FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

THIS IS THE BEGINNING OF MUR # 3204 (merged 3087 / Pre Mur 263)

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MUR 3087

COMPLAINT - JULY 13, 1990

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MUR 3087

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BILLINGS, MONTANA 59101

July 10, 1990

COMMITTEES:
JUDICIARY, VICE CHAIRMAN
RULES
NATURAL RESOURCES

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OFFICE OF GENERAL COUNSEL

90 JUL 13 PM 3:52

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

Dear Commissioners:

In the final four weeks of the 1988 election, the National Republican Senatorial Committee ("NRSC"), the Republican National Committee, and the Colorado Republican Central Committee transferred in excess of $182,000.00 to the Montana State Republican Party ("State Party") in violation of the Federal Election Campaign Act of 1971, as amended ("FECA" or "the Act"), 2 U.S.C. §§431 et seq., and related regulations of the Federal Election Commission ("FEC" or "Commission"), 11 C.F.R. §§100.1 et seq.

These illegal transactions resulted in a staggering number of FECA violations. The Montana Republican Party's own counsel chastised GOP officials for what he dubbed "financial shenanigans" and "chicanery" in an election day memo seeking to convince these officials to act lawfully. See, e.g., Shirley, Republican Figures Don't Add Up, Great Falls Tribune, Mar. 26, 1990, at 3A.

The sheer scope of these violations, committed by representatives of the national Republican Party who had full knowledge of all provisions of the law, compels a conclusion that the NRSC and the Montana State Republican Party (hereinafter referred to as "Respondents") were acting in blatant disregard of the applicable law.

Accordingly, I ask that the FEC immediately investigate Respondents, take all necessary steps to prevent recurrence of these actions in 1990 Senate election states, and impose all penalties provided for by law.

This complaint describes Respondents' numerous violations in detail, including:

1. excessive expenditures well over the party coordinated expenditure limits of 2 U.S.C. §441a(d);

2. fraudulent allocation of expenditures to the "volunteer campaign materials exemption";

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Not printed at Government expense.

3. failure to report massive expenditures on a voter identification project;

4. failure to report as in-kind contributions the resulting NRSC mailing lists given to federal and nonfederal candidates;

5. failure to file FEC reports with Montana state officials;

6. inadequate disclaimers that omit authorization statements;

7. excessive contributions resulting from abuse of the FECA's "earmarking" provisions; and

8. illegal use of party funds to subsidize the publicly funded Presidential campaign.[1]

Respondents' violations enabled them to pour literally hundreds of thousands of dollars into the campaigns of non-Senator Conrad Burns and now-President George Bush. The Montana election that Burns won was very close; these illegal monies may well have made the difference.

This complaint will outline each violation individually, and enclose supporting materials. The primary supporting document is the one that initially drew public attention to these violations, a complaint filed in the Montana First Judicial District Court in December 1989 by former Montana Republican Party Executive Director Terry Merica.

Merica's suit, which was filed against the State Party and the NRSC, charges that he was fired for complaining about FEC violations whereby the NRSC used the State Party as a "clearinghouse" for its "transactions." While Merica's suit is a wrongful discharge suit, it is factually based on his objections to FECA violations.

Numerous newspaper accounts subsequent to the filing of this complaint, as well as the FEC reports themselves, further reveal the extent of the violations. I have attached a copy of the Merica complaint, relevant newspaper articles, and information from relevant FEC reports.

A. Excessive Contributions

1. Miscalculations of §441a(d) Expenditures

In 1988, the Republican Party was permitted to make coordinated

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[1] These violations are in addition to violations of Montana state law which are not under FEC jurisdiction. We will bring these violations to the attention of the state authorities.

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expenditures in the Montana Senate race of up to $92,200.00 under 2 U.S.C. §441a(d) (in addition to its direct contribution allocations); see also 11 C.F.R. §110.7. The NRSC's own campaign finance reports show the Committee miscalculated their 441a(d) expenditures, resulting in spending 17 percent over the maximum allowed by federal law.

According to newspaper accounts, the NRSC FEC reports show a total of $91,495.00 in coordinated expenditures on behalf of Conrad Burns. But the coordinated expenditures itemized on Schedule F of these reports add up to $107,319.00 -- $15,824.00 over federal limits. I have attached the press accounts of these totals. See, e.g., Conrad Burns Got Big Money During Campaign, Livingston Enterprise, Mar. 26, 1990.

2. Undervaluation of Services Provided to Burns Campaign

If this 441a(d) miscalculation were the only NRSC violation of §441a(d) limits, it might be regarded as a minor reporting and limits error. However, other major expenditures by the NRSC in aid of the Burns campaign not reported on their FEC reports reveal that the NRSC violations are far more substantial and constitute acts of commission rather than omission. Since the NRSC has consistently failed to file accurate reports of its spending in the Montana race, the true extent of its activities cannot be known. The FEC must investigate and audit the Party's records to uncover the full story.

In one example that has become public, the NRSC appears to have paid the full cost of daily tracking polls done to benefit the Burns campaign by Gary Lawrence Company of Santa Ana, California. See Conrad Burns Got Big Money During Campaign, supra. NRSC reports list only one payment, of $4,050.00 to this vendor, for these polls benefiting Burns. Id. Fair market value for such polls is, of course, considerably more than that. See 2 U.S.C. §§434, 441b(a).

The NRSC's claim that polls can be devalued by holding the results for a period of time before giving the results to a candidate is belied by the nature of the polls themselves: daily tracking information is stale almost before it is completed. It is valuable only at the time the poll is taken. Devaluation of a poll requires the results be held for a minimum of 15 days. Event the, the value of the poll is 50 percent of the original costs. Daily tracking polls cost considerably more than $8,000.00.

It would appear that several violations may have occurred in the generation of this polling data:

-- The Gary Lawrence Company may have made an excessive contribution to the NRSC and/or the Burns campaign by failing to charge the fair market value for services

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provided to the NRSC and/or the Burns campaign;

-- The Lawrence Company, if incorporated, may have also made a prohibited contribution to the NRSC and/or the Burns campaign;

-- In any event, the NRSC appears to have made an excessive contribution or coordinated expenditure to the Burns campaign by providing this polling data to them at less than full fair market value.

3. Failure to Report Campaign Expenditures as In-Kind Contributions or Coordinated Expenditures

Respondents also appear to have made massive expenditures on a voter identification project which were never reported on their FEC reports.

The NRSC expended substantial sums to produce statewide voter lists. The NRSC apparently completed identification of voter preferences, and then gave the extremely valuable resulting lists to statewide Republican federal and nonfederal candidates, most notably in the races for U.S. Congress, U.S. Senate, state Attorney General, state legislative races, and the Governor's race. See, e.g., McRae, National GOP Paid for Montana Party Legislative Survey, The Independent Record, Apr. 8, 1990, at 1A. Yet these transactions were never reported on FEC or state campaign disclosure reports.

Because of this failure to report, no one knows the full costs of this voter identification project; but an undertaking of this scope could easily cost a quarter of a million dollars in Montana. Moreover, the lists produced and given to various GOP campaigns were not reported as in-kind contributions, so the precise value of the lists is also unknown.

There is no question that the value of an enhanced voter file list is substantial. By failing to report costs associated with these highly valued lists and failing to disclose their donation to candidates' campaigns, Respondents have averted campaign spending limits and disclosure requirements, the two fundamental requirements of the FECA.

4. Unauthorized Use of "Volunteer Campaign Services Exemption"

a. The NRSC also paid over $150,000.00 for a series of mailings on behalf of the Conrad Burns campaign, and then tried to conceal this excessive expenditure in the guise of an exempt State Party-funded project.

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State Party reports reveal that the NRSC transferred thousands of dollars to State Party bank accounts. The transfers coincide with the State Party's payment of precisely the same amounts to the professional mailing house of James R. Foster and Associates of Carrollton, Texas ("Foster"). These payments were for mass mailings done on behalf of Burns.

For example, the State Party received $6,879.00 from the NRSC on October 7, 1988, and wrote a check to Foster for the same amount on the same date. Similarly, the State Party received contributions of $32,110.00 and $4,956.00 from the NRSC within days of mailing like amounts to Foster. See Conrad Burns Got Big Money During Campaign, Livingston Enterprise, Mar. 26, 1990.

This pattern reveals that the Montana Party became merely a conduit for the NRSC. As the Merica complaint notes, the NRSC exercised an extraordinary degree of control over State Party accounts; funds were transferred into and out of State Party accounts without prior approval or even knowledge of the State Party chair. At the NRSC's direction, funds originally reported on Schedule F as coordinated expenditures were changed to Schedule B "operating expenditures" outside of the FECA limits; transactions were directed to be identified as "volunteer," when the State Party knew full well that they were not. See Merica Complaint, at 7-8.

The State Party was thus a tool which the NRSC used to circumvent the limits of the FECA. The Montana Republican Party received a total of $204,429.00 from the NRSC, as well as $41,986.00 from the Republican National Committee and $44,000.00 from the Colorado Republican Campaign Committee, which was then used to make illegal expenditures on behalf of Conrad Burns' campaign.

b. The NRSC has made an after-the-fact suggestion that its transfers to the State Party were for "party-building activities." It argues that its transfers only freed up the State Party's own money to be used for political mailings. This argument defies logic.

The exactness of the amounts transferred -- the payments match the payments owed to Foster Company precisely -- and the fact that nearly three-quarters of all money transferred from the NRSC to the Montana Republican Party occurred between October 7 and November 4 of the election year, reveal the specious nature of this defense. More importantly, without the NRSC transfers, the State Party would have had insufficient funds to make these Burns mailings.

c. NRSC officials also claim that these "transfers" were legal because they were exempt under campaign finance rules providing for funds spent in support of volunteer activities. However, the sections of the FECA authorizing such exempted expenditures, 2 U.S.C.

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§§431(8)(b)(x), and (9)(b)(viii), specifically require three criteria be met in order to qualify for this exemption: (1) they must be addressed from a list owned or generated by the State Party itself; (2) volunteers have to help distribute the mailings; and (3) the State Party has to use its own money to pay for the mailings, not money transferred from the national committee.

In this case, there is no evidence that volunteers were used for the mailings on behalf of the Burns campaign; the repeated use of the professional mailing house indicates the contrary. Furthermore, the pattern of NRSC reimbursement transfers for amounts identical to the payments made to Foster compels a conclusion that these NRSC funds were specifically for the Burns' mailings. This conclusion is also supported by the fact that without these NRSC transfers, the Montana Party would have not had money in the amounts remotely sufficient to cover the cost of the mailings.

d. Finally, NRSC officials claim that, because these mailings generally benefited all Republicans on the ticket rather than only Conrad Burns, the expenses therefore need not be allocated to Burns-related limits. Copies of the mailings themselves, which I have attached, destroy this defense. These mailings benefit two candidates only: George Bush and Conrad Burns. No mention is made of any other candidate.

B. Inadequate Disclaimer

These same Bush and Burns mailings contain no authorization statements as part of their disclaimers. They state only that they were paid for by the Montana Republican State Central Committee/Victory '88.

However, pursuant to 2 U.S.C. §441d(a) and 11 C.F.R. §110.11, whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate through any broadcasting station, direct mailing, or any other form of general public political advertising, a disclaimer must be included. Moreover, Section 441d(a) requires that a complete disclaimer be placed on all direct mail. See FEC Advisory Opinion 1988-40. In order to be complete, such disclaimer must state (1) who paid for the communication, and (2) whether or not it was authorized by the candidate.

The omission of an authorization statement violates the Act. It also denies the public the right to know who is actually responsible for an expenditure, and, by implication, to whom a candidate may feel some obligation, if elected. By evading this most fundamental election

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law requirement, the NRSC and its candidate, Conrad Burns, attempt to avoid being held accountable by the people of Montana.

C. Excessive Party Funding of Publicly Financed Campaigns

The Montana Republican State Central Committee mailings also expressly advocate the election of George Bush and Dan Quayle for President and Vice President. The campaigns for offices of President of the United States and Vice President of the United States, however, were publicly funded by the Presidential Election Campaign Fund, see 26 U.S.C. §9001 et seq.

Under 2 U.S.C. §441a(d)(2), the national committee of a political party may make expenditures in connection with the general election campaign of any candidate for President up to an amount equal to $.02 multiplied by the voting age population of the United States. While the national committee may delegate this limit to a state party, there is no evidence that the Montana State Republican Party ever received the National Party's §441a(d) expenditure assignment.

In the absence of such assignment, the State Party was not entitled to spend any monies on the presidential election. Because the national Republican Party spent the entire limit of this authority itself with respect to the Bush/Quayle campaign, all additional expenditures by the Montana State Republican Party constitute illegal excessive contributions.

In this case, the portion of the expense of the mass mailing that must be attributed to the Bush campaign will exceed this overall limitation by approximately $75,000.00.[2]

The NRSC claims that this violation of the Act is also exempt under the volunteer campaign materials exemption. Once again, this argument must fail. These expenditures cannot be exempted in this way because, as explained above, the facts surrounding these mailings do not meet the necessary criteria for a volunteer activities exemption: they were not carried out by volunteers, and they were not paid for with State Party funds.

D. Failure to File FEC Reports

The NRSC failed to file copies of its monthly FEC reports with the

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2 Of course, the presidential nominees are prohibited from receiving any direct contributions if they choose to receive monies from the Presidential Election Campaign Fund. 26 U.S.C. §9012(b).

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Montana Office of Political Practices, as it was required to do under the FECA and FEC regulations. 2 U.S.C. §439(b)(3); 11 C.F.R. §105.2. The NRSC's April 1988 FEC reports were not filed with the state office until February 1990, almost two years after the reports were first due, and were only filed when Montana Political Practices Commissioner Dolores Colburg specifically asked the NRSC to do so. I have attached newspaper articles documenting these violations.

The most fundamental element in all campaign finance law is disclosure. The NRSC's failure to disclose these expenditures to the people of Montana means that no one knows how much the NRSC spent on these projects. It also means they did not know how heavily Conrad Burns was relying on this one source of funding until after they had cast their votes in November of 1988.

Failing to file in a timely manner enabled the NRSC to avoid any potential controversy over its activities, and allowed its U.S. Senate candidate, Conrad Burns, to escape accountability as a party to those activities. This modus operandi is so pervasive in all of the violations enumerated in this complaint that it appears to be an end, as much as a means, for their activities.

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E. Bundling and Section 441a(d)

In January of this year, the U.S. District Court for the District of Columbia found that the NRSC's "bundling operations" in 1986 resulted in the NRSC making excessive contributions to twelve senate candidates. See Common Cause v. FEC, 729 F.Supp. 148 (D.D.C. 1990). According to the Merica complaint, the NRSC employed identical bundling operations in the 1988 campaign in Montana.

In fact, the Burns campaign received $172,378.00 in the aggregate, or over 20 percent of its overall receipts, from funds earmarked through the NRSC in this illegal bundling program. Attached is a chart prepared from FEC reports summarizing this activity. The FEC must take enforcement action to terminate this illegal NRSC bundling program, and to enforce the judicial mandate of Common Cause v. FEC.

F. Violations Outside of the FEC's Jurisdiction

I note here for your information other violations that will be the subject of a separate complaint I will file with the Montana Office of Political Practices.

According to newspaper accounts, GOP campaign officials have confirmed that the NRSC provided Republican candidates for statewide offices with voter survey results to help plan campaign strategies, but

that these expenditures were never reported to anyone. See McRae, GOP Practices Under Fire, The Independent Record, Mar. 30, 1990. Compilation of a voter identification list was done under the supervision of NRSC officials, and was carried out with national party funding, according to Elwood English, Burns' former campaign director, and Terry Merica, but also went unreported. See McRae, National GOP Paid for Montana Party Legislative Survey, supra. Montana law requires committees to file contribution and spending reports with state election officials when a committee has attempted to influence political races. MCA §13-37-225.

As previously noted, the NRSC also failed to file its FEC reports with appropriate State authorities. Thus, NRSC's efforts to conceal its activities in 1988 in Montana is especially egregious. It avoided any disclosure of its state activities to both state and federal officials and thus avoided all political accountability for this activity.

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Conclusion

During the final twenty days of the election, Conrad Burns received approximately forty percent of the total money of his campaign -- well over $375,000.00. Much of this amount was generated through the described Republican Party illicit activity.

Obviously, this amount had an enormous impact on the success of the Burns campaign. Because as is shown above, these violations were committed knowingly and willfully in 1988, it is likely that the Respondents will attempt to repeat these violations in 1990.

The damage to the integrity of the electoral process caused by the loss of accountability to the people of Montana if the Republicans repeat these illegal practices in 1990 prompts me to respectfully request that the FEC review this complaint on an expedited schedule.

Much information regarding the facts of the GOP expenditures surrounding the 1988 Montana U.S. Senate race is still absolutely concealed from the public. At a minimum, I respectfully ask the Commission to obtain and make public relevant documents that immediately should be disclosed, including those in support of Mr. Terry Merica's civil complaint.

In addition, I request that the FEC:

(1) Conduct a prompt and immediate investigation, including an audit, of the facts stated in this complaint;

(2) Enter into a prompt conciliation with Respondents to remedy the violations alleged in this complaint and, more

importantly, to ensure that no further violations occur; and

(3) Impose any and all penalties authorized by law for the violations alleged in this complaint.

Respectfully submitted,

Kelly Addy
Speaker Pro Tem
Montana House of Representatives

SUBSCRIBED AND SWORN TO before me this 10th day of July, 1990.

STATE OF MONTANA)
: ss.
County of Yellowstone)

(NOTARIAL SEAL)

Neale R. Durand
NOTARY PUBLIC FOR THE STATE OF MONTANA
Residing at Billings, Montana
My Commission expires: 1-24-93

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James H. Goetz
Brian K. Gallik
GOETZ, MADDEN & DUNN, P.C.
Attorneys at Law
35 North Grand
Bozeman, MT 59715

ATTORNEYS FOR PLAINTIFFS

MONTANA FIRST JUDICIAL DISTRICT COURT, LEWIS & CLARK COUNTY

* * * * *

TERRY MERICA and NEIDA MERICA, Cause No. _____

Plaintiffs,

v.

BARBARA CAMPBELL; THE MONTANA REPUBLICAN PARTY; ANN PRESTIDGE; and THE NATIONAL REPUBLICAN SENATORIAL COMMITTEE,

Defendants.

* * * * *

COMPLAINT AND DEMAND FOR JURY TRIAL

PLAINTIFFS

Plaintiffs, Terry and Neida Merica, for their cause of action allege as follows:

1. Plaintiff Terry Merica is a resident and citizen of the State of Montana and the former Executive Director of the Montana Republican Party.

2. Neida Merica is the wife of Terry Merica and is a resident and citizen of the State of Montana. Neida Merica was formerly employed by the Montana Republican Party as an Administrative Secretary.

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DEFENDANTS

3. The Defendant Barbara Campbell ("Campbell") is, and was during all periods relevant to this Complaint, Chairperson of the Montana Republican Party. As such, Ms. Campbell is the recognized leader of the Republican Party organization in Montana. Ms. Campbell is responsible, with limited exceptions, for the hiring and termination of employment of appointed officers of the Republican Party, including the Executive Director, and all paid employees of the Montana Republican Party. Ms. Campbell presides at all meetings of the State Republican Central Committee, Executive Committee and all Republican Conventions. Ms. Campbell appoints all committees, including a portion of the Executive Committee, and is an ex-officio member of all committees. Ms. Campbell represents the State Central Committee in an official capacity and has all the usual powers of supervision and management as pertain to the office of a chairperson.

4. The Defendant Montana Republican Party, is an association, committee or organization which, among other things, nominates or selects a candidate for election to any Federal Office, whose name appears on the election ballot as the candidate of such association, committee or organization.

5. The Defendant National Republican Senatorial Committee (NRSC) is a political committee (as generally defined by 2 U.S.C. § 431(4)(A) (1982)) organized specifically to support Republican candidates in elections for the United States

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Senate.

6. Defendant Ann Prestidge, upon information and belief, was, during all periods relevant to this complaint, an employee of the Defendant National Republican Senatorial Committee and was responsible for, among other things, supervising the election campaign efforts of Federal Republican Senatorial Candidates in certain States, including the State of Montana.

GENERAL FACTS

7. The Plaintiff Terry Merica was hired on or about December 15, 1987, by Defendants to serve as the Executive Director of the Montana Republican Party.

8. Article XI, Section A, of the State Party Rules of the Montana Republican Party describes the position of Executive Director as follows:

> Executive Director. The Executive Director shall be appointed by the Chairman, subject to prior approval of the Executive Committee. The Executive Director shall be a paid employee who shall serve at the pleasure of the Chairman. All terms of employment of the Executive Director must be set out in detail in the minutes of the Executive Committee. He shall preserve all permanent records of the State Central Committee and shall relinquish them to his successor at the termination of his employment. He shall perform such duties as may be assigned to him from time to time by the Chairman.

