didn't know if he was still involved with that group or not, we never had a discussion of it. I had no knowledge specifically. He called me for a favor, basically. He had a situation where he had an assignment to write an article and wanted a favor and I granted it. That's the extent of what happened.

Q Did you discuss this with anyone, that you were going to do this interview, with anyone in the Bush committee?

A Probably not.

Q During the interview with Mr. McCarthy did you discuss the Horton commercial that was done by NSPAC?

A No.

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Q Did you discuss any commercials done by NSPAC?

A No.

Q How long did that interview last?

A We had lunch. Probably an hour.

Q Did you get paid anything for that?

A No. Now that I think about it, no. Figures.

Q Do you know Miss Elizabeth Fediay?

A No.

Q No?

A No.

Q Does Ailes Communications own any other companies?

A No.

Q Do you own any other companies, have any interest in any other companies?

A I have shares of stock in some big companies.

Q Do you own any production companies or --

A No.

Q Do you recall what Mr. McCarthy's company's name was?

A No.

Q Did he have a company, though, when he was

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subcontracting from you?

A I don't recall. I thought I just hired his personal services, but I can't recall.

Q While Mr. McCarthy was at Ailes Communications did you ever have any discussion with him about the Bush committee -- Bush committee's campaign work for the 1988 election cycle?

A Not that I recall, no.

Q While Mr. Raiford was at Ailes Communications did you ever have discussions about your plans for the Bush committee's 1988 election cycle?

A No. I didn't know what I was going to do.

Q Did Mr. Raiford ever perform any services related to the Bush committee's 1988 election cycle?

A Apparently one or more of my producers hired him in a production capacity -- tech capacity for some shoots, which are different from ads or commercials or whatever, to cover events. This I discovered long after the, you know, after it was done. But I would not be in that loop anyway. I wouldn't necessarily know, I didn't pass on who production managed or who the cameraman was. It was not a decision I would make.

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Q And what shoots were those?

A I don't have specific knowledge of them. I think there is some -- did he submit some bills or something? I think we submitted some bills, but I didn't memorize them.

MR. BARAN: I would like the record to reflect that Mr. Ailes is referring to the documents that were produced at the beginning of this deposition, which I had previously identified as coming from the records of Ailes Communications, Inc.

BY MR. MC DONNELL:

Q To your knowledge did anyone from the Bush committee ever communicate with any members or employees or consultants of NSPAC? That's National Security Political Action Committee.

A No.

Q Do you have any idea why Mr. McCarthy would believe that you -- you being ACI Communications -- and the Bush committee would go negative by mid-September, 1988?

A I don't know what was in his head. I wasn't in touch with him during that period at all. I have no idea.

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MR. MC DONNELL: We're going to take a short break.

(Pause.)

EXAMINATION

BY MS. KLEIN:

Q As counsel has indicated, you brought with you today three documents. One is a letter dated February 17, 1988 addressed to Lawrence McCarthy over your signature. The three other documents produced are invoices for production services from Jesse T. Raiford, bearing the dates respectively of 3/2/88, 4/4/88 and 4/4/88.

Do these represent all such receipts that were found in reviewing your files?

A Yes, to the best of my knowledge. I asked my controller, several members of my staff to go through whatever they could find and turn it up and send it to my counsel. This is apparently all they uncovered.

Q And all other such receipts would have been in the files that were reviewed?

A I would expect that's true. We did move offices after the '88 campaign, but I can't imagine that they wouldn't all be in one place.

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Q Second topic. With respect to the revolving door ad, do you recall what the turnaround time would have been from the time the decision was made to air the commercial to having it produced?

A No. I don't recall that because my assistant was involved in that, in the actual production of that. I know they had to set up a prison and do some preproduction work that was to be done, and I don't know what that time frame would have been.

Q Would you estimate it to be about a week?

A I can't make that estimation. Sometimes commercials can be done in a very short period of time, sometimes they take a long time of preproduction.

Q Now as I understand your testimony here today, at no time during the 1988 campaign did you discuss, share information, or otherwise communicate any information about the Bush campaign with either Jesse Raiford or Larry McCarthy; is that correct?