9. The terms of employment for Plaintiff Terry Merica were not set out in detail in the minutes of the Executive Committee as required by Article XI(A) of the Republican Party

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Rules.

10. The Plaintiff Neida Merica was hired by the Defendants in or around February 1989, as an Administrative Secretary.

11. As Administrative Secretary of the Montana Republican Party, Plaintiff Neida Merica was the custodian of all committee books and records and the individual responsible for preparing the Reports of Receipts and Disbursements which were submitted to the Federal Election Commission (F.E.C.), and the Montana Commissioner of Political Practices.

12. Beginning in March, 1988 Plaintiffs Terry Merica and Neida Merica began to question the legality of certain contributions, expenditures, and transfers of campaign funds by the NRSC in the Montana Federal Senatorial election.

13. For example, on March 1, 1988 a meeting was held to discuss how to raise $150,000 for a voter identification project in Montana. As a result of the meeting, the NRSC agreed to transfer $20,000, in four monthly installments of $5,000, for the purpose of hiring someone to facilitate fund-raising activities.

14. In April 1988, Corey Lane was hired, subject to the prior approval of the NRSC, to coordinate the fund-raising activities.

15. It became apparent that Corey Lane was considering funding methods that would circumvent Montana Election Laws regarding corporate political campaign contributions.

16. Plaintiff Terry Merica attempted to persuade Lane of

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the illegality of his proposed course of action, but was unsuccessful.

17. Plaintiff Terry Merica discussed the matter with Defendants Campbell and Prestidge but was directed to "mind his own business" and to "be optimistic" about Lane's project. Accordingly, Plaintiff Terry Merica referred the matter to Mr. Ward Shanahan, legal counsel for the Montana Republican Party.

18. During the next several months, Plaintiff Merica continued to express concern regarding the activities of Corey Lane. His concerns apparently prompted a July 11, 1988 letter from Lane to Defendant Prestige in which Lane complained that his "[a]ctivities in Montana have been seriously hampered due to the Montana GOP Executive Director, Terry Merica."

19. During this same period of time, the NRSC frequently demanded the movement of substantial funds in and out of the state Republican Party accounts, often without adequate explanation to the Executive Director Merica or his staff. It was apparent that Defendant Prestidge controlled all aspects of the various transactions that took place under the guise of the state Republican Party and that the Montana Party was simply being used as a clearing- house for NRSC transactions. Upon information and belief, certain transfers, contributions and expenditures by the NRSC violated federal election laws.

20. Plaintiffs again questioned Defendant Prestidge on the legality and propriety of her actions. On each occasion, Plaintiffs received phone calls from Defendant Campbell with

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instructions to follow the dictates of Defendant Prestidge. During one conversation with Defendant Prestidge, regarding payment by the State Party of certain expenditures incurred by the NRSC, Prestidge became furious with Plaintiff Terry Merica and called him a "foot-dragging, obstructionist, son-of-a-bitch." Plaintiff subsequently received a call from Defendant Campbell instructing him to comply with Defendant Prestidge's requests.

21. On several occasions, Defendant Prestidge called Plaintiff Terry Merica with instructions to wire transfers of funds to J.R. Foster Company for direct mailings handled on behalf of Senator Conrad Burns. In one instance the amount requested by Defendant Prestidge was for $60,000. Plaintiffs Terry and Neida Merica again expressed their concern over the legality of Defendant Prestidge's actions but were instructed by Defendant Campbell not to "bring this issue up again."

22. Following the $60,000 transfer of funds, Plaintiff Neida Merica visited Ward Shanahan's office concerning the legality of these transfers and payments.

23. In August 1988, certain complaints were made and differences expressed by various persons with respect to the activities of Plaintiff Terry Merica. This matter was discussed at the Montana Republican State Central Committee Executive Board Meeting on August 2, 1988, in Helena, Montana. At that meeting the Executive Board unanimously decided that the goals and requirements of the Board were too unclear and indefinite to

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establish clear guidelines for performance. The Board directed Defendant Barbara Campbell to draft a set of guidelines for the State Headquarters Staff, including the position held by Plaintiff Terry Merica.

24. On September 22, 1988 a "Memorandum of Terms of Employment" was drafted by Counsel to the Montana Republican Party to "clarify the employment, duties and responsibilities of the Executive Director . . . ."

25. Defendant Campbell did not discuss the terms of the Memorandum with Plaintiff Terry Merica, and thus, the Memorandum remained unsigned by her.

26. One final dispute arose over bills totalling $24,000 from J.R. Foster Company that the state Republican Party had no documentation to account for the expenditures. Plaintiffs again resisted payment because of a conflict with FEC regulations.

27. Further problems arose for Neida Merica when she compiled the Reports of Receipts and Disbursements for the Montana Republican Party.

28. Plaintiff Neida Merica initially reported certain expenditures by the State Republican Party on a "Schedule F" form ("Itemized Coordinated Expenditures Made By Political Party Committees Or Designated Agent(s) On Behalf Of Candidates For Federal Office") as required by federal law. However, Plaintiff Neida Merica was directed by Defendant Prestidge to use the "Schedule B" form instead. In this fashion, upon information and belief, the NRSC was able to avoid federal campaign spending

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limitations.

29. Defendant Prestige's instructions were again followed in later filings and Plaintiff Neida Merica was instructed by Defendant Campbell to follow Defendant Prestidge's instructions regarding this matter.

30. Prior to submitting the second quarter FEC report (mid-June of 1988), Plaintiff Neida Merica was instructed by Defendant Prestidge to use the word "volunteer" for certain identified transactions. At that time, Plaintiffs were unfamiliar with the reports and relied upon information received by Defendant Prestidge. In retrospect, and upon information and belief, such entries violated federal election laws and allowed the NRSC to escape the spending limitations imposed by federal law.

31. Plaintiffs questioned the legality of the actions of the NRSC and were rebuffed by Defendants Campbell and Prestidge. For this reason, Plaintiffs reported the practices to the state Republican legal counsel Ward Shanahan.

32. On November 3, 1988, Ward Shanahan wrote to Defendant Prestidge to caution her about the propriety of her actions:

> On behalf of the state Chairman of the Republican Party and also as Chairman of Victory-'88-MONTANA, I want to caution you about issuing directives to the State Executive Director and his staff without proper authority.
>
> This cautionary note is particularly appropriate with respect to the movement of funds, in and out of our state accounts and the Victory-'88 account.
>
> We have been trying to give you full cooperation to accomplish your objectives. But at the same time we

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need courtesy and an adequate explanation from you so that we can make the appropriate response.

33. Five days later, in a memorandum to the Republican Party, Ward Shanahan again discussed the overreaching of the NRSC:

> The National Presidential Committee and the National Senatorial and Congressional Committees are aware of the weak and fragmented nature of the Montana party organization and use it to their own advantage. For example:
>
> (a) They routinely reach over the state chairman and the state executive director and deal directly with local county people.
>
> (b) They keep their agendas confidential, and the state offices are often the last to find out what they intend to do, until after they have already done it.
>
> (c) A great strain is created by financial shenanigans of these national committees. The people running this end of the national committees are rude, insulting to the state office staff, they take advantage of confusion, often misrepresent the facts and would have, I believe, if we hadn't stopped them, committed serious breaches of state and federal law. They routinely attempt to incur expenditures in the name of the Montana Republican Party or the state Republican Central Committee, without the knowledge of the chairman, the state treasurer, or the executive director. Despite this kind of chicanery the executive director and the state chairman are expected to "go along" in the interest of party loyalty, without any assurance that they won't become the official "sack holders." It remains to be seen upon audit, how we will fare this year.

34. Thereafter, without good cause, by letter dated November 29, 1988 Defendant Campbell terminated Plaintiff Terry Merica from his position as Executive Director of the Montana Republican Party. The effective date of the termination was

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December 15, 1988.

35. On December 1, Plaintiff Neida Merica was terminated from her employment effective December 15, 1988.

36. In the November 29, 1989 termination letter, Defendant Campbell informed Plaintiff Terry Merica that he would "be provided with two weeks severance pay" on December 15, 1988.

37. Defendant Campbell later reneged on her promise to provide two weeks severance pay, and instead, conditioned receipt of the severance pay on the execution by Plaintiffs Terry and Neida Merica, of releases of liability. In a December 14, 1988 "memo letter," Ward Shanahan informed Plaintiff Terry Merica that "[t]he checks dealing with severance pay and withholding which include severance pay were not signed. Barbara [Campbell] asked me to tell you that she is willing to discuss severance benefits but that she wants a complete release of all claims before she signs any such checks."

38. Because of substantial economic pressure, the Plaintiffs signed the releases on January 13, 1989 and were at that time provided with the severance checks.

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COUNT I

WRONGFUL DISCHARGE FROM EMPLOYMENT

39. Plaintiffs reallege paragraphs 1 through 38.

40. Defendants' termination of Terry Merica's employment was without cause and in retaliation for his refusal to violate public policy and/or for reporting a violation of public policy and therefore his discharge was unlawful.

41. As a result of Defendants' wrongful conduct, Terry Merica has suffered damages in an amount to be proven at trial.

COUNT II

CONSTRUCTIVE DISCHARGE FROM EMPLOYMENT

42. Plaintiffs reallege paragraphs 1 through 38.

43. Because of the situation created by the Defendants' intolerable acts, Plaintiff Neida Merica was constructively discharged from her employment without good cause and in retaliation for her refusal to violate public policy and/or for reporting a violation of public policy and was therefore unlawful.

44. As a result of Defendants' wrongful conduct, Neida Merica has suffered damages in an amount to be proven at trial.

COUNT III

CIVIL CONSPIRACY

45. Plaintiffs reallege paragraphs 1 through 38.

46. Defendants acted in concert and conspiracy to cause the termination of Plaintiffs' employment.

47. Such actions by the Defendants have damaged Plaintiffs in an amount to be determined at trial.

COUNT IV

INTERRELATIONSHIP OF NATIONAL COMMITTEE AND STATE PARTY

48. Plaintiffs reallege paragraphs 1 through 38.

49. The NRSC exercised such dominance and control and was so integrated with the State Republican Party so as to hold the NRSC liable under Montana law for the wrongful discharge of

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Plaintiffs Terry Merica and Neida Merica.

COUNT V

RELEASES NULL AND VOID

50. Plaintiffs reallege paragraphs 1 through 38.

51. The releases of liability signed by Plaintiffs Terry and Neida Merica are void and null for lack of consideration, coercion, undue influence, duress, compulsion and are in any event contrary to public policy.

WHEREFORE Plaintiffs pray that they be given judgment against the Defendants for their damages, in an amount to be proven at trial, together with their costs of suit and reasonable attorney's fees. Further, Plaintiffs reserve the opportunity to amend this complaint should further discovery indicate such is warranted.

DEMAND FOR JURY TRIAL

Plaintiffs demand trial by jury on all issues triable by right by jury.

DATED this 13 day of December, 1989.

GOETZ, MADDEN & DUNN, P.C.
Attorneys at Law
35 North Grand
Bozeman, MT 59715

By: _____
James H. Goetz
Brian K. Gallik
ATTORNEYS FOR PLAINTIFFS

9404358-2675

VERIFICATION

STATE OF MONTANA)
:ss
County of Lewis & Clark)

TERRY HERRICA, being first duly sworn, deposes and states:

I am one of the Plaintiffs in the above-captioned action. I have read the foregoing and state that the above is true and correct of my own knowledge, except as to those matters stated on information and belief, and as to them I believe them to be true.

Terry Herrica
TERRY HERRICA

SUBSCRIBED AND SWORN to before me this 11th day of December, 1989.

John B. Draper
Notary Public for the State of Montana
Residing at Helena, Montana
My commission expires: 11-1-90

(SEAL)

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Great Falls TRIBUNE

Great Falls Tribune Friday, December 15, 1989

Allegations touch state, federal rules

By STEVE SHIRLEY
Tribune Capitol Bureau

HELENA — Republican officials may have run afoul of state and federal campaign-finance rules if allegations in a lawsuit filed against them Thursday are true, state Political Practices Commissioner Dolores Colburg said.

Colburg said she probably will not launch her own investigation since a district court will sort out the details. But she said she will keep a close eye on what the court does.

Representatives of the Federal Election Commission could not be reached for comment.

The suit alleges that the National Republican Senatorial Committee (NRSC) tried to evade federal spending limits for Senate campaigns by funneling funds through the Montana Republican Party to help Sen. Conrad Burns' successful 1988 campaign.

The suit was filed in district court in Helena by Terry Merica, former executive director of the Montana Republican Party, and his wife, Neida, the party's former administrative secretary.

The Mericas claim they were wrongly discharged by the party about a year ago after they raised

See RULES, 2C

Rules: Colburg watches

FROM 1C

questions about the campaign-finance practices.

They said a NRSC official, Ann Prestidge, on several occasions instructed Merica to transfer money to the J.R. Foster Co. in Texas for direct mailings on behalf of the Burns' campaign. They said they were told to drop the issue when they questioned the legality of the transfers. The Mericas also said Prestidge instructed them to fill out FEC reporting forms in certain ways to help the NRSC avoid the federal spending limits.

For the 1988 Senate campaign, it appears that FEC rules didn't allow partisan campaign committees to spend more than $92,200 on a candidate.

Records filed with Colburg's office show the Montana Republican Party had total receipts of $514,846 in 1988 and disbursements of $497,279. The party got contributions of $204,429 from NRSC as well as $41,986 from the Republican National Committee and $44,000 from the Colorado Republican Campaign Committee.

The records also show that about $109,000 was paid to James Foster & Associates of Carrollton, Tex., for printing and that close to $70,000 was spent on postage on various occasions. The records do not say whether the work was done for Burns.

State Rep. Dennis Rehberg, R-Billings, who runs Burns' Montana operations and managed his 1988 campaign, said the NRSC and the state party did some mailings for Burns. He said there were no more than half a dozen, and they didn't go to every voter in the state but were targeted to specific ones based on issues in which they were interested.

The Burns' campaign had editorial control, Rehberg said, but the GOP officials produced and distributed the mailings. He said the mailings were handled by the NRSC and the state party because it had been done that way before.

"At that time we found nothing extraordinary about it," he said.

Rehberg said it will be up to the court to decide if there was anything wrong with the practice. "To our knowledge, it wasn't a problem," he said.

He said it is often difficult to know what is allowed and what isn't allowed under FEC rules because they are so "vague and ambiguous that you never know if you are conforming or not."

Great Falls Tribune

Montana GOP sued by former executive

Friday, December 15, 1989

By ROB ANTZ
Associated Press Writer

HELENA — The former executive director of the Montana Republican Party filed suit Thursday contending he was wrongly fired because he questioned apparent illegal financial deals involving the party and the National Republican Senatorial Committee.

In his District Court suit, Terry Merica said he was fired by state party Chairwoman Barbara Campbell a year ago because he refused to violate public policy and because he reported the questionable activity to the GOP's attorney.

Named as defendants in the suit are the state party, Campbell, the national committee and Ann Prestidge, a committee employee who supervised U.S. Senate campaign work in Montana last year.

Plaintiffs in the suit are Merica and his wife, Neida, who was a secretary with the state GOP and was fired with her husband.

Campbell declined comment on the suit Thursday. Wendy DeMatteo, a spokeswoman for the national senatorial committee in Washington, D.C., also declined comment.

Attempts to reach Prestidge, who no longer works for the committee, were unsuccessful.

The state party's present counsel denied the allegations.

"We don't think there's any substance to the charges," said Helena attorney Charles Fadmann. "I think we have a disgruntled employee who's looking for a pot of gold."

Fadmann said he knew Merica was concerned about financial transactions involving the party and discussed the issue with James Cimo of Bozeman, Merica's attorney. But Fadmann said he reviewed the GOP's financial records and "I could find no irregularities."

Merica was hired as the party's top paid employee in December 1987 and his wife began work the following February.

In March 1988, the complaint says, the Mericas began questioning certain contributions, expenditures and transfers of campaign funds linked to the national committee, which was involved in the successful U.S. Senate campaign of Republican Conrad Burns. Neither Burns nor his aides are named in the suit.

Merica said he learned a party fund raiser was considering strategies that would circumvent Montana election laws on corporate campaign contributions. But when he reported his concerns to Campbell and Prestidge, the suit contends, he was told to "mind his own business."

The suit also alleges that the national committee frequently demanded money be transferred to and from state GOP accounts.

"It was apparent that defendant Prestidge controlled all aspects of the various transactions ... and the Montana party was simply being used as a clearinghouse for (national committee) transactions," wrote Goetz.

Some of the financial activity violated federal elections law, the suit says.

Campbell repeatedly responded to Merica's complaints by telling him to follow Prestidge's orders and Prestidge called Merica a "foot-dragging, obstructionist son of a bitch," according to the suit.

The suit also contends Neida Merica was told to manipulate expense forms to avoid federal campaign spending limits, the suit alleges.

Merica said he expressed his concerns about the financial dealings to Ward Shanahan, a Helena lawyer who then was legal counsel for the party.

The complaint said Shanahan responded by warning Prestidge against demanding the shift of state party funds without proper authority. Shanahan also warned state party officials that the national committees "are aware of the weak and fragmented nature of the Montana party organization and (are using) it to their own advantage."

In a memo cited in the suit, Shanahan referred to their actions as "financial shenanigans" and predicted the committees "would have, I believe, if we hadn't stopped them, committed serious breaches of state and federal law."

The suit quotes Shanahan as complaining that the committees routinely tried to spend money in the name of the state Republican Party without telling its officers.

"Despite this chicanery, the executive director and the state chairman are expected to 'go along' in the interest of party loyalty without any assurance that they won't become the official 'sack holders,'" his memo stated.

Merica and his wife were fired less than a month later.

Shanahan and Jacqueline Irby, Merica's successor, would not comment on the suit.

The complaint asks for legal fees and unspecified damages to compensate the couple for lost wages. Goetz said punitive damages also may be sought.

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ing the peace dividend, "there has already been a modest peace dividend for five straight years, and Congress has spent it."

Because "the 'savings' that have been cited are calculated against a plan that was overly optimistic to begin with, any peace dividend is largely illusory," that Dec. 8 memo observes.

The brouhaha over an ostensible peace dividend, ironically, is reminiscent of Weinberger's much-criticized creative approach to defense accounting. In early 1986, he excited derision among some budget specialists by publishing a chart that compared the department's extravagant 1981 outyear spending projections for fiscal 1982-86 with actual appropriations and describing the resulting $176.5 billion gap as the Pentagon's contribution to deficit reduction.

Similarly, a Pentagon official joked, "to call the $180 billion a peace dividend, is like bitching that you lost $25 million because you didn't win the lottery."

Congress may go beyond the Bush Administration's budget submissions in seeking deeper defense cuts to finance domestic needs, of course. But legislative coalitions to slash over-all military spending have a way of foundering in parochialism. Most Members, after all, boast projects in their home districts that could suffer in attempts to drive defense spending down to peace dividend levels. Former Defense Secretary Robert S. McNamara's recent assertion that defense spending could be cut in half within six-eight years thus may be plausible on national security grounds, but seems far less feasible politically.

For that reason, House Armed Services Committee member George J. Hochbrueckner, D-N.Y., who led a fight last year to secure $1.6 billion for more of the F-14D Navy fighters manufactured by his constituents, despite Cheney's efforts to cancel the program, said, "I suspect defense spending will continue to decline, but I don't expect any large, dramatic dives." ❑

Using the Election Rule Book Creatively

By James A. Barnes

On Election Day 1988, in an internal Republican Party memorandum, Ward A. Shanahan, who was then legal counsel to the Montana state GOP, criticized what he termed the "financial shenanigans" of certain national Republican Party operatives who had been working with the state party. The operatives, he said, "routinely attempt to incur expenditures in the name of the Montana Republican Party or the state Republican Central Committee without the knowledge of the chairman, the state treasurer or the executive director."

Shanahan's memo is among the information found in a wrongful discharge complaint that was filed in the Montana First Judicial District Court shortly before Christmas 1989 by Terry Merica, the former executive director of the Montana GOP. His suit, which was filed against the state party, also names the National Republican Senatorial Committee (NRSC) as a defendant.

The suit charges, among other things, that contribution and expenditure limits established by the Federal Election Campaign Act (FECA) were violated when the NRSC used the state party as a "clearing house" for its "transactions." Merica alleged that he was fired for complaining about these NRSC activities.

"All I can say is it is my understanding that everything that was done was done legally," Charles E. Erdmann, the new Montana state party counsel, said in an interview. Merica had been fired, Erdmann said, because of his job performance, not because of his complaints.

The details of how the Montana campaign was financed seem to demonstrate the extent to which a national party committee can subsidize state and local party efforts on behalf of a federal candidate: in this instance, the NRSC's efforts on behalf of Conrad Burns, who defeated Democratic Sen. John Melcher.

The Montana GOP received the largest NRSC transfers to a state party's federal account in 1988. Other Republican state parties that received significant amounts of money from the NRSC were North Dakota, $87,741, and Wisconsin, $182,675. There were Senate races in both of these states in 1988, but in other states with hard-fought Senate contests—Florida and Ohio among them—the NRSC made few or no contributions to state parties. Given the committee's success so far in fund raising, there are likely to be more such transfers during the 1990 election season.

Reports filed in Washington with the Federal Election Commission (FEC) describe the NRSC's assistance for the Montana GOP. Of $608,882 in receipts reported by the state party in 1987-88, about a third, $204,429, came from the NRSC. More than half of these funds were transferred in the last 20 days of the campaign. The Montana GOP also received $41,986 from the Republican National Committee and $44,000 from the Colorado Republican Party. Combined, the funds from these three party committees amounted to almost half of the state party's entire receipts.

Under FEC rules, each national party is allowed to contribute $17,500 directly to its candidates for the Senate. Responsibility for making that national party contribution is usually assigned to the party's Senate campaign committee. State parties can also give a candidate $5,000. In addition to these funds, the national party and the state organization are each allowed to make coordinated expenditures on behalf of a Senate candidate during the general election campaign equal to two cents for every voting-age person in the state plus a cost-of-living adjustment (COLA), or $20,000 plus a COLA, whichever amount is greater.

That coordinated expenditure limit in Montana in 1988 was $46,110. In most Senate races, the national and state parties gave the party's Senate campaign committee their authority to make coordinated expenditures. Thus, in 1988, in Montana, the NRSC could make coordinated expenditures, in consultation with the Burns campaign, of as much as $92,220. Reports filed at the FEC by the NRSC show that by Oct. 4, the NRSC had spent practically all of its coordinated expenditures on Burns's behalf.

On the very next day, the NRSC sent $15,000 to the Montana Republican Party and kept sending money.

...a month. Meanwhile, the ... began to pay James R. Fos... Associates, a direct mail-firm ... in Carrollton, Texas, which had ... Burns earlier with his fund rais... to blanket the state with pro-Burns letters and brochures. In some instances, the checks from the NRSC to the state party were for an identical amount that the state party owed Foster. There was a $6,879 transfer from the NRSC on Oct. 7 to the state party, which, on that same day, paid $6,879.01 to Foster; in another instance, a $32,110 state party payment to Foster followed by two days a check from the NRSC to the state party for that same amount.

Though this kind of pattern could suggest that the state GOP was being reduced to little more than a conduit for the NRSC, as Merica suggested, both Republican and Democratic political aides said that if the mailings meet certain standards, a national party can get around the FEC's coordinated expenditure limits.

Basically, the national committee can pay for such things as salaries, supplies, rent and other state party expenses, freeing up funds that would once have covered those costs to pay for mailings. "Is that a loophole in the law? Yeah, it is," a former NRSC aide said. "It's one both sides freely take advantage of." Merica's complaint alleges that "on several occasions," he was ordered by an NRSC operative to wire payments to Foster "for direct mailings on behalf of Burns."

Under FEC guidelines, the mailings had to meet three criteria for the state party to be able to pay for them: letters or brochures would have to be addressed from a list that was owned or generated by the state party as opposed to, for instance, a commercial list of American Express Co. card holders in Montana; volunteers would have to be involved in the mailing process (stuffing envelopes and the like); and the state party would have to use its own money, not funds transferred from the national committee.

James R. Foster, president of Foster & Associates, said that all of his work for the state party at the close of the campaign was "non-allocable volunteer-intensive mail" that advocated Burns's election. Foster did not know who owned the list, but he added that he did not think it violated the "commercial" standard.

But a review of the state party's FEC reports indicates that the state party may not have had sufficient funds to pay for mailings on its own, even if the NRSC picked up all the other expenses of the state party at the end of the campaign. On Oct. 1, 1988, the Montana Republican Party reported having $46,012.50 cash-on-hand, and through Nov. 30, 1988, the party raised an additional $90,849.49. That covers the payments to Foster during this time, $109,553.01, but not the state party postage bill of $72,569 for these two months. If just half of that amount went to pay for the state party's two permits that were used for the mailings Foster prepared, that would exceed the amount that the state party had raised on its own.

The amount of congressional campaign committee funds that find their way to state parties is still relatively small. An FEC tabulation of the NRSC and National Republican Congressional Committee transfers to state and local parties in the 1988 election cycle added up to $1,153,190. The RNC transferred $4,806,365, and the total receipts reported to the FEC by those GOP groups was $61,520,473. According to FEC records, the Democratic National Committee sent $13,604,809 to its state and local parties, but over all, their receipts were less than half the Republicans'. The Democratic Senatorial Campaign Committee (DSCC) and the Democratic Congressional Campaign Committee transferred $263,225.

With the NRSC's proven ability to channel money quickly to GOP Senate candidates from bundled campaign contributions and its potent fund-raising machine that can spare much more money for state parties, the DSCC's staff in particular thinks that what happened in Montana in 1988 should be a warning to lethargic incumbents.

A DSCC analysis of the Montana race concluded that the Republicans had come up with an effective campaign strategy based largely on "their formidable capability for mobilizing large sums of money in the last few weeks of a campaign. In a small state, they can move sums several times greater than the coordinated expenditure in that state." □

The Independent Record, Helena, Mont., Thursday, March 22, 1990

Burns fund report not filed

By KEVIN McRAE
IR State Bureau

A national Republican group that spent more than $91,000 to elect U.S. Sen. Conrad Burns apparently broke campaign finance laws when it failed to file spending reports for public inspection with the state.

National GOP group may face fines of triple $91,000 donation

The National Republican Senatorial Committee poured $91,315 into Burns' GOP campaign in 1988 to cover media and mailing expenses, according to disclosures filed with the Federal Election Commission in Washington, D.C.

But the NRSC failed to file copies of the monthly reports with the Montana Office of Political Practices as it was required to do under federal laws and election rules.

Political Practices Commissioner Dolores Colburg said Wednesday she will likely confer with the Federal Election Commission before deciding whether to investigate the apparent violation.

Federal law requires political committees to file expenditure reports for congressional candidates with the Federal Election Commission and with the state Office of Political Practices simultaneously.

The law says the reports, which reveal how much money is spent on a campaign and how the money is used, should be filed with the state office and made available for copying and inspection by the public.

The NRSC started filing monthly reports for the Burns campaign with the federal office in April 1988, but the state office didn't receive copies until last month, almost two years after the first reports were due.

Colburg said the reports were sent at her request.

Violation of the federal campaign finance laws are punishable by a fine of up to $10,000 or twice the amount of expenditures that went unreported to the state.

State law says failure to report campaign finances can carry a fine of up to $500 or triple the amount that was spent in violation.

Bill Canfield, attorney for the NRSC, said in a telephone interview from Washington, D.C., that he didn't know much about the case because he wasn't employed by the committee in 1988 when the reports were due.

Canfield said the committee's lawyer then was Ben Ginsburg, who now works for the Republican National Committee. Ginsburg could not be reached for comment Wednesday.

Colburg said she's still waiting to receive more information from the NRSC, but in the meantime is concentrating on monitoring the current election.

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– LIVINGSTON ENTERPRISE, Monday, March 26, 1990

Conrad Burns got big money during campaign

HELENA (AP) — The National Republican Senatorial Committee spent more than $100,000 campaigning for Conrad Burns in 1988, while funneling thousands more through the Montana Republican Party, disclosure forms show.

Republican Burns defeated incumbent Democratic Sen. John Melcher in the 1988 election. A long-shot when he first filed, Burns quickly gathered national Republican support when he began pulling even with Melcher late in the campaign. The disclosure forms detail that support.

Under FEC rules, national parties can give a Senate candidate directly $17,500, while state parties can contribute $5,000.

In addition, the parties can make "coordinated expenditures" on behalf of candidates. These expenditures can be coordinated with the candidate, but are not controlled by the candidate.

The formula used to determine "coordinated expenditures" would have allowed the committee to spend $92,220 on Burns behalf. The committee's report lists total expenditures of $91,495, but the items listed add up to $107,319.

But thousands more also were funneled through the state party or other channels.

For example, the reports listed one payment of $4,050 to Gary Lawrence Co. of Santa Ana, Calif., for polling. However, that the firm did daily tracking polls during the campaign, a task that would cost far more than that.

Committee officials said the staff members who handled those expenditures since have left the committee. But they added that polling costs would not have to be listed unless the poll results were provided immediately to Burns.

The committee report also does not include the committee's assistance in a state $150,000 voter-identification project. Committee officials say their assistance helped GOP candidates generally, not just Burns.

And, the committee report also does not list payments to the state party. The committee said such expenditures are "transfers" under FEC rules, not contributions that have to be reported.

But the state party's reports for the same period showed a pattern in which thousands of dollars were received from the national party, with state party expenditures for the same amount for the Burns campaign occurring almost immediately.

For example, that the state party received $6,879 from the committee on Oct. 7, 1988, and wrote a check the same day for the same amount to James R. Foster & Associates of Carrollton, Texas, for mass mailings for the Burns' campaign.

Likewise, the state party got transfers of $32,110 and $4,956 from the committee a short time after mailing those amounts to Foster.

The state party reported receiving a total of $204,429 from the committee in 1987-88, with more than half of the money coming in the during the last 20 days of the campaign. It also got $41,988 from the Republican National Committee and $44,000 from the Colorado Republican Party.

Great Falls Tribune
Monday, March 26, 1990

Republican figures don't add up

By STEVE SHIRLEY
Tribune Capitol Bureau

HELENA — On election day in 1988, Helena lawyer Ward Shanahan wrote an internal Republican Party memorandum that chastised national GOP officials for "financial shenanigans" and "chicanery."

Shanahan, who was then counsel for the state party, was unhappy with national party officials who were busy trying to get Conrad Burns elected to the U.S. Senate.

Shanahan said the national officials had routinely tried to incur expenses in the name of the state party without clearing it with state officials. He also said the national officials would have committed "serious breaches" of state and federal law if they hadn't been stopped.

Shanahan

The contents of Shanahan's memo were divulged in a lawsuit filed last December by former state party executive director Terry Merica, who alleged he was wrongfully fired because he tried to blow the whistle on questionable campaign-finance deals. The suit claims national GOP officials used the state party as a "clearing house" for money spent to elect Burns.

The lawsuit is now sitting in federal court as the combatants argue over whether Merica filed the suit too late.

Some officials hoped campaign-finance reports filed recently with the state would shed more light on activities of the National Republican Senatorial Committee in Montana in 1988, but in some respects the reports raised more questions than they answered.

For example, the reports indicate the NRSC spent $107,319 on Burns' behalf — or about $15,000 more than federal limits allow. The reports also leave lingering questions about NRSC efforts on such things as voter identification and polling.

The NRSC filed the reports last month at the request of state Political Practices Commissioner Dolores Colburg. While federal rules suggest the reports should have been filed during the 1988 campaign, NRSC officials contend they didn't have to file in Montana since they filed with the Federal Election Commission in Washington, D.C.

"The reports were filed with the FEC in a timely way" and have been available to anyone who wants to see them, said Wendy DeMocker, NRSC communications director.

Colburg has asked the committee to provide more details about money it gave the Montana Republican Party. She said she doesn't plan to investigate NRSC activities but will monitor the Merica case in court in an effort to get answers.

Colburg

Meanwhile, national Democrats have an eye on the Merica case in hopes they can get insights into NRSC techniques used to help GOP Senate candidates around the country. Supporters of Democratic Sen. Max Baucus also have an interest due to their concern the NRSC will mount similar efforts against Baucus this year.

"I think they'll try to use against Max Baucus the things they think worked against John Melcher," said Dave Hunster, Baucus' campaign manager.

NRSC officials insist that, contrary to Merica's allegations, the tactics they used in 1988 were legal.

Sometimes, the question of legality is difficult to determine because of the complexity of FEC rules.

Under those rules, national parties can directly give a Senate candidate $17,500 while state parties can contribute $5,000. In addition, the parties can make "coordinated expenditures" on behalf of candidates. Parties coordinate these expenditures with the candidate, but the candidate does not control them.

The formula used to determine "coordinated expenditure" limits would have allowed the NRSC to spend $92,220 on Burns' behalf. The NRSC reports said the group spent an aggregate of $91,495 on Burns. But the expenditures listed add up to $107,319.

Meanwhile, the reports don't list all NRSC efforts to help Burns.

For example, the reports listed one payment of $4,050 to Gary Lawrence Co. of Santa Ana, Calif., for polling. Yet the firm did daily tracking polls during the campaign — a service that should have cost far more than $4,050.

NRSC officials said they couldn't answer specific questions about the polls because staffers who worked with Burns are gone. One of those staffers is now with the Republican National Committee, but couldn't be contacted for comment.

The NRSC officials said all their polling costs wouldn't have to be listed on the reports if they didn't provide poll results

See ADD, 4A

Add: Republican figures questioned

FROM 2A

immediately to Burns. The longer they held onto poll results, they said, the less they had to report.

State Rep. Dennis Rehberg, R-Billings, director of Burns' field staff in Montana and the manager of Burns' campaign, said the NRSC provided the campaign with some polling information but also withheld some.

The NRSC reports also don't list expenditures on a voter-identification project. The Merica lawsuit alleged the Montana GOP launched an effort to raise $150,000 for the project and the NRSC assisted.

NRSC officials said they don't need to list their voter-ID work as a Burns-related expense if the project helped Republicans in general rather than Burns specifically.

Rehberg said the Burns' campaign compiled a list of voters from various sources for its mass mailings. He said he couldn't remember if the NRSC provided any names.

The NRSC reports also don't list contributions to the Montana Republican Party. NRSC officials said the contributions were "transfers" under FEC rules rather than "coordinated expenditures" that have to be reported.

In its own reports, the state party said it got $201,429 from the NRSC in 1987-88, with more than half of the money coming in during the last 20 days of the campaign. The party also got $41,986 from the Republican National Committee and $44,000 from the Colorado Republican Party.

The state party reports show a pattern in which NRSC officials would send money to the state party and, often within a few days, the state party would send the same amount to James R. Foster & Associates of Carrollton, Tex., for mass mailings done on Burns' behalf.

For example, the state party received $6,879 from the NRSC on Oct. 7, 1988, and wrote a check to Foster for the same amount on the same day. Likewise, the state party got contributions of $32,110 and $4,956 from the NRSC a short time after mailing like amounts to Foster.

While the pattern seems to support Merica's suggestion that the Montana party acted as a conduit for the NRSC, a NRSC official said the practice is legal and one used by both parties.

He said the NRSC was, in essence, paying for such things as salaries and supplies of the Montana GOP. This freed up state party money to pay for the Foster mailings.

National Journal magazine, which reviewed the Burns' race in a January story, said such mailings must meet three criteria to comply with federal rules: they must be addressed from a list owned or generated by the state party; volunteers have to help with mailings; and the state party has to use its own money to pay for the mailings, not money transferred from the national committee.

The magazine said state party finance reports raise questions about whether the last criteria was met. The party reported Oct. 1 that it had $46,013 in cash on hand, and later reported it raised $90,849 through Nov. 30.

That money was enough to cover payments of $109,553 to Foster during the period, but couldn't also cover the party's postage bill of $72,569 in those two months. If the Foster mailings accounted for half of the postage bill, the mailing expenses would have exceeded what the state party raised on its own.

Rehberg said the Burns' campaign had no control over what went on between the NRSC and the Montana Republican Party. He said he assumes everything was done legally as the NRSC wouldn't want to damage Burns' chances of getting elected.

Montana GOP Chairman Barbara Campbell was in Washington, D.C., last week and couldn't be contacted for comment. Shanahan declined to comment.

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The Independent Record, Helena, Mont., Friday, March 30, 1990

GOP practices under fire

By KEVIN McRAE
IR State Bureau

The Democratic Party and an open-government advocate group are considering filing complaints against a national Republican committee that spent more than $91,000 to elect U.S. Sen. Conrad Burns without reporting the money to the state.

The National Republican Senatorial Committee spent at least $91,315 on Burns' campaign in 1988 but failed to report the expenditures to the Montana Office of Political Practices as required by federal and state law.

Montana Democratic Party Chairman Bruce Nelson and C.B. Pearson, executive director of Montana Common Cause, said Thursday they would consider filing a complaint with either the Federal Election Commission or state Office of Political Practices.

They said they first would need to learn more about the NRSC's apparent violation of the campaign laws and would need to talk with other members of their organizations.

While the NRSC filed monthly expenditure reports in 1988 with the FEC in Washington, it did not file simultaneous reports with the state political office as the law says it should.

Federal law says the reports, which reveal how much money is spent on a campaign and how the money is used, must be filed with the state office so it can be made available for public inspection and copying.

State law also requires timely campaign finance reporting for any election in Montana, Political Practices Commissioner Dolores Colburg said.

Violation of the federal election law is punishable by a fine of up to $10,000 or twice the amount that was spent but unreported to the state. State election law holds violators liable for a fine of up to $500 or triple the amount of expenditures involved.

The NRSC has admitted that it did not file the reports with the state, but the committee noted that the spending reports were always available through the FEC in Washington, D.C.

Nelson said the state party likely would inform the Democratic National Committee about questionable NRSC campaign reporting.

The Billings Gazette ... March 30, 1990

GOP spent $91,000 it failed to report

By KEVIN McRAE
Gazette Helena Bureau

HELENA — The Democratic Party and an open-government advocacy group are considering filing complaints against a national Republican committee that spent more than $91,000 to elect U.S. Sen. Conrad Burns without reporting the money to the state.

The National Republican Senatorial Committee spent at least $91,315 on Burns' campaign in 1988 but failed to report the expenditures to the Montana Office of Political Practices as required by federal and state law.

Montana Democratic Party Chairman Bruce Nelson and C.B. Pearson, executive director of Montana Common Cause, said Thursday they would consider filing a complaint with either the Federal Election Commission or state Office of Political Practices.

They said they first would need to learn more about the NRSC's apparent violation of the campaign laws and would need to talk with other members of their organizations.

Although the NRSC filed monthly expenditure reports in 1988 with the FEC in Washington, it did not file simultaneous reports with the state political office as the law says it should.

Federal law says the reports, which reveal how much money is spent on a campaign and how the money is used, must be filed with the state office so it can be made available for public inspection and copying.

State law also requires timely campaign finance reporting for any election in Montana, Political Practices Commissioner Dolores Colburg said.

Violation of the federal election law is punishable by a fine of up to $10,000 or twice the amount that was spent but unreported to the state. State election law holds violators liable for a fine of up to $500 or triple the amount of expenditures involved.

The NRSC has admitted that it did not file the reports with the state, but the committee noted that the spending reports were always available through the FEC in Washington, D.C.

"Political insiders might have known where they (the reports) were, but the normal person in Montana would not have access," Pearson said. "There was definite harm done to the public. When you're talking about $91,000, that's a significant disclosure."

Nelson said the state party probably will inform the Democratic National Committee about questionable NRSC campaign reporting.

Colburg said she won't pursue the case or ask the FEC to step in because she's too busy monitoring the current election.

The FEC reported last week that it probably wouldn't act unless it received a complaint from Colburg or any other citizens.

Colburg eventually received the NRSC spending reports in February — nearly two years after the first report was due — after requesting them from the group's treasurer.

The NRSC has not yet explained why it did not file the reports under the schedule required by the law.

NRSC attorney Bill Canfield said in a telephone interview from the Washington, D.C., office that he didn't know why because he was not with the committee in 1988. He referred questions to former NRSC attorney Ben Ginsburg, now with the Republican National Committee, but Ginsburg did not return telephone messages.

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Helping Burns to victory

Senator denies direct knowledge of party involvement

HELENA (AP) — U.S. Sen. Conrad Burns says that he had no specific knowledge of the tens of thousands of dollars in last-minute national party fund transfers that aided his 1988 campaign and that he presumes it was handled legally.

"I knew that the NRSC (National Republican Senatorial Committee) was helping the state party and the NRSC was also helping my campaign, which is legal to do," he said Friday. "I assumed that they knew what they were doing, and they were doing it properly."

Burns, a Republican, pulled off an upset victory over incumbent Democratic Sen. John Melcher on Nov. 8, 1988, winning 52 percent of the vote.

Campaign finance records show that during the final four weeks of the campaign, the National Republican Senatorial Committee transferred $137,898 to the Montana Republican Party, and an additional $10,100 after the election.

During the final two weeks of the election, the state party paid $109,553 to a Texas direct-mail firm for mailings advocating Burns' election. On at least two occasions, the amount transferred by the NRSC matched a state party payment made within days to the mailing firm.

In a wrongful-discharge lawsuit filed against the state party, former party executive director Terry Merica has said the NRSC used the state party illegally as a "clearinghouse" to channel funds to the Burns campaign. Merica said he was fired because he called attention to the allegedly illegal transfers during the closing days of the campaign.