A That's correct to the best of my knowledge, yes, it's correct.

MR. MC DONNELL: That's it, I guess. There is going to be -- you get a $40 witness fee check and mileage

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from the airport or whatever.

THE WITNESS: I would like to add something to the record if I could.

MR. MC DONNELL: Could we get your mileage first?

THE WITNESS: Where are we going?

MR. MC DONNELL: From here to the airport.

THE WITNESS: I'm going back to my Palm Beach place.

(Laughter.)

THE WITNESS: I would just like to add that this whole thing is an attempt by the Democrats to create an issue where there is no issue. This clown out in Ohio, by the name of Ruvolo, who got his ass kicked in the national election and the state election for George Voinovich, suddenly after four years decided that there was something wrong with this ad.

And I suspect it is really an effort by the Democratic National Committee to harass me. There is a reason that it is now being done just prior to the '92 election. It is a political reason. And at no time did I have anything to do with any independent expenditure. I'm

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fully aware of the consequences of that sort of thing. I have been for a number of years.

And I hope now that we've gone through this exercise, this frivolous political attempt to embarrass the president is handled with justice.

MS. KLEIN: We'll adjourn.

(Whereupon, at 12:10 p.m., the deposition was concluded.)

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_____

ROGER E. AILES

Subscribed and sworn to before me this_____day of_____, 19____.

_____
Notary Public

My Commission Expires _____

CERTIFICATE OF NOTARY PUBLIC & REPORTER

I, MARLENE KNOWLES, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn by me; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

2204038816

Marlene Knowles
Notary Public in and for the
District of Columbia

My Commission Expires FEBRUARY 29, 1992

Ailes Communications Inc.

2/17/88

February 17, 1988

Mr. Lawrence McCarthy
624 Maryland, N.E.
Washington, D.C. 20002

Dear Larry:

This will confirm our discussion on January 27, 1988, and officially advise that the contract agreement between Ailes Communications, Inc. and Larry McCarthy pertaining to the campaign of Senator John Danforth is terminated as of the above date.

Sincerely,

Roger Ailes
President

RA/pt

9204038417

456 West 43rd Street • New York, New York 10036 Phone (212) 563-1970

JESSE T. RAIFORD
203 Clinton Street
Brooklyn, NY 11201
212/254-8400 (office)
718/852-2646 (home)

3/2/88

INVOICE FOR PRODUCTION SERVICES

TO: AILES COMMUNICATIONS, INC.
456 WEST 43RD STREET
NEW YORK, NY. 10036

FOR: BUSH FOR PRESIDENT
ACCOMPLISHMENTS AND DOLE/CUOMO SPOTS
REFERENCE 084, GB-TV-40 AND GB-TV-41

MARCH 1, 1988. 9:30 AM TO 9:00 PM
PRODUCER SERVICES INCLUDING GENERIC FOOTAGE
AND STILL PHOTO RESEARCH AND CLEARANCE.
DAY RATE: $500.00

PLEASE REMIT $500.

THANK YOU.

OK Liane

Ck # 5645
3/3/88

92040384818

JESSE T. RAIFORD
203 Clinton Street
Brooklyn, NY 11201
212/254-8400 (office)
718/852-2646 (home)

4/4/88

INVOICE FOR PRODUCTION SERVICES

TO: AILES COMMUNICATIONS, INC.
456 WEST 43RD STREET
NEW YORK, NY. 10036

FOR: BUSH FOR PRESIDENT
CIRCUS SHOOT, 4/3/88, D.C. ARMORY
REFERENCE: 087-8-0403

DATE	DESCRIPTION	TOTAL
3/31/88	Producer	$500.00
4/1/88	Producer	$500.00
4/2/88	Producer	$500.00
4/3/88	Director	$750.00
	TOTAL:	$2,250.00

PLEASE REMIT

THANK YOU.