Party officials have denied the charges, and NRSC officials say the transfers were strictly legal.

Under federal law, the NRSC was allowed to provide $107,700 in direct contributions or payments to the Burns campaign. There were virtually no limits on transfers between national party groups and the state party.

When asked whether he thought large transfers from national groups to the state party were a fair campaign tactic, Burns said: "I'm not going to judge that. If it's properly done within the law, I have no problems with that. ... This says nothing about my campaign."

Federal law allows national party groups to transfer large amounts of so-called "soft money" to state parties, which are supposed to use the cash for "party-building activities" such as administrative costs, voter registration and getting out the vote. In turn, that frees up money that can be used for political mailings on a candidate's behalf.

In an interview last week, a state Democratic Party official said that if the NRSC money was used directly to benefit the Burns' campaign, its expenditure may violate federal election laws.

"Those mailings are not what we would interpret to be party-building activities under the law," said Bruce Nelson, chairman of the state party.

Nelson said the state Democratic Party won't decide whether to file a complaint with the Federal Election Commission until Merica's lawsuit is somehow resolved.

The NRSC, which helped recruit Burns as a candidate against Melcher, spent about $106,000 on the Burns campaign directly and transferred an additional $294,000 to the Montana Republican Party in 1988. Of those transfers, $138,000 was transferred between Oct. 7 and Nov. 4.

Under FEC guidelines, state parties can make mailings on behalf of a federal candidate if volunteers are used in the mailing process, if the mailing list is generated by state party and if the funds are not transferred from national party committees. Transfers from the national committees can free up state party money for the mailings. But those transfers should not directly underwrite the mailings, such as when money raised by the state party is less than the total cost of the mailings.

State Republican Party officials have refused to discuss the mailings because of Merica's pending lawsuit.

If nothing else, the financing of Burns' campaign demonstrates how a national party apparatus — in this case, the GOP's — can dump an extraordinary amount of money into a close race during its final days.

In the final four weeks of the 1988 election, the NRSC, the Republican National Committee and the Colorado Republican Central Committee transferred $182,000 to the Montana Republican Party. Most of that came in the final two weeks before the election.

Burns also received $278,800 in contributions during the final 20 days of the election, much of that from PACs or out-of-state individuals.

Taken together, this $460,000 represents about 40 percent of the money spent directly and indirectly on the Burns campaign during the entire election year.

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opinion

Guest editorial

Big money

Recent revelations about some of Sen. Conrad Burns' campaign financing can show you how the "big boys" buy themselves an important seat on Capitol Hill.

Reports in the past week or two show huge, last-minute transfers of money into Montana campaign coffers to benefit Conrad Burns in his race to unseat former Sen. John Melcher. In the last three weeks or so, almost half of the money spent by the Burns campaign was raised, most of it from out-of-state sources.

Burns' ties to those forces got started very early in the campaign – even before he announced his candidacy he journeyed to Washington, D.C., to meet with GOP party biggies and GOP leaders in the Senate, where they had identified Melcher's seat as "vulnerable" and targeted it for their attention. In the Senate, after all, one seat in 100 can make a big difference.

Lt. Gov. Alan Kolstad, incidentally, has been doing the same thing this year, sizing up his chances against incumbent Max Baucus.

Once he became a candidate, Burns continued to enjoy the support of his party's national leadership. They helped him monitor public opinion with professional pollsters, to design his advertising and to fine-tune his campaign to find Melcher's biggest weaknesses.

The eleventh-hour blast fired by his campaign against Melcher's interest and sympathies for the Philippines, for example, dealt a particularly heavy blow. That blast was developed with the aid of national forces.

The last-minute money, of course, was the big key. According to campaign finance records, the National Republican Senatorial Committee turned over $310,000 to the Montana GOP in 1988, of which $138,000 came in the last 30 days. Other funds from the Republican National Committee and the Colorado Republican Central Committee.

And an additional $278,000 came in to the Burns war chest in the last 20 days before the election, most of it from those dreaded political action committees, PACs, and other out-of-state sources.

That's the way it's done, folks. All these outside forces find a seat that's vulnerable, and they line up to help the battle. Particularly in the last few days, when the donors get more generous and they all have an idea if a race is winnable or not, they pour the cash to the races that seem most promising.

A nice, honest fellow like Conrad Burns doesn't do it by himself. He lines up the big boys from the start, and in many ways does what he's told to hang onto their support.

It's disappointing, however, to find that the newly-elected senator is now claiming he knew little about the national funding – we'd all be happier to hear him admit he knew the angles and managed them. Maybe then we'd have more confidence he – Sen. Conrad – isn't going to continue to be controlled by all those forces now that he's in office.

– Livingston Enterprise

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National GOP paid for Montana party legislative survey

Apparently didn't report funding to state agency

By KEVIN McRAE
IR State Bureau

Increasing evidence of unreported national Republican Party involvement in Montana's 1988 elections — which extended to state legislative races — has stirred concern in the state Office of Political Practices.

The National Republican Senatorial Committee's campaign finance methods were questioned recently when it was reported that the group spent more than $91,000 to elect U.S. Sen. Conrad Burns without listing the expenditures with the state office.

The NRSC says it wasn't required to file spending reports with the state, but the Federal Election Commission says disclosure at the state level is an order of federal law.

Of more concern to Montana election officials, however, is evidence indicating some national party money and NRSC influence extended to state legislative races in 1988 while the finances were never reported to the state.

Republican candidates for statewide offices were provided voter survey results to help plan campaign strategies with information compiled through a project conducted by the NRSC, GOP campaign officials have confirmed.

"That's very interesting," Political Practices Commissioner Dolores Colburg responded when informed of the revelation Friday. "That's big dough to do that stuff. Certainly the Federal Election Commission ought to be interested, and this office is interested as well."

Federal and state laws require committees to file contribution and spending reports with state election officials in states where they attempt to influence political races so the information can be available for public inspection.

Elwood English of Billings, Burns' former campaign director, said he worked under the supervision of NRSC officials to help compile a voter identification list.

English said he thought most of the project was carried out with national party funding, and former state party Executive Director Terry Merica said the state party did not pay for the project.

The NRSC and Montana Republican Party are defendants in a wrongful discharge lawsuit filed last winter by Merica.

The lawsuit claims that in March 1988 a meeting was held to discuss how to raise $150,000 for a voter ID project in Montana and that the NRSC agreed to assist in the project.

But Merica said in an interview Friday that the state party did not pay for the voter ID that was conducted in 1988.

"The state party gathered source documents from each county and the state party distributed the final product to the

(More GOP, page 8A)

-The Independent Record, Helena, Mont., Sunday, April 9, 1990

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MILES CITY STAR, Monday, April 9, 1990

GOP donations questioned

National funds helped state races

HELENA (AP) — Unreported money and other aid from the national Republican Party apparently reached into Montana's statewide and legislative races in 1988 as well as into the U.S. Senate contest, and the state Office of Political Practices wants to know more about it.

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The lawsuit claims that in March 1988 a meeting was held to discuss how to raise $150,000 for a voter identification project in Montana and that the senatorial committee agreed to help.

Merica said in an interview with the Lee Newspapers state bureau Friday that the state party did not pay for the project.

"The state party gathered source documents from each county, and the state party distributed the final product to the legislators," Merica said.

He would not say where the state party sent the "source documents," citing his pending lawsuit as the reason for not commenting.

Staff members with the national committee in Washington, D.C., said in recent interviews that the voter identification and survey project would not have to be listed with the state office if the project helped the Republican Party in general rather than specific candidates.

Information regarding how much money the committee spent on the project and the extent of the committee's involvement has been requested but not yet provided.

Republican campaign workers said privately the voter identification project involved a list of registered voters collected from county courthouses and follow-up telephone surveys to gauge voters' political persuasions.

The candidates were then provided with survey results that showed names, addresses, telephone numbers and scores indicating how inclined a voter might be to cast a Republican ballot.

Such information generally is used for targeting campaign mailings, seeking campaign volunteers and conducting "get-out-the-vote" activities.

Rep. Fred Thomas, R-Stevensville, chairman of the state GOP Legislative Campaign Committee in 1988, recalled the voter identification distribution but said he couldn't remember exactly when candidates received the material.

"The state central committee had a list that they were helping out with," Thomas said.

Colburg said she wants to know who paid for the project and how much it cost, because federal and state laws require the information to be reported in campaign finance disclosures.

"The source should report it to this office," Colburg said.

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LIVINGSTON ENTERPRISE, Monday, April 9, 1990

Ureported contributions cause concern

HELENA (AP) — Unreported money and other aid from the national Republican Party apparently reached into Montana's statewide and legislative races in 1988 as well as into the U.S. Senate contest, and the state Office of Political Practices wants to know more about it.

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The Daily Inter Lake, Kalispell, Montana Monday April 9 1990—A-

State investigating 1988 campaign funding

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The Montana Standard, Butte, Tuesday, April 17, 1990

National Republican committee gives state party $25,000

By Bob Anez
Associated Press Writer

HELENA (AP) — The National Republican Senatorial Committee gave the Montana Republican Party more money during the first three months of this year than it did during the entire first half of 1988, a financial report filed Monday shows.

The committee has given the state party $25,000, compared with $17,284 between Jan. 1 and June 30 two years ago, but a party official said the increased funding does not necessarily mean the committee will be funneling more money into the state than the $204,429 in 1988.

The additional money this year merely reflects the state party's improved planning over two years ago, said Barbara Campbell, state GOP chairwoman.

"The fact that we're organized early has allowed the national committees to understand where our programs are."

Pays administrative costs

She said the money would be used to help the state party pay administrative costs at its headquarters and to provide campaign assistance for legislative and county candidates.

Some of the money the committee gave the Montana GOP in 1988 was used to help finance the successful U.S. Senate campaign of Conrad Burns. More than half the total received by the party came during the 20 days before the general election.

The national committee spent about $107,000 on the Burns campaign, but did not file its spending report with the state commissioner of political practices office until two months ago, nearly two years after the first reports were due.

This year's first state GOP finance report shows the party had $73,363 in contributions and $35,071 in expenditures between Jan. 1 and the end of March.

The party began the year with $5,506 and still has $43,798 left in the bank.

Democrats report

Meanwhile, the Montana Democratic Party reported $60,394 in contributions during the three-month period and spent $81,962. The party started the year with $29,577 and had a balance of $8,009 by April 1.

The party reported no money from other political party committees and $1,600 from political action committees, including the Montana AFL-CIO and Montana Power Co.

Democrats for the '90s, a Washington, D.C.-based organization, contributed $2,500 to the re-election campaign of Sen. Max Baucus.

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National GOP groups 'bundled' to aid Burns campaign

By STEVE SHIRLEY
Tribune Capitol Bureau

HELENA — National Republican groups funneled $196,729 to Sen. Conrad Burns' 1988 campaign using a controversial fund-raising practice called "bundling," finance records show.

Bundling occurs when third parties act as conduits for money from contributors to candidates. It is one of several campaign tools used by the National Republican Senatorial Committee to help Burns upset incumbent Democratic Sen. John Melcher.

Critics say political committees use bundling to evade contribution limits because they can claim the money came from the donors, not the committees.

But NRSC spokesman Wendy DeMocker said bundling is a perfectly legal way to provide money to candidates.

Federal Election Commission rules restrict bundling only if a committee exercises "direction and control" over the money. However, the FEC has not defined "direction and control."

The NRSC used bundling in 1986 to raise $2.7 million from donors and transfer the money to a dozen GOP Senate candidates. The committee did not use the accepted practice of asking contributors to write checks to specific candidates and then bundling them up to send to the candidates. Instead, it deposited contributions in its account and then distributed the money to candidates as it wanted.

A federal judge ruled earlier this year that the committee violated federal law by exercising "direction and control" over the money. He ordered the FEC to take another look at the case.

DeMocker said she doesn't know exactly how the NRSC bundled money in 1988. "My understanding is that whatever took place in 1986 has never taken place in subsequent years," she said.

Meanwhile, Congress is considering proposals to sharply limit bundling practices. One reason for the reform effort is that bundling was used by Charles Keating Jr., a central figure in the national savings and loan scandal.

Keating raised about $342,000 in campaign contributions for five senators throughout the 1980s, with most of the money coming from family members and business associates. The senators later intervened with regulators on behalf of a thrift owned by Keating.

Bundling also was used by Senate Majority Leader George Mitchell, D-Maine, in 1988 to raise tens of thousands of dollars from political action committees and forward the funds to Democratic senators up for re-election.

John Gerharz, a Billings certified public accountant who was treasurer for the Melcher campaign, said he wasn't aware of any bundled contributions to the senator's re-election effort.

"We didn't get a lot of help from the national level," he said. "We did get advice, but that was the only thing we got from them."

While the Democratic Senatorial Committee didn't help Melcher with bundled contributions, it hit the $92,200 limit on "coordinated expenditures" on Melcher's behalf and made the $15,000 direct donation allowed by law.

Anita Dunn, communications director for the Democratic Senatorial Committee in Washington, D.C., said her group didn't bundle money because of questions about its legality. She said her group "really didn't have the financial resources to explore" that kind of fund raising anyway.

Dunn questioned whether Republicans exceeded their "coordinated expenditure" limits due to the costs of raising bundled money. NRSC finance reports showed the group spent almost all the $92,200 it was allowed to make in "coordinated expenditures" on Burns' behalf, but costs of raising bundled money don't appear to be among the expenditures listed.

Finance reports indicate the NRSC provided $132,100 in bundled donations to Burns' campaign from Oct. 21 to Nov. 1988.

The Midwestern Majority Committee for Burns $23,556 and the M&N Committee provided $41,072. The committees, which raised money for GOP Senate candidates, both listed the same address as the NRSC.

Besides helping with bundled money, coordinated expenditures and a $15,000 direct contribution, the NRSC transferred almost $150,000 to the Montana Republican Party. The state party, in turn, paid a Texas firm for mailings benefiting Burns.

Former party director Terry Merica filed a wrongful-discharge suit against the party in December in which he charged that the NRSC illegally used the state party as a "clearinghouse" to help Burns. He said he was fired for questioning allegedly illegal transactions.

State party officials have denied Merica's charges, and NRSC officials have said everything they did was legal.

Montana Republican
State Central Committee
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Helena, MT 59601

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Montana Senate race Key to State's Future

George Bush and Conrad Burns will:

- Not raise your taxes.
- Use all the weapons available in the war on drugs, including the death penalty.
- Support a strong national defense including the Midgetman missile in Great Falls.
- Protect the Constitutional right to own firearms.
- Maintain the historical basis for ownership of water rights.
- Expand economic growth to create more jobs in Montana.

Bush calls race critical to Montana - and the Nation.

George Bush in his recent swing through Montana termed next Tuesday's election a pivotal day in Montana's future.

"The race for U.S. Senate is an opportunity for Montanans to choose a Senator who will listen and work for them . . . Conrad Burns. I urge all Montanan's who care about their future to send a message. Vote for Conrad Burns. He'll be a Senator you can be proud of."

In reviewing the major issues facing America today, George Bush and Conrad Burns stand together. Both men want to lower taxes, (in fact both have vowed not to support any tax increase). Burns and Bush will work to keep a strong national defense, win the war on drugs, and bring economic growth to Montana to insure more and better jobs.

By electing Conrad Burns on November 8th, Montanans can send the message they want a Senator who not only will listen but also shares their Montana values.

George Bush and Conrad Burns — Positive Leadership for Montana.

When it comes to the tough issues you know where Bush and Burns stand.

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Burns and Bush or Melcher a

The race for the U.S. Senate in Montana is a race over ideas — two very different sets of ideas and two different visions of Montana's future.

Those differences are reflected in what the two candidates for the Senate are saying, the issues they have chosen to address and the solutions they propose.

Expand economic growth to create more jobs in Montana.

On the subject of economic recovery for Montana, John Melcher blames bureaucrats in Washington for the lack of jobs and prosperity.

Conrad Burns says a Senator needs to get the job done, bureaucrats or no bureaucrats. Period.

By opposing any new taxes or regulations that discourage business from moving to Montana, Conrad Burns will send a message that "Montana means business."

To balance the federal budget Conrad Burns agrees with George Bush that a "flexible freeze" on the budget along with the balanced budget amendment, and the line item veto are critical first steps. These three together will force Congress to balance the budget.

When the subject is raising taxes, the team of Dukakis and Melcher are in a league by themselves. Governor Dukakis authored the single biggest tax increase in Massachusetts history. And John Melcher has voted to raise our taxes over 40 times. Neither Dukakis or Melcher will rule out raising taxes to balance the budget.

On the other hand, Conrad Burns has vowed to oppose any tax increase, and he has pledged to support a Bush veto of any tax increase.

Protecting our children, preserving our values.

As Montana and our nation prepare to enter the next century, Burns views our children as our most precious resource. Burns believes we must instill in our children values that say drugs are unacceptable and that voluntary school prayer and the pledge of allegiance are an important part of growing up.

Burns believes that a quality education will be the key to the future of our children and that we must return primary control of our schools to the state and local level.

Dukakis & Melcher On the issues . . .

Economic

- Opposed Tax Cuts
- Won't rule out Tax increases
- Oppose Tuition Tax credits

Social

- Favored Freezing Social Security COLA's. Melcher voted to raid Social Security Trust fund.
- Oppose AIDS Testing
- Oppose the Death Penalty

Defense

- Oppose Strategic Defense Initiative (SDI)
- Oppose Contra AID
- Support Nuclear Freeze
- Support Cutting Vital Defense Systems

A stronger, more balanced basic curriculum, along with aggressive recruiting of good teachers will greatly benefit our children and our society.

For our younger children, Burns will work to provide the private sector incentives to create and operate quality child care centers. He strongly opposes the liberal Democratic approach to put the federal government in charge of our child care and deny churches and grandmothers the opportunity to provide quality care.

Our children are not the only ones threatened by the spread of the drug menace. Our society is at risk. Burns has made an issue of John Melcher's long record of opposing tough anti-drug and anti-crime legislation.

Burns believes we must do more for drug education and prevention at a younger age. He supports the death penalty for drug related murders and tougher penalties for users.

Conrad Burns has pledged to vote to confirm the same type of law and order judges that Melcher has opposed.

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l Dukakis. The choice is clear.

Bush & Burns On the issues . . .

Economic

- Will work to bring jobs to Montana through economic growth
- Oppose any tax increase
- Support tuition tax credits

Social

- Oppose any attempt to raid Social Security trust fund.
- Oppose reductions in benefits or cuts in Social Security COLA's.
- Support the death penalty for violent crimes and drug dealers.

Defense

- Believe peace through strength works.
- Support basing Midgetman missile in Montana bringing 5,000 jobs to our state.
- Support the Strategic Defense Initiative (SDI)
- Support aid to freedom fighters.

A strong voice for our elderly.

For our older citizens, Burns promises to work to protect their Social Security benefits. He will support Social Security COLAs to preserve their buying power — in contrast with Melcher who has voted both to freeze and delay those COLAs.

Burns has vowed not to use the Social Security Trust Fund to balance the federal budget as Melcher did. He believes the Trust Fund is a compact we have with our elderly — a compact he will honor.

Elderly Montanans should know that they will have a loyal representative in the Senate when they elect Conrad Burns.

A secure America, a strong Montana.

The security and protection of young and old alike is the first responsiblity of the federal government and it is unnerving that John Melcher has consistently received failing grades from key groups who rate Senators on their support of a strong national defense.

Unlike his opponent, Burns strongly supports the development and basing of the Midgetman missile system in Montana. It is not only good policy, but it means $1 billion and 5,000 jobs to Montana.

He also supports development of SDI and deployment when it is ready. Burns believes it is safer to trust American technology to shoot down Soviet or third world missiles than to trust the promises of untested foreign leaders.

Burns supports the same aggressive peace through strength policies of President Reagan that Melcher doggedly opposed. He believes the way to negotiate with the Soviets is from a position of strength, not weakness. Unfortunately, John Melcher and his candidate for President, Michael Dukakis don't see it that way.

And Conrad Burns supports a multi-year Pentagon procurement process as a start to clean up the waste in the Defense Department.

Preserving our rights, and our western way of life.

Unlike Michael Dukakis, Burns does not believe the military has the sole right to firearm ownership. Burns will strongly defend our constitutional right to own and bear arms and he is concerned with Melcher's recent vote with the anti-gun lobby to start the process of gun control.

Burns believes the policy of federally adjudicated water rights espoused by Michael Dukakis and the water language contained in Melcher's wilderness bill are dangerous for Montana and the West. He will fight to retain control over what may one day be our most valuable resource.

To summarize, George Bush and Conrad Burns share our Montana values while Michael Dukakis and John Melcher don't.