OK

4/14-01

OK # 10068
4/15/88

9204038819

JESSE T. RAIFORD
203 Clinton Street
Brooklyn, NY 11201
212/254-8400 (office)
718/852-2646 (home)

1733

4/4/88

INVOICE FOR EXPENSES

TO: AILES COMMUNICATIONS, INC.
458 WEST 43RD STREET
NEW YORK, NY. 10036

FOR: BUSH FOR PRESIDENT
CIRCUS SHOOT, 4/3/88, D.C. ARMORY
REFERENCE: 087-S-0403

DATES	DESCRIPTION	TOTAL
3/30 - 4/3	EXPENSES (EXPENSE ACCOUNT ATTACHED)	$750.76
	CASH ADVANCE FROM ACI (PD)	$150.00
	TOTAL:	$600.76

PLEASE REMIT

THANK YOU.

C/C

4/4-C1

Chk# 10067
4/15/88

92040384820

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 3069

DATE FILMED 1/16/92 CAMERA NO. 4

CAMERAMAN [illegible]

9204038843821

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

THE FOLLOWING DOCUMENTATION IS ADDED TO

THE PUBLIC RECORD IN CLOSED MUR 3069.

1/15/92

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FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

December 17, 1991

Jesse T. Raiford
Raiford Communications, Inc.
Suite 500
928 Broadway
New York, NY 10010

CLOSED

RE: MUR 3069

Dear Mr. Raiford:

On June 6, 1990, the Federal Election notified you of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was provided to you at that time. In a letter dated June 20, 1990, you filed a response to the complaint.

After considering the circumstances of the matter, the Commission determined to take no action against you. The Commission closed the file on December 3, 1991. The file will be made part of the public record within 30 days. Should you wish to submit any factual or legal materials to appear on the public record, please do so within ten days of your receipt of this letter. Such materials should be sent to the Office of the General Counsel.

If you have any questions, please call me at (202) 219-3400.

Sincerely,

Xavier K McDonnell

Xavier K. McDonnell
Staff Attorney

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FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

December 12, 1991

CLOSED

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

RE: MUR 3069
Bush-Quayle '88, and
Stanley Huckaby, as treasurer
Roger Ailes

Dear Mr. Baran:

In a letter dated December 9, 1991, you were notified that the Federal Election Commission determined, on December 3, 1991, to take no further action against your clients in the above-captioned matter, and closed the file. Please be advised that the language in the third paragraph of that letter was not intended to imply that there were four Commissioners who believed that there was probable cause to believe a violation has occurred. Statements of Reasons explaining the Commissioners' votes will be forthcoming shortly.

If you have any questions, please call Xavier K. McDonnell, the attorney assigned to this matter, at (202) 219-3400.

Sincerely,

Lawrence M. Noble
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 12, 1991

Paul E. Sullivan, Esq.
1225 Eye Street, N.W.
Suite 500
Washington, D.C. 20005

RE: MUR 3069
National Security Political
Action Committee, and
Elizabeth I. Fediay, as treasurer
Larry McCarthy

Dear Mr. Sullivan:

Enclosed please find copies of a notification letter and the General Counsel's Report in the above-captioned matter which were sent to your previous address on December 9, 1991. Please be advised that the language in the third paragraph of the enclosed letter was not intended to imply that there were four Commissioners who believed that there was probable cause to believe a violation has occurred. Statements of Reasons explaining the Commissioners' votes will be forthcoming shortly.

If you have any questions, please call Xavier K. McDonnell, the attorney assigned to this matter, at (202) 219-3400.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosures:
1. Copy of the notification letter
2. General Counsel's Report

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THE FOLLOWING DOCUMENTATION IS ADDED TO

THE PUBLIC RECORD IN CLOSED MUR 3069.

6/24/92

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

STATEMENT OF REASONS

In the Matter of

Bush-Quayle '88 and Stanley Huckaby, as treasurer;	)	
	)	MUR 3069
Natiobnal Security Political Action Committee and Elizabeth Fediay, as treasurer	)	

Chairman Joan D. Aikens
Commissioner Lee Ann Elliott

Preface

This matter involves whether the National Security PAC's (NSPAC) Willie Horton advertisement was coordinated with the Bush-Quayle general election campaign. If it was, then the cost of that advertisement would have been a prohibited contribution to Mr. Bush's publicly financed campaign.