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Montana Senate race Key to State's Future

George Bush and Conrad Burns will:

- Not raise your taxes.
- Use all the weapons available in the war on drugs, including the death penalty.
- Support a strong national defense including the Midgetman missile in Great Falls.
- Protect the Constitutional right to own firearms.
- Maintain the historical basis for ownership of water rights.
- Expand economic growth to create more jobs in Montana.

Bush calls race critical to Montana - and the Nation.

George Bush in his recent swing through Montana termed next Tuesday's election a pivotal day in Montana's future.

"The race for U.S. Senate is an opportunity for Montanans to choose a Senator who will listen and work for them . . . Conrad Burns. I urge all Montanan's who care about their future to send a message. Vote for Conrad Burns. He'll be a Senator you can be proud of."

In reviewing the major issues facing America today, George Bush and Conrad Burns stand together. Both men want to lower taxes, (in fact both have vowed not to support any tax increase). Burns and Bush will work to keep a strong national defense, win the war on drugs, and bring economic growth to Montana to insure more and better jobs.

By electing Conrad Burns on November 8th, Montanans can send the message they want a Senator who not only will listen but also shares their Montana values.

George Bush and Conrad Burns — Positive Leadership for Montana.

When it comes to the tough issues you know where Bush and Burns stand.

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Birds of a feather . . .

Montana Republican
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1425 Helena Ave.
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Conrad Burns.
A Montana Voice for Montana Values.

Conrad Burns understands our values and special way of life here in Montana. And he'll take those same Montana values to the United States Senate . . .

- **He knows higher taxes cost Montana jobs and that's why he opposes ANY tax increase and has pledged to sustain George Bush's veto of any legislation that raises taxes.**
- **To crackdown on the drug kingpins Conrad Burns supports the death penalty for major drug dealers.**
- **And because he believes your right to own a gun is guaranteed by the Bill of Rights, Conrad Burns strongly opposes any form of gun control.**

Above all else, Conrad Burns will carry with him our values of independence, integrity and concern for one another. He will fight for JOBS in Montana by keeping taxes low, and working to attract new business to our state.

That's the kind of person Conrad Burns is. Honest. Positive. Straightforward.

Conrad Burns
U.S. SENATE

Conrad Burns will be a U.S. Senator we can be proud of. He'll be a Montana voice for Montana values.

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John Melcher v
to be our next F

Jobs and Taxes. Gun control. Drug related violent crime. These are important issues where Michael Dukakis and John Melcher are all wrong for Montana . . .

Fact: **Montana needs JOBS.** Every dollar that leaves our state in the form of higher taxes costs Montana jobs because employers cannot afford to hire new employees and taxpayers cannot afford to buy goods.

The Record: **Dukakis and Melcher will raise taxes and cost Montana Jobs.**

Dukakis

- Imposed $363 Million Tax hike, the largest in Massachusetts history. (1975)
- Supported imposition of new state income tax in Massachusetts. (1976)
- Vetoed Tax Cut for Elderly. (1984)
- Raised Taxes by $180 Million. (1988)
- **Will NOT rule out raising taxes if elected President.**

Melcher

- **Voted FOR raising taxes over 40 times in Senate.**
- **Voted for new "value added tax" on top of income taxes and property taxes.**
- **Voted against Senate resolution stating no new taxes should be imposed and tax rates should not be raised.**
- **Will NOT rule out raising taxes if reelected.**

Now Michael Dukakis wants to do for Montana what he's done for Massachusetts . . . and John Melcher wants to help him.

*All candidate's stands are taken from official voting records and the candidate's own statements.

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nts Michael Dukakis
esident.

Fact: Montanans support the right to own a gun.

The Record: Dukakis and Melcher support gun control.

Dukakis

- "I don't believe in people owning guns, only the police and the military. And I'm going to do everything I can to disarm this state (Massachusetts)." 6/16/86
- Supported a ban of private ownership of sidearms and confiscation of guns. (1976)

Melcher

- Voted FOR a 14 day waiting period between purchase and delivery of a gun, which was opposed by the National Rifle Association.
- Receives a "C" rating from the NRA meaning "he would probably vote in favor of more restrictive controls" according to the NRA.

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Fact: Our children are being threatened by dangerous drugs.

The Record: Dukakis and Melcher OPPOSE tough anti-drug measures.

Dukakis

- Opposes the death penalty for major drug dealers.
- Opposes the death penalty for drug related murderers.

Melcher

- Voted against the death penalty for drug kingpins.
- Voted against the death penalty for drug related murderers.

Montana can't afford a U.S. Senator who supports Michael Dukakis.

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John Melcher & Michael Dukakis

Friends

Dear Friend,

Not long ago, Phyllis and I were talking over our morning cup of coffee about our dream of a prosperous Montana for Keely, our daughter and Garret, our son.

We wish it were possible to share our dream with you over a cup of coffee. That's why I have enclosed a packet of coffee for you in this letter.

Please fix a cup and take a moment to read this letter.

Let me start by thanking you for being a part of our "Friends Network". Your help is vital to our success! Today, I need to ask you a very important favor.

Working as a team, we can contact thousands of Montanans right from your home. How?

By writing a letter to the editor of your local newspaper!

Friends talking to friends....friends concerned about the future....that's where Montana's strength lies. By sending in your letter, you will play a major part in our dream for Montana.

Every day, more special interest money is pouring into Melcher's campaign fund. In fact, John has collected over $800,000 in special interest money during his reelection campaign. Nearly a million dollars! That means every day Montanans have less and less representation in the U.S. Senate.

But the sincere work of a friend or neighbor is valued higher than any message Melcher's out of state interest can buy.

The word of a Montanan is one thing that cannot be bought at any price. The strength of your friendship is all Phyllis and I need to help us win in November.

And your friendship will help us represent Montana the way it deserves...as a proud, strong, effective voice for all to respect!

Montanans are beginning to realize John Melcher has been in Washington too long. They deserve a Senator who knows the challenges and problems you and I face every day.

With the help of our friends....Yes, our dream can come true!

With your help and the time it takes to write a letter to the editor, our "grassroots" Friends Campaign will have a definite

(over, please ...)

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impact on election day. Now is the time...now is when Montanans who are yet undecided will make their choice! A few minutes of your time can change the course of Montana for the next six years. Please take the time to help us once again!

It's up to you...your support is critical if we are to unseat a Senator who is ineffective and who has lost touch with Montana.

When you write your letter, write about something you truly believe in. Below, I have listed some possibilities.

Are you:

-Concerned that the economic recovery and new jobs being created across the country is missing Montana because of our Senator's ineffectiveness?

-Concerned that while we've been trying to make ends meet, Melcher has voted for higher taxes more than 40 times?

-Convinced that to create new jobs to keep your children and neighbors from leaving Montana to find jobs, we must have a new, effective voice in the Senate?

-Convinced that there is no longer any place in the Montana delegation for a Senator with one of the worst records in the Senate on tough drug and crime legislation?

-Convinced that Melcher has sold out to the east coast special interests that have given him nearly a million dollars (850,000) for his reelection campaign?

-Afraid that the special interest influenced Wilderness Bill, John Melcher just pushed through the Senate, locks away too much of our valuable land and will cost us even more jobs in timber, coal, oil, gas, mining, agriculture and tourism?

You can write about any of these issues...or any others you feel strongly about. Please take a few minutes to write that letter....do it today!

It could mean making a dream come true! Together, you and I can send an effective Montana voice to speak for strong Montana values to the U.S. Senate. Thanks again for your help! God bless you.

Sincerely,

Conrad

Conrad

P.S. I hope you enjoyed the coffee. Each time you have a cup, remember our "chat". Please take a moment to write your letter today! Time is crucial! If we all work together, we're going to win on November 8!

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Friends

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K. Phillips
1320 Flowerree
Helena, MT 59601

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Friends

Dear Friend,

I've enclosed two items for you...a bumpersticker and some postcards...which hold the key to winning our race for the U.S. Senate against John Melcher.

Because you are a special friend, only you can make these keys to success unlock a victory on election day.

It's really two rather simple favors I am asking of you.

First, please put the enclosed bumpersticker on the front bumper of your car or truck today! We ask that you place your bumpersticker up front so as people see you coming, they say... THERE'S ANOTHER FRIEND OF CONRAD BURNS!

Second, please send the enclosed postcards to five of your friends. Your personal message to your friends asking them to be our friends is more powerful than any radio or television ad.

That is the kind of grassroots campaign we are running, because the people of our state deserve a Senator who will represent Montana's interests in the United States Senate.

Phyllis and I have been traveling our great state from one end to the other, and we have found a great sense of excitement across Montana about our campaign.

Of course, for us, talking with and getting to know the people of our state is nothing new. For years, I have traveled Montana in the agricultural broadcasting business, as a small businessman, and as a football referee.

What I have found is an understanding around our state that John Melcher is out of touch with Montana's interests.

Maybe John has been in Washington too long, and has forgotten the real values that are important to Montanans.

There's a sense among the voters that he isn't representing them when he votes against tough anti-drug legislation and opposes the death penalty for drug kingpins.

Or that he has not provided the strong, effective leadership needed to gain the respect and cooperation of other Senators in order to quickly resolve Montana's wilderness legislation.

(over, please ...)

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I know most Montana taxpayers wonder why John Melcher consistently votes for tax increases that cost our state badly needed jobs.

Whatever the reason, our campaign is gaining great momentum. And I am convinced it is in large part because of you and your active support!

Now, I need your continued support more than ever. Only a few short weeks remain until election day. It is critical that you and I redouble our efforts to win this difficult race.

John Melcher has millions of out of state special interest dollars to pay for his television and radio ads.

But we have something more powerful on our side...the will of the people of Montana... and our "Network of Friends" like you across our state!

This is why the bumpersticker and postcards I've enclosed are so important. In the next three weeks as you drive around your area, your visible support for me could very easily influence hundreds of voters to cast their vote with you for Conrad Burns.

And by signing and mailing the postcards we've enclosed to five of your friends in Montana, you could singlehandedly win this election!

So please do these two very special favors for me today... and you and I will be able to celebrate together on election night... knowing that your extra effort made the difference.

Many, many elections are won or lost by a handful of votes. And this race for the U.S. Senate is shaping up to be a very close election!

I am counting on you! Thank you very much for being our friend!

Sincerely,

Conrad

P.S. Phyllis and I are extremely grateful to you for your friendship and your willingness to help us in our "Friends Effort". You and I know Montanans always "pitch in" and help a friend in need.

P.P.S. Now I need your help in this special way... so please put your bumpersticker on your car or truck today!

P.P.P.S. And tonight, please sit down and address the enclosed postcards to your friends! Your help can make the difference. Thanks again!

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Montana Republi
State Central Con
1423 Helena Ave.
Helena MT 5960

Conrad Burns

"Friends" *Get Out The Vote Gram!*

Tuesday, November 8th is election day. It's critical that all "Friends" of Conrad Burns work overtime to turn out the vote. Call every person you know and please help get people out to the polls.

This is Montana's chance to elect a U.S. Senator who shares our Montana values.

It's time for a change. It's time for Conrad Burns!

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Helena, MT 59601

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Montanan to Montanan; Friend to Friend.

Dear Friend,

Election day is almost here. And our campaign for the U.S. Senate is going great guns.

During the past few months, I have had many opportunities to talk with Friends across Montana. Some of you are people I have known for many years, while others are new acquaintances. But there is one common thread that binds us all.

We all believe that is is time for a change in the U.S. Senate.

I share your Montana values... opposition to higher taxes and more government spending, stiffer penalties for drug pushers, a strong national defense, and most important, a committment to listen to the people of Montana.

You have done so much for my campaign and now I need to ask you to do one more thing. Help us turn out everyone you know on Tuesday, November 8th at the polls.

Please call everyone you have written or spoken with about our campaign. Based on what I have heard, it is going to be an extremely close election. But with your help, we will once again be victorious.

Phyllis and I thank you from the bottom of our heart. We are so blessed to have "Friends" like you.

Conrad

Montana Republican
State Central Committee
1425 Helena Ave.
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NO DISCLAIMER

Shame on you John Melcher.

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. . . for working against the people of Montana.

☆John Melcher could have brought 5,000 jobs to our area.

But he refused.

The Midgetman Missile is a major defense program that would bring 5,000 new jobs to our area. In 1987 alone, over $1 Billion was budgeted for research and development.

And Malmstrom Air Force Base has always been the preferred site for the missile's placement.

Congressman Ron Marlenee worked tirelessly to get John Melcher to support bringing the Midgetman missile project to our area.
In fact, support from John Melcher was called a "prime consideration" in the Pentagon's decision on where to locate the missiles.

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☆**But John Melcher refused to support bringing Midgetman and 5,000 new jobs to our area.**

Without Midgetman, our way of life will be threatened because jobs and people will continue to leave our area. And that affects us all.

☆**Once again, Melcher didn't listen to us.**

In fact, according to the Great Falls Tribune, Melcher's press secretary admitted he "did not know how Melcher stood" on a vote to fund the Midgetman project.

When his own staff doesn't know how he votes on jobs for Montana . . . it's time to send John Melcher a message he'll hear loud and clear on election day.

Vote for a Senator who will listen to us.
Let's send a message to John Melcher.

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Conrad Burns...A Senator who will listen to us.

It's time for a change in Montana. It's time for Conrad Burns.

☆ ☆ ☆ Colonel Jack Moore, U.S.A.F. (Ret.) ☆ ☆ ☆
Former Base Commander, Malmstrom A.F.B.

Dear Friend,

As former base commander at Malmstrom Air Force Base believe me, I care about our area and the special way of life we enjoy.

But our way of life will be threatened without the Midgetman project and the 5,000 jobs it will bring to Great Falls.

This election day there is a clear choice.

Only one candidate for U.S. Senate is 100% behind the Midgetman Missile . . . Conrad Burns.

More important, Conrad is the only candidate who can work with Ron Marlenee and George Bush, to bring Midgetman and new jobs to Great Falls.

And Conrad Burns will listen to us. Period.

That's why I'm voting for Conrad Burns for U.S. Senate. Our area needs a Senator who understands us, and will work for us in Washington.

I look forward to having Conrad Burns as my Senator because you and I can count on him to work for Montana jobs and a strong defense for our nation.

I hope you will join me in voting for Conrad Burns for United States Senate.

Sincerely,
Jack L. Moore
Colonel Jack Moore, U.S.A.F. (Ret.)
Former Base Commander, Malmstrom A.F.B.

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"America needs his kind of down-to-earth experience in Washington."

President Ronald Reagan

"We need Conrad Bu

The President and Vice-President, Western U.S. Senators and Congressmen have a few things to say about our next U.S. Senator.

"Conrad Burns and I share the same western values. If I were a Montanan and you'd ask me who I'd vote for, it would be Conrad Burns, you bet."

President Ronald Reagan

"We need more men like Conrad Burns in the Senate. I am proud to be on the ticket with him."

Vice-President George Bush

"Why am I four square behind my old friend, Conrad Burns? Because that's the way Montanans are, they stand behind their friends. I've known Conrad a long, long time and he cares about you and me and Montana."

Congressman Ron Marlenee

"I'm aware of what pride we all had in Mike Mansfield and other great Western Senators. We kind of like to see our Senators pulling their share of the load. Conrad Burns has been to every part of Montana.

"From the hi-line in the north, to the south, east and west, Conrad Burns really knows this state and he's going to do a beautiful job after he wins."

Senator Alan Simpson, (Wyoming)

"Conrad Burns will be an outstanding senator, and it will be an honor to serve with him in the U.S. Senate. Conrad will be ready to make a difference from day one because he's already been out there working every day for Montana."

Senator Bob Dole, (Kansas)

"We need him in the Senate. Many of the critical issues are decided by just one vote. Conrad can make the difference."

Senator Don Nickles (Oklahoma)

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ns in the U.S. Senate."

Common Sense
Uncommon Ability

For over 25 years, Conrad Burns has worked for the things we believe in — giving unselfishly to our community as a leader in business and government.

Conrad Burns has worked to make our state a better place to live — solving problems for our people and serving as a forceful advocate for the things we want — and don't want — from government.

As an elected official, Conrad worked to balance the budget of Montana's largest county without raising taxes.

Conrad Burns has proven he has the wisdom, strength, and common-sense to work against politicians more interested in bigger government than solving our problems.

As our U.S. Senator, Conrad Burns will be on guard for the working men and women of Montana who want to keep more of their hard earned paycheck.

Conrad Burns is one of us, for all of us. But most important, Conrad Burns has the know-how, determination and commitment to give us representation that puts concern, common sense and positive results above all else.

It's time for a change.
It's time for Conrad Burns.

Conrad Burns.
A Montana voice for Montana values.

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Dear Friend,

I believe our public officials must have some very strong beliefs — about public service, about earning our trust — and most of all, standing up for the people of Montana.

I have lived most of my adult life in Montana. I understand our values and special way of life. And I know higher taxes cost Montana jobs because our economy depends on the growth of small business to create jobs.

That's why I oppose any new tax increase, and have sent a letter to George Bush promising to vote to sustain his veto of any legislation that attempts to raise taxes on the American people.

Our Senator should understand that government should cut spending when families are struggling with high prices and excessive taxation. As your U.S. Senator I'll listen to your concerns, and take a strong voice for the Montana values you and I share to Washington.

We haven't had that kind of representation in the Senate for a long, long time.

Sincerely,

Conrad

Conrad Burns
U.S. SENATE

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1425 Helena Ave.
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Our children...our future

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D. Glen Thomson
Montana State Highway Patrolman (Ret.)

Dear Friend,

One candidate for U.S. Senate has made the fight against dangerous drugs and crime a top priority.

That candidate is Conrad Burns.

As a law enforcement official for 18 years, I know we need a Senator who understands the terrible toll drugs are taking on our children, our schools and our society.

That's why I'm working hard to get Conrad Burns elected Senator.

Believe me, I know how important it is to keep our children off drugs. I've seen firsthand the devastating impact dangerous drugs can have on our youth.

Conrad Burns has made it clear that he will work day and night to make life miserable for those who sell drugs. He even supports the death penalty for drug kingpins.

And Conrad Burns will work to get the federal government the tools it needs to win the war against drugs.

Conrad Burns is exactly the kind of hard working, honest, and effective U.S. Senator we need fighting for us.

Please join me, and all of us who care about stopping dangerous drugs and fighting crime, in supporting Conrad Burns for Senator.

Sincerely,

D. Glen Thomson

D. Glen Thomson
Montana State Highway Patrolman (Ret.)
Former Undersheriff, Yellowstone County

precious resource is our children. We must squarely face the dangers of drug abuse as the single greatest threat to our children, our families, and our society. I'll be a Senator who will fight to protect Montana values."

Conrad

Conrad Burns
U.S. SENATE

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The issue is... DRUGS

Nearly every day now we hear another story about how drug abuse has destroyed a life or promising career.

Some of these people are well known. But all too often it's the young girl or boy down the block, or a fellow worker, or a family member. Drugs do more than destroy lives — they are the major cause of the crime and violence that threaten our schools, our neighborhoods and our work places.

Violent drug related crimes are devastating our state. Our northern border has become a pipeline for illicit drug traffic.

This year, more than any other, it is critical to know where the candidates for U.S. Senate stand on the issue of getting tough on drugs.

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A Comparison of Conrad Burns and John Melcher on critical drug issues:	Conrad Burns	John Melcher
1986 Comprehensive Drug Bill. (authorized $1.4 Billion for critical drug interdiction. Increased penalties for certain drug offenses.)	YES	NO
Authorize Death Penalty for drug related murderers?	YES	NO
Support drug enforcement money to state and local police?	YES	NO
Support additional funding for Drug Enforcement Agency?	YES	NO
Support Death Penalty for major drug dealers? (Drug Kingpins)	YES	NO

*All candidates' stands are taken from official voting records and the candidate's own statements.

The record is clear. John Melcher has voted repeatedly to make life easier for those who are poisoning our children. In fact, on October 13 he voted once again against the death penalty for drug dealers. And his politically expedient vote on October 14 does not reflect a commitment to an all out war on drugs.

Why does John Melcher place more value on the lives of drug dealers than the lives of our children?

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One thing Montanans agree on . . .

John Melcher just doesn't listen to us.

The 44 Montana organizations and individuals listed below have joined together to OPPOSE John Melcher's Wilderness Bill.

Montana Farm Bureau
Montana Stockgrowers
Montana Logging Association
Western Environmental Trade Assn.
Montana Woolgrowers Assn.
Montana Petrolcum Assn.
Judith Gap Forest Products
Stoltze Lumber Co.
Louisiana Pacific
Montana Snowmobilers Assn.
Montana Trail Bike Riders
Montana 4x4 Association
Blue Ribbon Coalition
Fergus County Commissioners
Granite County Commissioners
Teton County Commissioners
Friends of the Kootenai Forest
Communities for a Great North West
North Lincoln County Coalition
Troy Resources For an Environmental Economy
Balanced Environmental Solutions for Tomorrow
Five Valley Economic Coalition

SW Montana Economic Coalition
People for an Economically Sound Montana
Flathead Snowmobilers Association
Over The Snow Inc.
Lumber Enterprises
Idaho Pole
The Montana Mining Association
LP Enterprises (Lynn Post)
Bitteroot Chapter of the Montana Women in Timber
Montana Home Builders Assn.
Disabled American Veterans, Chapter 10 - Billings
Berg Lumber Co. - Lewistown
Sen. Gary Aklestad
Rep. Bob Marks
Rep. Chuck Swysgood
Rep. John Cobb
Rep. Bernie Swift
R. & R. Lumber, Lincoln
Sequoia Industries, Townsend
American Timber, Olney
D & G Lumber, Three Forks
Darby Lumber Co.

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Why?

Because Melcher's Bill will cost Montana jobs.

For 8 years we told John Melcher, Montana doesn't need more wilderness. For 8 years he ignored us. He did not even hold a single public hearing on his bill in Montana.

Then, in the eleventh hour of his reelection campaign, John Melcher forced a Wilderness Bill down our throats that a majority of Montanans oppose.

The Montana Farm Bureau **told him** his bill was "a mistake."

The Montana Stockgrowers Association **told him** they opposed his bill.

The Forest Service **told him** they "weren't happy with it."

And thousands of Montanans **told him** Montana needs more jobs, not more wilderness.

Yet, John Melcher refused to listen to us.

Now it's time to send John Melcher a message he'll hear. Loud and clear. Join your fellow Montanans on election day.

Vote for a Senator who will listen to us.
Vote for Conrad Burns for United States Senate.

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Let's send John Melcher a message.

Montanans for Jobs

Dear Fellow Montanan,

The people of Montana have been ignored for too long.

In pushing for his Wilderness Bill, John Melcher not only ignored the will of the majority of Montanans, he worked against them.

But this year we can send a message to John Melcher. Montanans can vote for Conrad Burns for Senate.

Only Conrad Burns has demonstrated an understanding of the need for jobs in our state, a commitment to listen to the people of Montana, and a sense of the Montana values we all share.

As a Yellowstone County Commissioner, Conrad Burns has demonstrated that he knows how to make government work for people . . . providing opportunity and an atmosphere for economic growth without government interference.

That's why I am voting for Conrad Burns for United States Senate on Tuesday, November 8. I hope you'll join me.

I know Conrad Burns will be a Senator who listens to the people of Montana. And we haven't had that kind of representation in the Senate for a long, long time.

Sincerely,

Andy Grande

Andy Grande
Martinsdale, Montana

Conrad Burns
U.S. SENATE

It's time for a change. It's time for Conrad Burns.

Paid for by Montana Republican Party Committee

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The Real Dukakis Story

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Montana Republican State
Central Committee
1425 Helena Ave.
Helena, MT 59601

KENT WOODMANSEY
3517 14 AV S
GREAT FALLS, MT 59405

Paid for by Montana Republican State Central Committee [illegible]
Helena, Montana 59601 [illegible]
Printed by [illegible]

The Plain Dealer, October 1987

Dukakis says Star Wars should be scrapped

The Dukakis Plan for Weaker America

Dukakis has vowed to cut major weapons systems, substantially reduce defense spending and withdraw American support for freedom fighters around the world. National security expert James Schlesinger says that Dukakis is dangerously naive about national defense matters and accuses Dukakis of being "viscerally anti-military." Jimmy Carter's

- refused to allow members of the Massachusetts National Guard to be sent to noncombatant duties in Panama and Honduras.

Dukakis has said he would:

- oppose development and deployment of the Strategic Defense Initiative

Air Command in case of nuclear attack. Defense experts say Dukakis' refusal to allow Massachusetts to join with this plan creates a **serious gap in our defenses** as the primary facility for detecting submarine launched missiles is located on Cape Cod.

When it comes to national defense, **the**

has endorsed George Bush for President. Dukakis' foreign policy has been called "pure McGovern" by Morton Kondracke, senior editor of the *New Republic*.

During the Reagan-Bush Administration, Dukakis:

- called the rescue mission that liberated Grenada in 1983 a misuse of U.S. military power.
- did not support the U.S. bombing of terrorist Qadhafi's Libya in 1986.
- opposes U.S. aid to anti-communist freedom fighters in Nicaragua and Angola.
- supported the Nuclear Freeze movement.
- curtail spending for the B-1 bomber.
- oppose the MX missile.
- oppose the proposed Midgetman Missile.
- oppose two planned aircraft carriers.
- oppose testing and development of anti-satellite weapons.

As Governor of Massachusetts, Dukakis refused to allow Massachusetts to participate in the Ground Wave Emergency Network, a vital communications system designed to transmit warnings and orders to the Strategic

Dukakis is a McGovern Democrat who instinctively opposes the use of military force and is dangerously naive about national defense. He will seriously weaken, if not kill, the Reagan/Bush program to develop a strategic defense against nuclear attack. The weapons systems he has promised to cut will leave America at risk in a dangerous world and undo the Reagan/Bush defense build-up that has brought the Soviet Union to the bargaining table.

DEFENSE

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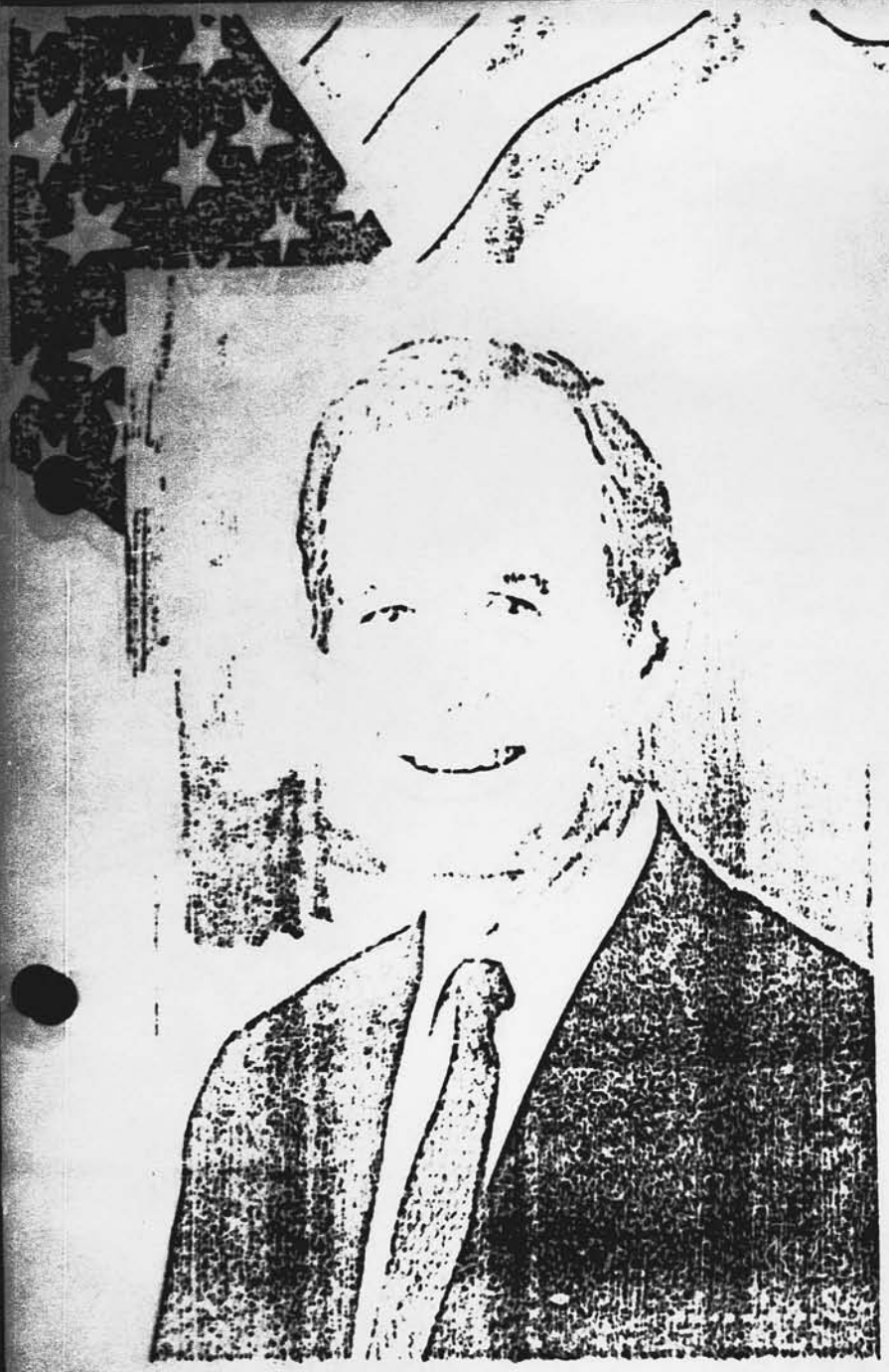

GEORGE BUSH AND MONTANANS ARE STRONG ON DEFENSE

Here in Montana we're proud of the role we've played in the rebuilding of our nation's defenses under the Reagan/Bush administration. We don't want to see the country slip back again.

That's why more and more Montanans are turning to George Bush for President.

When we compare the accomplishments and values of George Bush with the proposed defense cuts and fuzzy thinking of Michael Dukakis there's only one choice for Montana. . .

GEORGE BUSH
FOR PRESIDENT

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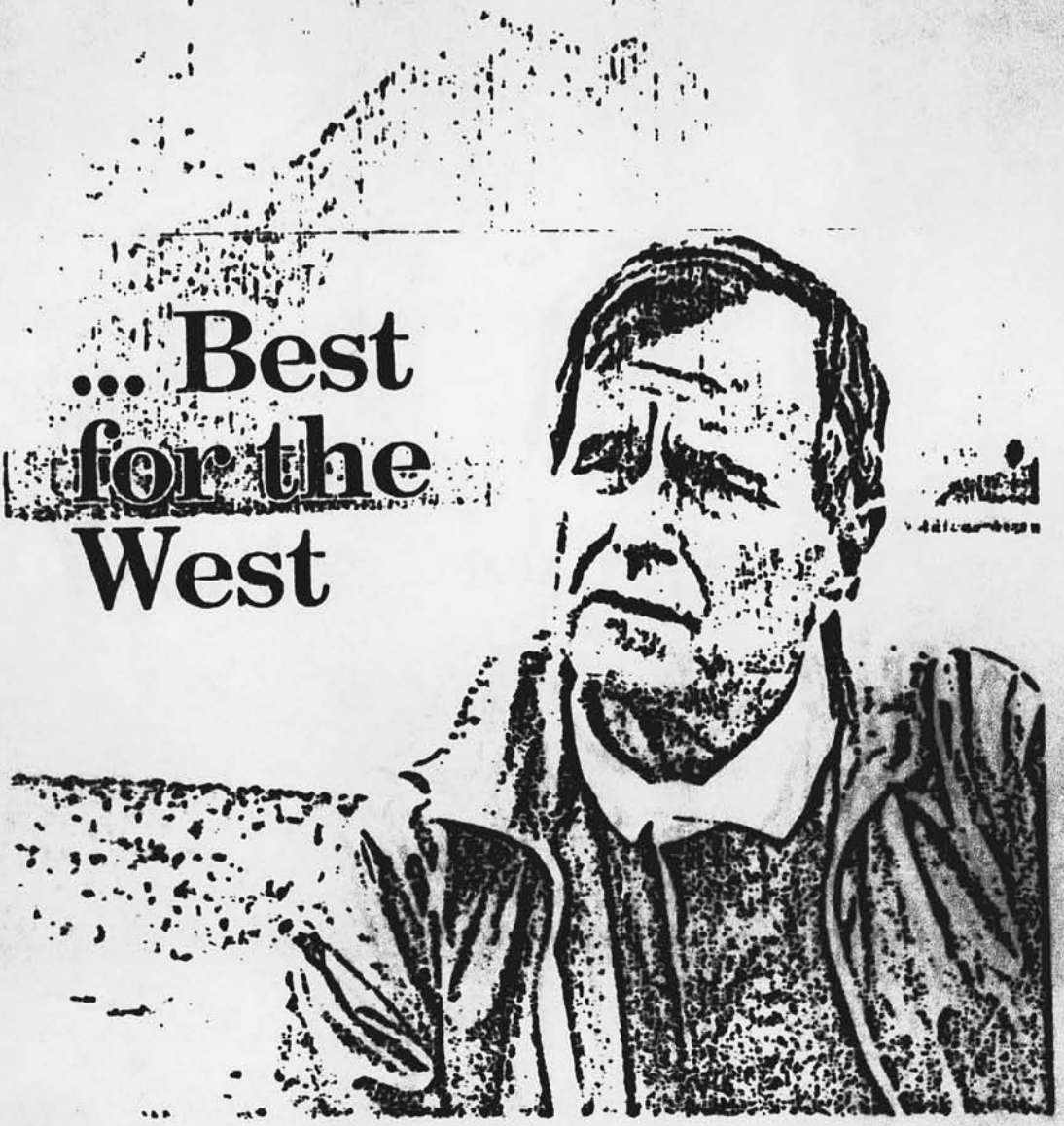
George Bush...



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...and Best for the Country

Bush	Dukakis
WATER	
Believes in the century-old tradition of state control of Western water rights... and he is committed to leave control in the West.	Favors a national water policy controlled and managed in Washington where the bureaucrats are in control.
CRIME	
Supports mandatory sentences for drug dealers, the death penalty for drug kingpins and no weekend passes for convicted murderers.	Opposes the death penalty, vetoed mandatory sentences for drug dealers and let violent criminals out of jail on weekends.
DEFENSE	
Worked with President Reagan to rebuild our nation's defenses so we can negotiate with the Soviets from strength	Opposes virtually every new major strategic weapons system and favors a nuclear freeze.
TAXES	
Will not raise taxes — period	As Governor, raised taxes in Massachusetts by over $1 billion. Won't rule out a federal tax increase.
GUN CONTROL	
Supports the individual's right to own a gun	"I do not believe in people owning guns, only police and military. I am going to do everything I can to disarm this state." Michael Dukakis – June 16 1986

George Bush understands the independent nature of Montana. As President, he'll defend our values and ideals... because he shares them.

George Bush — Best for the West and Best for the Country!

Montana Republican State Central Committee
1425 Helena Ave
Helena MT 59601

CAR-RT SORT ** B006
00201804 0002
NANCY KAISER-NELSON
1004 FRANKLIN ST BOX 937
FORT BENTON, MT 59442

Bush & Quayle

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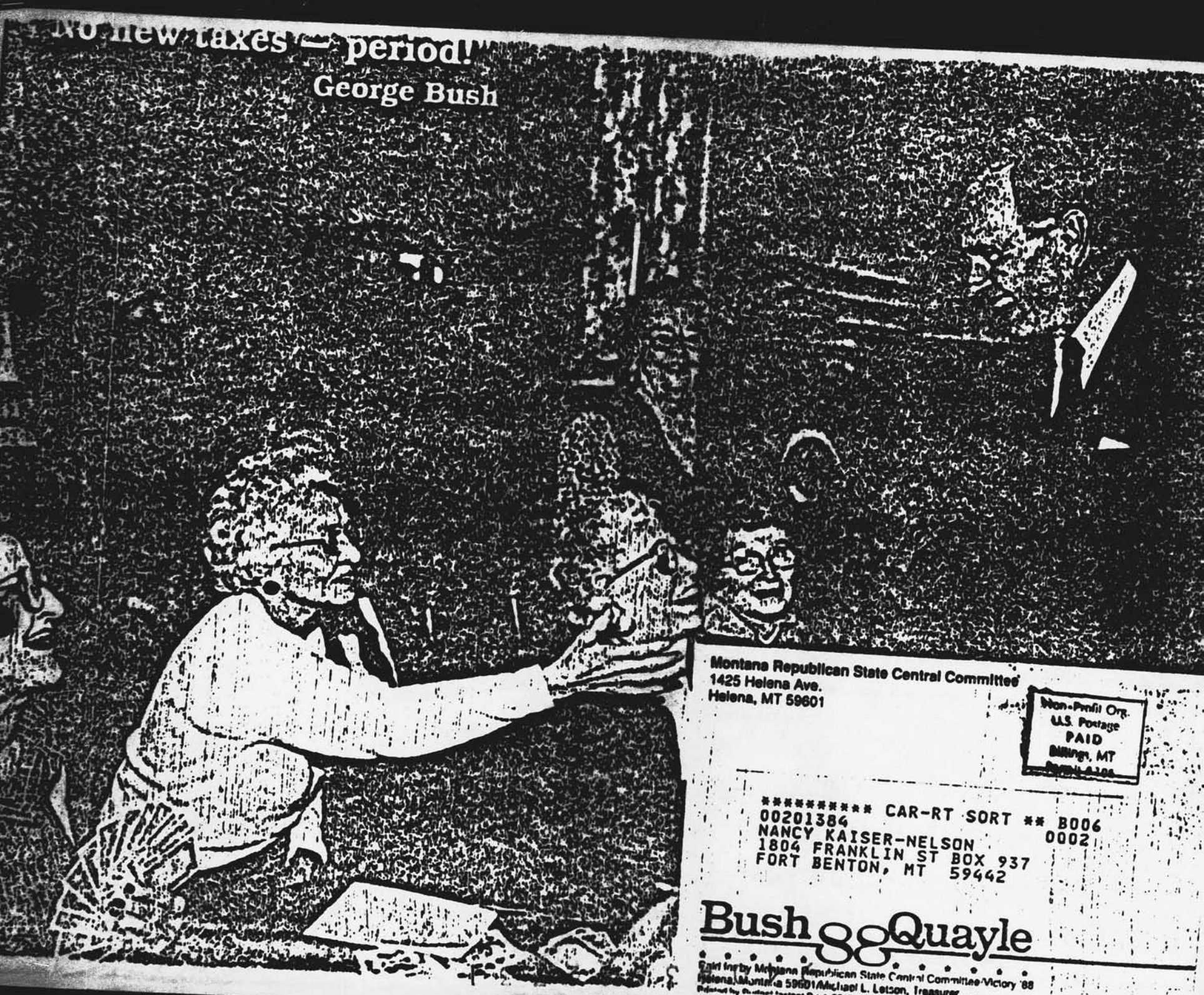

Montana Republican State Central Committee
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Helena, MT 59601

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Bush 88 Quayle

Paid for by Montana Republican State Central Committee-Victory '88
Helena, Montana 59601/Michael L. Letson, Treasurer.

TAXES

Because there is a *BIG* difference

Bush	Dukakis
TAX CUTS	
Federal income taxes cut by 25% in last eight years.	As Governor, raised taxes in Massachusetts by $1 billion. He raised taxes 7 times and even had one tax named after him, "THE DUKAKIS SURTAX."
TAX HIKES	
Will not raise taxes — period.	Won't rule out federal increase.
BIG SPENDING	
As President, favors line-item veto to control wasteful spending.	As Governor, Massachusetts state spending rose 73% from 1983 to 1987, four times faster than cost of living and three times faster than federal spending.
PENSION FUND RAIDS	
As President, will never borrow from Social Security or other pension funds.	As Governor, raided state's pension fund to make up budget deficit. Massachusetts now has the most underfunded state pension fund in the nation.
BALANCED BUDGET AMENDMENT	
Supports Balanced Budget Amendment.	Opposes constitutional amendment to require a balanced federal budget.

The "Bottom Line"

The Reagan-Bush Administration has created a record number of jobs, lowered taxes, and brought inflation way down. And they made the Social Security system solvent.

In contrast, Governor Dukakis raised taxes to record levels, skyrocketed state spending, and raided the state pension fund.

As President, George Bush would never do that.

So when you think about your choice for President, remember there is a difference...

9404358273 2

NRSC ACCUSED OF VIOLATING RACKETEERING LAW DURING 1988 MONTANA SENATE RACE

The National Republican Senatorial Committee (NRSC) may soon be sued under a controversial racketeering law for allegedly making, and attempting to hide, excessive contributions and expenditures made in Montana to bolster the 1988 Senate campaign of GOP Sen. Conrad Burns.

Terry Merica, former executive director of the Montana Republican Party, plans to amend a current Montana state court lawsuit against the NRSC and the state GOP to include a count under the Racketeer Influenced and Corrupt Organizations Act -- commonly known as RICO, according to a source familiar with the litigation. If filed, the complaint could present a test case on whether RICO can be used to challenge election-law violations.

The state Democratic Party and Common Cause are also considering some form of legal action. "We're considering taking steps," said Bruce Nelsen, state Democratic Party chairman. "We're looking at all the information."

RICO is infamous for its draconian penalty and forfeiture provisions, including triple damages. Currently, the Senate and House are considering revisions that could narrow the law's scope and penalties. But under one proposal, if Merica files his complaint before the changes become effective, he would be grandfathered in and would have full access to the law.