We agreed with the General Counsel's recommendation to take no further action in this case, and voted to close the file. We are writing separately to state our opinion that there was no reason to believe a violation of the campaign laws occurred in this matter.

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The Complaint

Section 437g(a)(1) of the Federal Election Campaign Act allows "any person who believes a violation" of federal election law has taken place to file a complaint with the Commission. The Commission is very liberal in construing most complaints to warrant our consideration.

For example, the complainant in this matter proffered no direct evidence or information based on personal knowledge regarding any coordination between the Bush campaign and the NSPAC advertisement. Instead, the complaint based its entire case on three news articles, one of which had nothing to do with NSPAC's advertisement.[1]

The other two articles the complainant used to make its supposed case were two articles in May 28, 1990 issue of The New Republic. Again, the complainant has no personal knowledge of the truth or veracity of the article. Instead, the complaint uses the article's breezy and unsubstantiated allegations as the backbone for its claim that NSPAC's ads must have been "prepared and aired by arrangement, coordination or direction of Roger Ailes." Complaint at p. 2. It is with this paucity of information that this case began.

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1. See the attachment to the Complaint, Ohio GOP Chief rejects racism charges over literature, The Plain Dealer, Nov. 3, 1988. The article concerns a mailing by the Ohio Republican Party using the Willie Horton's picture. It makes no mention of NSPAC or its use of Horton in its advertisements.

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The Responses

Section 437g(a)(1) of the Federal Election Campaign Act requires the Commission afford those accused of a violation an opportunity to answer the charges and "demonstrate ... that no action should be taken against them on the basis of the complaint." This must occur before the Commission decides whether there is "reason to believe" a violation of the law has occurred.

If the right to respond to a complaint is supposed to mean anything, then it is wrong to pre-judge a case on the basis of the mere filing of a complaint. An adequately answered complaint (usually containing a respondent's affidavit, documentary evidence and a complete statement of the facts) should forestall the Commission from beginning a freewheeling investigation into an issue it otherwise would not see. The mere presence of a complaint should not give the Commission a fishing license into otherwise lawful activity. [2]

It appears the responses to the complaint in this matter were perfunctorily dismissed by some of our colleagues. In our opinion, the affidavits adequately

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2. Although a few may consider this position to be "toothless", it is in fact a very responsible and judicious posture. Any "unfairness" in this process does not come from declining to investigate a case, but comes from slowly and relentlessly investigating a case that has already been adequately defended, or requiring respondents to prove a negative, or considering independent expenditures to be presumptively illegal if they were effective or subjecting innocent parties to lengthy and expensive legal bills.

rebutted the hearsay allegations in the complaint. Too often, in our opinion, responses to complaints are eagerly rejected as either being too clever and narrowly crafted or so over-broad as to be inaccurate. [3]

The responses in this case adequately and thoroughly rebutted the allegations in the complaint. The responses provided direct testimony from all the NSPAC participants, including affidavits from Elizabeth Fediay, Larry McCarthy, Craig Shirley, Floyd Brown and Anthony Fabrizo. The Bush-Quayle committee also responded with a detailed affidavit from Roger Ailes. Lastly, Jesse Raiford provided a response to the complaint.

The responses go right to the heart of the complaint's allegation that Larry McCarthy's and Jesse Raiford's prior employment with Roger Ailes compromised the independence of NSPAC's expenditures. In Elizabeth Fediay's affidavit, for example, she states that before she employed any consultants she informed them they were

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3. We are reminded of the responses to the complaints in two other independent expenditure cases: MURs 2272 and 2766. Those responses were also savagely attacked as inconclusive, narrowly-drawn, suspicious, strained, evasive or so overboard as to be irrelevant. In both cases, our votes to find no reason to believe a violation occurred based on the responses were upheld in federal court. Stark v. FEC, 683 F. Supp 836 (D.D.C. 1988)(FEC Commissioner's finding "no reason to believe" coordination occurred in MUR 2272 based on the responses to the complaint was "sufficiently reasonable"); Democratic Senatorial Campaign Committee v. FEC, 745 F. Supp. 742 (D.D.C. 1990)(FEC Commissioner's finding "no reason to believe" coordination occurred in MUR 2766 based on the responses was "not contrary to law").

being retained to conduct an independent expenditure program to favor George Bush. She asked each consultant whether they were familiar with FECA requirements for independent expenditures. The consultants assured her they were, and also gave assurances they or their agents/employees were not presently nor had they previously had any contact, communication or coordination with the Bush campaign. NSPAC Response at p. 7-8.

Further, each consultant and Mrs. Fediay has stated they had no contact, communication or coordination with the Bush campaign about the Horton advertisement or about any activity or strategy for NSPAC or the Bush campaign. Fediay affidavit at 6; McCarthy at 4; Brown at 3; Shirley at 3; Fabrizo at 3.

It is clear that Larry McCarthy conducted the production of the Horton advertisement. He retained the services of Jesse Raiford for technical support and post-production assistance. Before beginning his work, Mr. Raiford assured Mr. McCarthy that he understood the context of an independent expenditure campaign, and there were no contacts or communications that would preclude him from lawfully undertaking work on this contract. NSPAC Response at p. 10; McCarthy at 11; Raiford

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Response at p. 3. [4] Mr. Raiford also stated that Roger Ailes had no knowledge of, and had nothing to do with, Mr. Raiford's work for NSPAC and that the two never communicated "directly or indirectly, in any way, by any means, regarding any of my work with the National Security Political Action Committee." Raiford Response at p. 3.

Larry McCarthy's affidavit confirms Mr. Raiford's personal statement. McCarthy at 10-11. More importantly, McCarthy goes into explicit detail in his prior working relationship with Roger Ailes. McCarthy states his professional relationship with Ailes ended in 1987. He also states that in any informal contacts he had with Mr. Ailes after that, "did we ever discuss anything relative to the Bush presidential campaign, NSPAC or political matters." McCarthy at 3. Regarding the June 1988 phone call, Mr. McCarthy plainly says:

> Mr. Ailes had indicated that prior to learning of my relationship with NSPAC he was considering subcontracting with me to produce media spots for the Bush campaign. I informed him that I could not speak to him relative to any matters pertaining to the campaign, including media or strategy, because I was on retainer with NSPAC. At that point, the conversation concluded. McCarthy at 5.

Mr. Ailes' lengthy and detailed affidavit

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4. Mr. Raiford's response also helps put into perspective what he does for a living. Contrary to the allegations that he involved himself in strategy and planning, Mr. Raiford explains that he only provides limited, technical services. "If I worked in the print business, instead of the television business, my services my be likened to those of a typesetter. As a 'typesetter' I am hardly qualified to discuss the writing of a book." Raiford Response at p. 3.

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corroborates the testimony of Ms. Fediay, Mr. McCarthy and Mr. Raiford. Ailes recounts his exact contacts with McCarthy and says that at the time the Horton advertisement appeared, "I had no knowledge that either McCarthy or Raiford might have produced or filmed (it)." Ailes at 9. Ailes also states he phoned McCarthy to say McCarthy had "blown it" by working for NSPAC, since Ailes was considering using McCarthy for Bush committee work. Ailes at 10. Lastly, Ailes says that he was "not involved in any way in any attempt to coordinate NSPAC's 'Willie Horton' advertisement, or any other independent expenditures, with the Bush campaign." Ailes at 11. [5]

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The Result

For obviously different reasons, the Commission unanimously voted to accept Counsel's recommendation to take no further action in this case. We voted for that recommendation because we had no reason to believe (on the basis of the responses) or probable cause to believe (on the basis of the majority's investigation) any violation had occurred.