Merica charged in a wrongful discharge suit filed in December that he was fired after questioning the legality of certain contributions, expenditures and transfers by the NRSC. Merica said that the NRSC used the state party as a disguised "conduit" and a "clearinghouse" for funds purportedly given to help party-building activities, but which in fact were spent to assist Burns in a tight Senate race against John Melcher.

The NRSC actions caused Ward A. Shanahan, then legal counsel to the Montana GOP, to write an internal memorandum to the national party protesting what he said were "financial shenanigans" and "chicanery" by NRSC representatives. "They routinely attempt to incur expenditures in the name of the Montana Republican Party or the state Republican Central Committee, without the knowledge of the chairman, the state treasurer, or the executive director," wrote Shanahan.

Under federal law, the NRSC was permitted to make $17,500 in direct contributions and $92,500 in so-called coordinated expenditures to aid Burns. In addition, the committee was permitted to make unlimited "transfers" of funds to the state party for specific "exempt" purposes, such as promoting "party-building activity" -- but only if certain conditions regarding the use of the funds were met.

Merica has charged that the NRSC poured "substantial funds" into the state during the final days of the Senate campaign to pay for a voter identification project and direct mailings. Under federal law, such projects would have to be initiated by the state party, have volunteers involved, not be earmarked for a particular candidate, and be paid for with funds raised by the state party, not by the national committees. Merica claims that those conditions were violated by the NRSC, and that both the voter ID and the mailings were financed to aid Burns.

The NRSC has previously said the transfers were legal and were used to help the state party pay for salaries and other administrative expenses. William B. Canfield III, legal counsel for the NRSC, declined to discuss the specifics of the Merica lawsuit because it is pending.

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But in a January analysis of the controversy, National Journal writer James A. Barnes concluded that even if the NRSC had paid for all other administrative expenses of the state party, the Montana GOP would not likely have had enough funds to pay for even the postage bill for the mailings.

Merica is currently fighting an effort by the NRSC to dismiss his complaint on the grounds that it was not filed within the time permitted bythe pertinent statute of limitations. The amended RICO claim would be based on a mail and wire fraud and would have a lengthier period for filing.

Merica is not the only person in Montana who has complaints about the NRSC. Delores Colburg, the state's political practices commissioner, had been locked in a battle with the committee over its refusal to file FEC reports with the state commission. Colburg said that the NRSC stonewalled her initial requests for filings until the local press recently began covering the issue. Section 108.3 of the Code of Federal Regulations states that "a copy of each report and statement" required to be filed with the FEC "shall be filed with the appropriate State officer of that State in which an expenditure is made in connection with the campaign of a candidate..."

In an April 24 letter to Colburg, Canfield maintained that the NRSC had no duty to file reports with her, but said it would do so in the future. During an interview with *CPR*, Canfield said he had received contradictory legal opinions concerning the requirement, but said that it was his position that reports need only be filed with a state if coordinated expenditures are made in that state. Canfield said virtually all of the coordinated expenditures on behalf of Burns in 1988 were made from Washington, D.C.

Colburg, however, said she remains unsatisfied with the NRSC response, and said she consulted with FEC staff director John Surina and general counsel Larry Noble, both of whom assured her that the reports must be filed with the state. Colburg also said she has received a letter from Merica claiming that the most recent NRSC filings are incomplete in that they do not include some in-kind contributions, coordinated expenditures and allocations among candidates. "I don't know why they've made such a big deal out of this," said Colburg. "Maybe they're just gun shy because of the lawsuit."

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TABLE 2 (Page 3)
CONRAD BURNS FOR U.S. SENATE
NRSC COORDINATED EXPENDITURES AND SELECTED BURNS RECEIPTS

ELECTION DAY, TO NEW YEAR'S DAY, 1989

	Nov 12	Nov 19	Nov 26	Dec 3	Dec 10	Dec 17	Dec 24	Dec 31	Subtotal	Total	
In-state	$3,440	$1,250		$1,250					$5,940	$66,361	7.9
Out-of-st.	$9,680	$1,500			$5,750	$500	$250	$4,500	$22,180	$143,451	17.3
NRSC Earm	$100								$100	$172,378	20.5
M&N Earm.	$3,500								$3,500	$41,072	4.9
MMC Earm.	$675								$675	$23,556	2.8
NRCC									$0	$5,000	1.2
NSRC									$0	$4,000	0.5
Parties	$155		$29	$45	$109		$200		$538	$8,406	1.0
PACs	$18,815	$1,100	$2,000	$10,000	$13,792	$10,700	$37,500	$5,000	$98,907	$300,849	35.8
C.Exp.					$500				$500	$73,966	8.8
Total	$36,365	$3,850	$2,029	$11,295	$20,151	$11,200	$37,950	$9,500	$132,340	$839,039	
	4.3%	0.5%	0.2%	1.3%	2.4%	1.3%	4.5%	1.1%	15.8%		

"NRSC Earm" means contributions sent through NRSC Illegal Bundling Program

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 20, 1990

The Honorable Kelly Addy
Speaker Pro Tempore
220 Parkhill Drive
Billings, Montana 59101

RE: MUR 3087

Dear Mr. Addy :

This letter acknowledges receipt on July 13, 1990, of your complaint alleging possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"), by the National Republican Senatorial Committee, the Republican National Committee, the Colorado Republican Federal Campaign Committee, the Montana Republican State Central Committee, Bush-Quayle '88, Lawrence Research, Conrad Burns/U.S. Senate, the Friends of Jim Fenlason for Congress, and Montanans for Marlenee. 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 3087. 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

9404358273 6

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 20, 1990

James L. Hagen, Treasurer
National Republican Senatorial Committee
425 Second Street, N.E.
Washington, D.C. 20002

RE: MUR 3087

Dear Mr. Hagen:

The Federal Election Commission received a complaint which alleges that the National Republican Senatorial 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 3087. 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.

2404358273 7

If you have any questions, please contact Jeff Long, the staff member 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

24043582738

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 20, 1990

William J. McManus, Treasurer
Republican National Committee
310 First Street, S.E.
Washington, D.C. 20003

RE: MUR 3087

Dear Mr. McManus:

The Federal Election Commission received a complaint which alleges that the Republican National 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 3087. 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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9404358273 9

If you have any questions, please contact Jeff Long, the staff member 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

9404358274O

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 20, 1990

Douglas L. Jones, Treasurer
Colorado Republican Federal Campaign Committee
1275 Treemont Place
Denver, Colorado 80204

RE: MUR 3087

Dear Mr. Jones:

The Federal Election Commission received a complaint which alleges that the Colorado Republican Federal Campaign 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 3087. 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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Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 20, 1990

Shirley J. Warehime, Treasurer
Montana Republican State Central Committee
1425 Helena Avenue
Helena, Montana 59601

RE: MUR 3087

Dear Ms. Warehime:

The Federal Election Commission received a complaint which alleges that the Montana Republican State Central 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 3087. 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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9404358274 3

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Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

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

9404358274 4

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 20, 1990

J. Stanley Huckaby, Treasurer
Bush-Quayle '88
228 S. Washington Street #200
Alexandria, VA 22314

RE: MUR 3087

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 3087. 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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Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

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

24043582746

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 20, 1990

Dr. Gary Lavrence
Lavrence Research
1450 N. Tuston Avenue
Suite 150
Santa Ana, CA 92701

RE: MUR 3087

Dear Dr. Lavrence:

The Federal Election Commission received a complaint which alleges that Lavrence Research 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 3087. 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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Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

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

9404358274 8

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 20, 1990

Jim Swain, Treasurer
Conrad Burns/US Senate
P.O. Box 3311
Billings, Montana 59103

RE: MUR 3087

Dear Mr. Swain:

The Federal Election Commission received a complaint which alleges that Conrad Burns/US Senate 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 3087. 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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Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

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2. Procedures
3. Designation of Counsel Statement

9404358275O

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 20, 1990

Shirley Warehime, Treasurer
Friends of Jim Fenlason for Congress
P.O. Box 1988
Belgrade, MT 59714

RE: MUR 3087

Dear Ms. Warehime:

The Federal Election Commission received a complaint which alleges that Friends of Jim Fenlason for Congress and you, as treasurer, may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3087. 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.

9404358275 1

If you have any questions, please contact Jeff Long, the staff member 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: James F. Fenlason
6474 Tooley Road
Bozeman, MT 59715

9404358275 2

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 20, 1990

Douglas N. Wilson, III, Treasurer
Montanans for Marlenee
P.O. Box 1776
Great Falls, MT 59403

RE: MUR 3087

Dear Mr. Wilson:

The Federal Election Commission received a complaint which alleges that Montanans for Marlenee 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 3087. 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.

9404358275 3

If you have any questions, please contact Jeff Long, the staff member 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: The Honorable Ron Marlenee
2465 Rayburn HOB
Washington, D.C. 20515

24043582754

OGC 7157

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

90 AUG -2 AM 10:48

WILEY, REIN & FIELDING

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

FACSIMILE
(202) 429-7049
TELEX 248349 WYRN UR

JAN WITOLD BARAN
(202) 429-7330

July 31, 1990

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 AUG -2 AM 11:51

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

Attn: Jeffrey Long

Re: MUR 3087 (National Republican Senatorial Committee and James L. Hagen, as Treasurer)

Dear Mr. Noble:

This office represents the National Republican Senatorial Committee ("NRSC") and James L. Hagen, as Treasurer in Matter Under Review ("MUR") 3087. An executed Statement of Designation of Counsel is attached hereto.

This complaint involves activities which took place in connection with the 1988 election cycle. The employees of the NRSC with knowledge regarding this matter are no longer associated with the NRSC.

A response to this complaint is currently due on August 8, 1990. In order to fully confer with our clients, as well as to locate the individuals with knowledge of the facts of this matter who are no longer employed by the NRSC; to obtain whatever information and documentation which may prove necessary with respect to this matter; and to enable Respondents to fully and fairly respond to this complaint, I respectfully request a sixty day extension to and including October 8, 1990 within which to respond. This request will not prejudice the resolution of this matter in any way.

Your favorable consideration of this request will be appreciated.

Sincerely,

Jan Witold Baran

Enclosure
cc: James Hagen
William C. Canfield, III, Esquire

2404358275 5

00C7122

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

90 AUG -3 AM 10:33

WILEY, REIN & FIELDING

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

August 2, 1990

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

ATTN: Jeffrey Long

Re: MUR 3087 (National Republican Senatorial Committee and James L. Hagen, as Treasurer

Dear Mr. Noble:

Enclosed please find an original executed Designation of Counsel form for the above captioned Matter. This was inadvertently omitted from our letter of July 31, 1990.

Sincerely,

Robin Barbee

(Mrs.) Robin Barbee
Secretary to Jan Witold Baran

Encl.

90 AUG -3 AM 11:52

FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

2404358275 6

STATEMENT OF DESIGNATION OF COUNSEL

MUR 3087

NAME OF COUNSEL: Jan Witold Baran

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

TELEPHONE: (202) 429-7330

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

Date

James L. Hagen
Signature

RESPONDENT'S NAME: National Republican Senatorial Committee and James L. Hagen as Treasurer

ADDRESS: 425 2nd St., N.E.
Washington, D.C. 20002

HOME PHONE:

BUSINESS PHONE:

24043582757

FEDERAL ELECTION COMMISSION
SECRETARIAT
90 AUG -3 PM 5:06

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SENSITIVE

August 3, 1990

MEMORANDUM

TO: The Commission

FROM: Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

SUBJECT: MUR 3087
Request for Extension of Time

By letter dated July 31, 1990, counsel for the National Republican Senatorial committee requested an extension of 60 days in which to respond to to the complaint in this matter. Attachment 1. The letter explains that an extension is necessary because the complaint involves activities from the 1988 election cycle and because this time will be necessary to locate individuals with knowledge of the facts who are no longer employed by the NRSC, to obtain the necessary information and documentations, and to enable the NRSC "to fully and fairly respond to this complaint." The notification letters in this matter were sent July 20, 1990. No other respondent has yet filed a response or requested an extension of time.

This Office notes that the complaint in this matter named a number of respondents, including the NRSC. It included several significant allegations against the NRSC: exceeding the coordinated party expenditure limit with respect to the Senate election; undervaluing daily tracking polls provided to the Conrad Burns campaign, financing the production of a statewide voter list without reporting the costs as in-kind contributions to benefiting federal candidates, providing funds to the Montana Republican Party to finance "volunteer" activity, failing to file reports with the appropriate state office in Montana, and illegally bundling $172,378 in contributions to the Burns campaign. The complaint relied in part on a wrongful discharge civil suit filed by the former executive director of the Montana Republican Party. We note that news reports indicate that the former executive director has recently amended his suit to add a Racketeer Influenced and Corrupt Organizations Act (RICO) charge against the NRSC and the Montana Republican Party.

9 4 0 4 3 5 8 2 7 5 8

The above circumstances justify granting an extension of time. In our opinion, however, they do not justify a 60-day extension of time, until October 8, 1990, to respond to this complaint. This extension would be 60 days in addition to the 15 days authorized by the Act for a total of 75 days. Instead, we recommend the Commission grant an extension only to Monday, September 10, 1990. We also proposed that counsel be informed in the notification letter that because the respondent will have bene given not only the statutory 15-day period to respond, but also a 32 day extension, the Commission may proceed to making a reason-to-believe determination in this matter whether or not a response has been received from the respondent.

The Office of the General Counsel recommends that the Commission deny the requested extension of 60 days for the reasons stated above and instead grant an extension until September 10, 1990.

RECOMMENDATIONS

1. Deny the National Republican Senatorial Committee and James L. Hagen, as treasurer, the requested extension of 60 days and approve an extension of 32 days until September 10, 1990.

2. Approve the appropriate letter.

Attachment
1. Request for Extension

2404358275 9

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 3087
National Republican Senatorial Committee)
and James L. Hagen, as treasurer)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on August 21, 1990, do hereby certify that the Commission decided by a vote of 4-0 to reject the recommendations contained in the General Counsel's report dated August 3, 1990, and instead take the following actions in MUR 3087:

1. Grant the National Republican Senatorial Committee and James L. Hagen, as treasurer, the requested extension of sixty (60) days.

2. Direct the Office of General Counsel to send an appropriate letter pursuant to the above action.

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

Attest:

8-27-90
Date

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

9043582760

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 4, 1990

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

RE: MUR 3087
National Republican
Senatorial Committee and
James L. Hagen, as treasurer

Dear Mr. Baran:

This is in response to your letter dated July 31, 1990, requesting an extension of 60 days until October 8, 1990, to respond to the complaint in this matter. After considering the circumstances presented in your letter, the Federal Election Commission has granted the requested extension. Accordingly, your response is due by the close of business on October 8, 1990.

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

Sincerely,

Lawrence M. Noble
General Counsel

9404358276 1

90 AUG 13 PM 12:44

Conrad Burns for U.S. SENATE

August 8, 1990

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 AUG 13 PM 3:49

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

Attn: Jeffrey Long

Re: MUR 3087
Conrad Burns/US Senate and
Jim Swain, Treasurer

Dear Mr. Noble:

The complaint in this matter pertains to activities which allegedly took place in connection with the 1988 election cycle.

A response to this complaint is currently due on August 9, 1990. The complaint is quite lengthy and appears to contain allegations directed primarily at the National Republican Senatorial Committee and the Montana State Republican Party.

We have formally requested an advisory opinion from the FEC regarding the hiring of counsel to represent us in this matter. We need an answer to that request before determining what counsel will be retained to represent us, and we assume a response to our request will take approximately 60 days. In addition, we and any attorney we ultimately retain would need time to fully investigate this matter to enable the Conrad Burns for U.S. Senate Committee and Jim Swain to completely respond to the complaint. Therefore, we respectfully request a ninety day extension to and including November 7, 1990, within which to respond. This request should not prejudice the resolution of this matter in any way.

P.O. Box 331, Billings, MT 59103 (406)

9404358276 2

Your favorable consideration of this request will be appreciated. Please direct all correspondence regarding this matter to the attention of Dennis R. Rehberg, Campaign Manager, p.O. Box 3311, Billings, Montana, 59103.

Thank you for your assistance.

Sincerely,

Jim Swain

Jim Swain, Treasurer

Conrad Burns/US Senate
By Dennis R. Rehberg
Campaign Manager

24043582763

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 9, 1990

MEMORANDUM

TO: The Commission

FROM: Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

SUBJECT: MUR 3087
Request for Extension of Time

By letter dated August 8, 1990, the Conrad Burns for U.S. Senate committee requested an extension of 90 days in which to respond to the complaint in this matter. Attachment. The letter explains that an extension is necessary because the campaign has asked for an advisory opinion regarding the hiring of an attorney to represent them in this matter.[1] The Committee states that it assumes a response to the advisory opinion will take 60 days and that the attorney will need at least 30 days after that to prepare a response.

A representative of the Burns Committee has also raised the question whether the Committee should have been notified of the complaint as a respondent. The representative took the position that the complainant did not identify the Burns campaign as a respondent. Staff of this Office have explained to the Burns Committee that the Act requires notification to any person alleged to have committed a violation. The Office has generally given a liberal construction to this requirement and has not taken the position that the complainant controls who is notified as a respondent. Staff further pointed out to the Burns Committee the specific places in the complaint where allegations that the Burns Committee violated the Act are made. These are:

---

1. In conversations with staff of this Office, a representative of the Burns Committee indicated that they would ask whether the committee could raise funds against the 1988 limitations to pay the cost of hiring an attorney since the allegations related to the 1988 election.

9404358276 4

(1) that "the NRSC and/or the Burns campaign" accepted excessive or prohibited contributions regarding the daily tracking polls by the Gary Lawrence Company; (2) that the NRSC paid for statewide voter list and provided it without charge to federal candidates including the races for "U.S. Congress, U.S. Senate," etc.; and (3) the NRSC illegally bundled $172,378 in contributions to the Burns campaign, citing the Common Cause decision. Thus, we consider the Burns Committee's arguments that it should not have received notification of the complaint as a respondent in this matter to be without merit.

We note that the Commission also has before it a request from counsel for the National Republican Senatorial Committee for a 60-day extension of time. We have recommended that the Commission deny the 60-day extension request and instead grant an extension to September 10, 1990.

The request from the Burns committee stems from a position that they do not want to undertake the expense of hiring an attorney to prepare a response until they know whether they can raise funds against the 1988 limitations to pay the attorney. To require them to respond before they receive a response to their advisory opinion request would, in effect, negate the purpose of requesting the opinion. Staff of this Office have indicated to the Burns Committee that this question has not previously been answered and would present a novel issue. In view of these additional developments, it now appears doubtful a September 10, 1990, deadline can be maintained.[2] At the same time the consideration of the complaint should not be delayed for too long a period of time. Granting the committee an extension of 30 days to run from the date the Commission responds to the advisory opinion request would seem reasonable under these circumstances.

Therefore, the Office of the General Counsel recommends that the Commission deny the requested extension to the Conrad Burns for U.S. Senate committee because it would delay the Commission's consideration of this matter for too long a period of time and instead grant the Committee an extension of 30 days from the day the Commission responds to the Committee's advisory opinion request.

RECOMMENDATIONS

1. Deny the Conrad Burns for U.S. Senate committee the requested extension of 90 days and approve an extension of 30 days after the date the Commission responds to the committee's advisory opinion request.

---

2. Although we are not changing our recommendation in the memorandum dated August 3, 1990, that is also on the agenda for August 14, the Commission may want to consider whether the NRSC should be held to a September 10 deadline if the Burns Committee will be given a longer period in which to respond.

2043582765

2. Approve the appropriate letter.

Attachment
Request for Extension

Staff assigned: Jeffrey D. Long
George F. Rishel

9404358276 6

FEDERAL ELECTION COMMISSION
WASHINGTON DC 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/DELORES HARRIS
COMMISSION SECRETARY

DATE: AUGUST 8, 1990

SUBJECT: MUR 3087 - REQUEST FOR EXTENSION OF TIME
MEMO FROM GENERAL COUNSEL DATED
AUGUST 3, 1990.

The above-captioned document was circulated to the Commission on Monday, August 6, 1990 at 11:00 a.m.

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

Commissioner Aikens	
Commissioner Elliott	
Commissioner Josefiak	
Commissioner McDonald	XXX
Commissioner McGarry	
Commissioner Thomas	XXX

This matter will be placed on the meeting agenda for TUESDAY, AUGUST 14, 1990.

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

2043582767

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 3087
Conrad Burns for U.S. Senate)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on August 21, 1990, do hereby certify that the Commission decided by a vote of 4-0 to take the following actions in MUR 3087:

1. Deny the Conrad Burns for U.S. Senate committee the requested extension of ninety (90) days and approve an extension of thirty (30) days after the date the Commission responds to the committee's advisory opinion request.