Our colleagues say there was an inadequate investigation of this matter, and there were not four

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5. One other issue that runs through the responses is the "knowledge" of Michael Dukakis' record on crime as a theme for the Bush campaign. This theme was no secret. It was a nationally-known issue and the similarity of themes between the Bush and NSPAC ads do not compromise their independence from each other. See, e.g. Ailes at 3; NSPAC response at p. 8-9.

votes to undertake an investigation or deposition of Mr. Jesse Raiford. We are not aware of any such vote or motion on Mr. Raiford in this case. Further, the lengthy phone call between Mr. Raiford and the Commission's attorneys, while not a deposition, was clearly an "investigation" and was quite sufficient. This conversation did not prompt the General Counsel to recommend further investigation of Raiford in its final Report to the Commission.

At the "reason to believe" stage, the Commission must weigh all the available information - the original complaint, the response, and the public record on file at the Commission - before we make a decision on the recommendation [6] of the General Counsel. The NSPAC ads were, in fact, reported to the Commission as independent expenditures with all the proper disclaimers.

In our opinion, what this case shows is not a lack of

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6. Disagreement with the initial recommendation of the General Counsel is of no significance. Commissioners are not "required to accept the advice of some members of [its] legal staff," since "[t]he Commissioners are appointed by the President to administer the agency, the agency's staff is not." San Luis Obispo Mothers for Peace v. NRC, 751 F.2d. 1287, 1327 (D.C. Cir. 1984) (language from Section IV of opinion, the court later vacated Section III-B of the decision for en banc consideration, 760 F.2d. 1320) See also Stark v. FEC, Civil Action No. 87-1700, Slip op. at 10. (opinion filed February 8, 1988) (Jackson, J.) ("This court reads Democratic Congressional Campaign Committee v. FEC to require that the same deference be accorded the reasoning of "dissenting" Commissioners who prevent Commission action...as is given the reasoning of the Commission when it acts affirmatively.")

resolve to investigate allegations of well-publicized activity, but that the Commission has tilted too far in the direction of treating independent expenditures as inherently suspect, presumptively illegal and automatically subject to wide-ranging investigation. No matter how broad (or specific) and emphatic a respondent's denials are, and no matter how thorough a respondent's sworn explanation of his conduct may be, the Commission is too apt to "spin" people's words around to create nagging inferences and questions. This doesn't make us an active watchdog, it makes us an unschooled puppy tearing up the truth just to appear to be on the job.

The Commission should not turn independent expenditures into presumptively illegal activity. The United States Supreme Court has consistently viewed independent expenditures as representing political expression "'at the core of our electoral process and of 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 this broad Constitutional protection and contrary to the Commission's practice in other cases, to subject NSPAC to a new "guilty until proven innocent" burden of disproving our self-posed, speculative and constantly shifting charges.

The evidentiary threshold for finding "reason to

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believe" a violation of the Act does not demand a lot, but it does require some legally significant facts. While the complaint, itself, does not have to prove a violation occurred, it certainly must contain some facts that have not been answered by the respondents for a case to proceed. Absent that, the mere existence of an effective independent expenditure campaign should not evoke an automatic penalty from the FEC in the form of a full-scale investigation.

To be sure, the making of independent expenditures always carries the opportunity for coordination between the maker and the candidate, but 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 when a complaint generally tries to allege it. The Commission must recognize the need to require some evidenciary threshold for making a reason to believe finding, otherwise there will be no limit to our "official" curiosity.

In this case, we believed the complaint's non-factual, second-hand and generalized allegations about coordination were specifically and satisfactorily answered. The charges of coordination were emphatically denied. No factual basis existed to contradict or rebut these sworn denials, nor did any evidence appear to otherwise indicate coordination took place. Essentially,

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this case stood on the same ground as our other independent expenditure cases. See MURs 2272; 2766. Contrary to the General Counsel's efforts to force-feed this complaint into a federal case at the early stages of this MUR, there was no remaining basis on which to proceed.

In closing, we feel 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 independent expenditure activity. Groups exercising their free speech rights should not be challenged by the government unless there is evidence a violation of the Act has occurred. In this case, we strongly believe a violation of the Act has not occurred.

Joan D. Aikens
Joan D. Aikens
Commissioner

Lee Ann Elliott
Lee Ann Elliott
Commissioner

January 15, 1992

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