2. Approve the appropriate letter as recommended in the General Counsel's report dated August 9, 1990.

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

Attest:

8-27-90
Date

Marjorie W. Emmons
Secretary of the Commission

9404358276 8

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 4, 1990

Jim Swain, Treasurer
Conrad Burns/US Senate
P.O. Box 3311
Billings, Montana 59103

RE: MUR 3087
Conrad Burns/US Senate and
Jim Swain, as treasurer

Dear Mr. Swain:

This is in response to your letter dated August 8, 1990, which we received on August 13, 1990, requesting an extension of 90 days, until November 7, 1990, to respond to the complaint in this matter. After considering the circumstances presented in your letter, the Federal Election Commission has granted you up to 30 days after the Commission concludes its deliberation on your advisory opinion request.

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

Sincerely,

Lawrence M. Noble
General Counsel

9404358276 9

LAW OFFICES OF
CHURCH, HARRIS, JOHNSON & WILLIAMS

I.W. CHURCH (1884-1972)
G.G. HARRIS (1882-1973)
KENNETH R. DYRKID
JEAN E. FAURE
DALE FORBES
RICHARD F. GALLAGHER
ROBERT P. GOFF
MARGARET M.J. JOHNSON
STEVEN M. JOHNSON
W. BJARNE JOHNSON

KRISTEN G. JURAS
DON A. LABAR
MICHEAL F. LAMB
KATHLEEN MAGONE
CRESAP S. McCRACKEN
RON A. NELSON
GREGORY R. SCHWANDT
MILTON O. WORDAL
JEANNIE YOUNG

OF COUNSEL:
BJARNE JOHNSON
WM. A. REID
CARTER WILLIAMS

P.O. BOX 1645 • GREAT FALLS, MONTANA 59403 • 21 THIRD STREET NORTH, 3RD FLOOR • PHONE (406) 761-3000 • FAX (406) 453-2313

August 8, 1990

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 AUG 13 PM 2:44

RECEIVED
FEDERAL ELECTION COMMISSION
90 AUG 13 PM 12:20

Federal Election Commission
Attn: Jeff Long
Office of General Counsel
999 E. Street N.W.
Washington, D.C. 20463

RE: MUR 3087/Montanan's For Marlenee

Dear Mr. Long:

Your letter dated July 20, 1990, to Douglas N. Wilson, III, Treasurer for Montanan's for Marlenee, was delivered to me late Friday afternoon, August 3, 1990, for a response.

Mr. Wilson is out of the city all of this week. I will be unable to obtain his signature on the Statement of Designation of Counsel until Monday of next week at the earliest. At that time, I will forward the Designation to you formally naming myself as counsel for Montanan's for Marlenee with respect to MUR 3087.

In your absence, I had a brief conversation with George. I was at somewhat of a loss to discern where Montanan's for Marlenee was involved in MUR 3087 or what it was that Montanan's for Marlenee allegedly did in the 1988 campaign to violate the Federal Election Campaign Act of 1971, as amended. George was kind enough to point out that on page 4 of Kelly Addy's July 10, 1990, letter, reference is made to the U. S. Congressional race, although no reference is made to Montanan's for Marlenee or Congressman Ron Marlenee by name.

Out of an abundance of caution, the inquiry before us, as I understand it, centers upon whether or not Montanan's for Marlenee received the alleged voter registration list as an in-kind contribution to the 1988 campaign and, if it was received by the campaign, whether or not it was properly reported to the FEC.

Upon Mr. Wilson's return, I will discuss with him this specific issue. We will review the records from the campaign and provide you with such information as is disclosed as a result of such investigation.

9 4 0 4 3 5 8 2 7 7 0

Given Mr. Wilson's absence from the community and my present inability to access records confidentially maintained by Mr. Wilson, I believe it is appropriate to request an extension of several days' within which to formally respond to the complaint.

I can tell you that when I was presented with your letter of July 20, 1990, along with the accompanying material, which was at a time when we did not understand why we received the complaint, it was confirmed to me that for and during the 1988 campaign, Montanan's for Marlenee received no money from Victory '88, no money from Fund For America's Future, no money from the Montana Republican Central Committee, no money from the National Republican Senatorial Committee (NRSC), no money from the Republican National Committee, and no money from the Colorado Republican Central Committee.

Any monies received from the National Republican Congressional Committee (NRCC) have been properly reported.

Sincerely,

CHURCH, HARRIS, JOHNSON & WILLIAMS

BY: GREGORY R. SCHWANDT

GRS:gf

c: Mr. Douglas N. Wilson, III, Treasurer
Montanan's For Marlenee
P. O. Box 1776
Great Falls, MT 59403

9 4 0 4 3 5 8 2 7 7 1

OGC 7412

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

90 AUG 14 AM 10:27

MONTANA REPUBLICAN PARTY

August 13, 1990

HAND DELIVERED

Federal Election Commission
Attn: Mr. Jeff Long
999 E Street, NW
Washington, DC 20463

Dear Mr. Long,

I have enclosed the statement of designation of Counsel for the Montana Republican State Central Committee - MUR 3087.

Sincerely,

Shirley Warehime

Shirley Warehime
Treasurer
Montana Republican State Central Committee

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 AUG 14 PM 12:45

9404358277 2

1425 Helena Avenue • Helena, Montana 59601 • 406-442-6469

Paid for by the Republican Party, Helena, MT 59601, Shirley Warehime, Treasurer. Printed at The Printers, Inc., Helena, MT. Political contributions to the MRP are not tax deductible.

STATEMENT OF DESIGNATION OF COUNSEL

MUR 3087

NAME OF COUNSEL: Charles E. Erdmann, II

ADDRESS: P.O. Box 5418
Helena, MT 59604

TELEPHONE: 406-442-8813

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

8/13/90
Date

Shirley J. Warehime
Signature

RESPONDENT'S NAME: Shirley J. Warehime, Treasurer

ADDRESS: Montana Republican State Central Committee
1425 Helena Avenue
Helena, MT 59601

HOME PHONE:

BUSINESS PHONE: 406-442-5520

MT Republican Party Phone: 406-442-6469

2404358277 3

HAND DELIVERED

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

OGC 7413

90 AUG 14 AM 10:27

CHARLES E. ERDMANN II
CATHERINE M. SWIFT

ERDMANN LAW OFFICE
CAPITOL I CENTER, 208 NORTH MONTANA
SIXTH AVENUE AND NORTH MONTANA
SUITE 206
POST OFFICE BOX 5418
HELENA, MONTANA 59604

TELEPHONE
(406) 442-8813
FAX
(406) 442-8639

August 13, 1990

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 AUG 14 PM 12:45

VIA FEDERAL EXPRESS

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

Re: Your File - MUR3087
Addy Complaint - Montana State Republican Party

Dear Mr. Noble:

I am the general counsel of the Montana State Republican Party (Party) and am representing the Party in the complaint filed by Kelly Addy, dated July 10, 1990 which alleges that the Party violated the Federal Election Campaign Act of 1971 and related regulations. We have received a letter from your office dated July 20, 1990 requesting that the Party respond in writing to the complaint filed by Mr. Addy. This letter further notes that we have 15 days in which to respond to this request for information, which would allow us until August 16, 1990.

The purpose of this letter is to request a 60-day extension in filing our response. The complaint Mr. Addy filed is quite detailed and complex. Since the 1988-89 time period addressed in the complaint, the Party has a new Treasurer, General Counsel and Executive Director. Researching these issues requires us to contact individuals who are no longer associated with the Montana Republican Party. This would be difficult under any circumstances, but given the summer vacation months I am finding that this is extremely difficult. Due to these reasons the Montana Republican Party is unable to assemble the necessary information within the 15 day period. I am therefore requesting an additional 60 days from August 16, 1990 in which to formulate our response.

Thank you for your cooperation in this matter.

Sincerely,

Charles E. Erdmann

/vlm

cc: State Party Office

2404358277 4

OGC 7426

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

90 AUG 14 AM 11:21

Republican
National
Committee

Benjamin L. Ginsberg
Chief Counsel

Michael A. Hess
Janice P. Lacy
Deputy Chief Counsels

August 13, 1990

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 AUG 14 PM 12:46

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

RE: MUR 3087
Republican National Committee

Dear Jeff:

Pursuant to our conversation today, this letter requests an extension of time for the Republican National Committee (RNC) to respond to the above-captioned matter under review.

The RNC formally requests a 20-day extension so that the response will now be due on September 2, 1990. The RNC requests this extension due to travel schedules of RNC legal and administrative staff.

Thank you very much for your consideration.

Sincerely,

Janice P. Lacy

JPL:jd

2404358277 5

OGC 7438

JIM FENLASON
CONGRESS '88

P.O. Box 1988 Belgrade, MT 59714

August 10, 1990

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

Re: MUR3087

Dear Mr. Noble:

I am responding personally to your letter since the campaign committee has been terminated.

I have read your letter and the letter from Mr. Addy. Other than the general statement about Federal candidates on page two and the reference to the races for U.S. Congress on page four I see nothing that would refer to my campaign committee.

The major issue seems to be the list that was generated by the voter identification survey and how it was used in other campaigns. Concerning the use of the list in my campaign we paid for the production of the list through our campaign consultant Target Communications of Helena, Montana and our payment to them is included in our regular filing. I would also note that were an "in-kind" donation required to be added as Mr. Addy purports our campaign would have plenty of room to accept it without exceeding legal limits.

Given these circumstances I see no reason for this committee to be included in the contemplated actions described in your letter. If you should have need of any further information from me please contact me at 104 East Main Street, Suite 408, Bozeman, Montana 59715.

Sincerely,

James J. Fenlason

90 AUG 15 AM 11:10

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

9404358277 6

Paid for by Friends of Jim Fenlason for Congress, Shirley Warehime, Treasurer

06C 7442

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

REED & DAVIDSON
ATTORNEYS AT LAW
888 WEST SIXTH STREET, 12TH FLOOR
LOS ANGELES, CALIFORNIA 90017
TELEPHONE (213) 362-9238
FACSIMILE (213) 623-1692

DANA W. REED
CARY DAVIDSON
BRADLEY W. HERTZ

DARRYL R. WOLD
OF COUNSEL

ORANGE COUNTY OFFICE
3151 AIRWAY AVENUE, SUITE M-1
COSTA MESA, CALIFORNIA 92626
TELEPHONE (714) 641-1688
FACSIMILE (714) 546-1003

90 AUG 15 AM 10:58

August 9, 1990

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 AUG 15 PM 12:04

Mr. Jeff Long
Federal Election Commission
Washington, DC 20463

RE: MUR 3087

Dear Mr. Long:

This letter is to confirm the agreement reached during a telephone conversation between Cary Davidson, Esq. of our office and George Rishel of your office on August 6, 1990 that Dr. Gary Lawrence of Lawrence Research has until Monday, September 10, 1990 to submit his written response to the FEC's July 20, 1990 letter.

The reason for this extension is that we were only recently contacted by Dr. Lawrence to represent him in this matter and have not had an adequate opportunity to prepare a response. I am enclosing with this letter the Statement of Designation of Counsel, designating Cary Davidson of Reed & Davidson as Dr. Lawrence's counsel.

If you require any additional information, please feel free to contact us.

Very truly yours,

Bradley W. Hertz

BWH/tea

cc: Dr. Gary Lawrence

Enclosure

2043582777

STATEMENT OF DESIGNATION OF COUNSEL

MUR 3087

NAME OF COUNSEL: Cary Davidson, Esq.

ADDRESS: Reed & Davidson
888 West 6th Street, 12th Floor
Los Angeles, California 90017

TELEPHONE: (213) 362-9238

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.

July 27, 1990
Date

Signature

RESPONDENT'S NAME: Gary Lawrence

ADDRESS: Lawrence Research
1450 N. Tuston Avenue, Suite 150
Santa Ana, California 92701

HOME PHONE:

BUSINESS PHONE: (714) 558-3725

9404358277 8

LAW OFFICES OF
CHURCH, HARRIS, JOHNSON & WILLIAMS

L.W. CHURCH (1884-1972)
G.G. HARRIS (1883-1972)
KENNETH R. DYRUD
JEAN E. FAURE
DALE FORBES
RICHARD F. GALLAGHER
ROBERT P. GOFF
MARGARET M.J. JOHNSON
STEVEN M. JOHNSON
W. BJARNE JOHNSON

KRISTEN G. JURAS
DON A. LABAR
MICHEAL F. LAMB
KATHLEEN MAGONE
CRESAP S. McCRACKEN
RON A. NELSON
GREGORY R. SCHWANDT
MILTON O. WORDAL
JEANNIE YOUNG

OF COUNSEL:
BJARNE JOHNSON
WM. A. REID
CARTER WILLIAMS

P.O. BOX 1645 • GREAT FALLS, MONTANA 59403 • 21 THIRD STREET NORTH, 3RD FLOOR • PHONE (406) 761-3000 • FAX (406) 453-2313

August 13, 1990

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 AUG 16 PM 12:41

Federal Election Commission
Attn: Jeff Long
Office of General Counsel
999 E. Street N.W.
Washington, D.C. 20463

RE: MUR 3087/Montanan's For Marlenee

Dear Mr. Long:

Enclosed is the original Statement of Designation of Counsel which has now been executed by Douglas N. Wilson, III, Treasurer for Montanan's for Marlenee.

Sincerely,

CHURCH, HARRIS, JOHNSON & WILLIAMS

BY: Gregory R. Schwandt
GREGORY R. SCHWANDT

GRS:gf
Enclosure

c: Mr. Douglas N. Wilson, III, Treasurer
Montanan's For Marlenee
P. O. Box 1776
Great Falls, MT 59403

2404358279

RECEIVED
FEDERAL ELECTION COMMISSION
90 AUG 16 AM 10:57

STATEMENT OF DESIGNATION OF COUNSEL

MUR 3087

NAME OF COUNSEL: Gregory R. Schwandt

ADDRESS: CHURCH, HARRIS, JOHNSON & WILLIAMS
P. O. Box 1645
Great Falls, MT 59403

TELEPHONE: (406) 761-3000

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

8/13/90
Date

Douglas N. Wilson
Signature DOUGLAS N. WILSON, III, Treasurer

RESPONDENT'S NAME: DOUGLAS N. WILSON, III, Treasurer

ADDRESS: Montanan's For Marlenee
P. O. Box 1776
Great Falls, MT 59403

HOME PHONE:

BUSINESS PHONE: (406) 761-4645

9404358273 0

MUR 3087

Bush 88 Quayle

STAN HUCKABY, Treasurer

August 20, 1990

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 AUG 20 PM 5:14

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

Attn: Jeffrey Long

RE: MUR 3087

Dear Mr. Noble:

This response is submitted on behalf of Bush-Quayle '88, Inc., and myself, as Treasurer ("Respondents"), in reply to a complaint filed by Democratic Representative Kelly Addy, Speaker Pro Tem of the Montana House of Representatives, and designated Matter Under Review ("MUR") 3087. For the reasons set forth herein, the Federal Election Commission should find no reason to believe that Respondents violated any provisions of the Presidential Election Campaign Fund Act ("the Fund Act").

The Complaint

The Complaint in this Matter, which names the National Republican Senatorial Committee, the Republican National Committee, the Colorado Republican Central Committee and the Montana State Republican Party as Respondents, concerns a long list of alleged improper activities by those parties. The only

228 South Washington Street • Alexandria, Virginia 22314
Telephone 703-549-8692 • FAX 703-684-0683
Paid for by Bush-Quayle 88

allegation that appears to have any connection whatsoever with Bush-Quayle '88 involves a series of mailings which advocated the election of Conrad Burns to the United State Senate and then-Vice President Bush to the Presidency of the United States. As the Complaint admits, these mailings contained disclaimers which state specifically that they were paid for either by the Montana Republican State Central Committee or the Montana Republican State Central Committee/Victory '88. Complaint at p. 6. Complainant alleges that the Montana Republican State Central Committee was prohibited from making such expenditures and that these expenditures constitute a contribution to Bush-Quayle '88, Inc. ("the Campaign").

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Response

Compliance With The Fund Act.

Section 9003 (b) (2) of the Fund Act requires the candidates of a major party to certify that "no contributions to defray qualified campaign expenses have been or will be accepted by such candidates or any of their authorized committees . . . ." 2 U.S.C. § 9002 (b) (2). As candidates, then-Vice President Bush and then-Senator Quayle made this certification and received public funds for the general election campaign. Further, both candidates organized their one authorized campaign committee, Bush-Quayle '88, to ensure that the campaign strictly adhered to the limits of this certification.

The Bush-Quayle Campaign in Montana

The Bush-Quayle '88 budget for Montana was spent under the direction and supervision of the national campaign headquarters. The majority of these funds were spent for rent on a Bush-Quayle '88 office in Billings, Montana, and the necessary office supplies, telephone bills and payroll to staff that office. All Bush-Quayle '88 materials mailed to Montanans by the campaign were paid for out of the Bush-Quayle '88 accounts and carried the Bush-Quayle '88 disclaimer.

Activity by Others.

The regulations of the Federal Election Commission expressly permit "the payment by a state or local committee of a political party of the costs of campaign materials . . . used by such committee in connection with volunteer activities on behalf of any nominee(s) of such party." 11 C.F.R. § 100.7 (b) (15). The disclaimers on the mailings at issue here expressly state that they were paid for, produced and distributed by the Montana Republican State Central Committee or the Montana Republican State Central Committee/Victory '88. Bush-Quayle '88 therefore presumes that these materials were indeed produced and paid for by the Montana Republican State Central Committee and distributed through volunteer-intensive activities of the state party. Such activity by a state party may legitimately benefit a Presidential campaign without constituting a violation of the Fund Act. Indeed, as noted above, the Commission's Regulations specifically

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contemplate such state party support of a party's national candidates.

Conclusion

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

Sincerely,

J. Stanley Huckaby, Treasurer
Bush-Quayle '88, Inc.

2043582734

OGC 7536

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

90 AUG 21 AM 10:29

Republican
National
Committee

Benjamin L. Ginsberg
Chief Counsel

Michael A. Hess
Janice P. Lacy
Deputy Chief Counsels

August 17, 1990

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

90 AUG 21 PM 2:07

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

RE: MUR 3087
Colorado Republican Federal
Campaign Committee

Dear Jeff:

This letter requests an extension of time for the Colorado Republican Federal Campaign Committee (CRFCC) to respond to the above-captioned matter under review.

The CRFCC received notification of the complaint on July 30, 1990, so that the response to the complaint would be due August 20, 1990. The CRFCC formally requests an extension so that the response will now be due on September 2, 1990. The CRFCC requests this extension due to the travel schedule of legal counsel. The CRFCC Statement of Designation of Counsel, naming Benjamin L. Ginsberg as counsel, which was faxed to you on August 13, 1990, also is attached.

Thank you very much for your consideration.

Sincerely,

Janice P. Lacy

JPL:jd
Enclosure

2404358278 5

Dwight D. Eisenhower Republican Center • 310 First Street Southeast • Washington, D.C. 20003 • (202) 863-8638
Telex: 701144 • FAX: (202) 863-8820

STATEMENT OF DESIGNATION OF COUNSEL

MUR 3087

NAME OF COUNSEL: Ben Ginsberg

ADDRESS: Republican National Committee
310 First Street, S.E.
Washington, D.C. 20003

TELEPHONE: (202) 863 8500

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

8/7/90
Date

Signature

RESPONDENT'S NAME: Douglas L. Jones & Colorado Rep. Federal Campaign Comm.

ADDRESS: Colorado Republican Committee
1275 Tremont Pl.
Denver, CO 80204

HOME PHONE: (303) 377-4943

BUSINESS PHONE: (303) 893-1776

2404358278 6

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 23, 1990

Janice P. Lacy, Esquire
Republican National Committee
310 First Street, SE
Washington, D.C. 20003

RE: MUR 3087
Colorado Republican
Federal Campaign
Committee

Dear Ms. Lacy:

This is in response to your letter dated August 17, 1990, which we received on August 20, 1990, requesting an extension until September 2 to respond to the above-captioned matter under review on behalf of the Colorado Republican Federal Committee. 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 September 4, 1990.

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

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

9404358278 7

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 24, 1990

Gregory R. Schwandt, Esquire
Church, Harris, Johnson & Williams
P.O. Box 1645
Great Falls, Montana 59403

RE: MUR 3087
Montanans for Marlenee

Dear Mr. Schwandt:

This is in response to your letter dated August 8, 1990, which we received on August 13, 1990, requesting an extension to respond to the complaint filed by the Honorable Kelly Addy. After considering the circumstances presented in your letter, I have granted the requested extension. Accordingly, your response is due by the close of business on August 30, 1990.

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

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

9404358278

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 24, 1990

Janice P. Lacy, Esquire
Republican National Committee
310 First Street, S.E.
Washington, D.C. 20003

RE: MUR 3087
Republican National
Committee

Dear Ms. Lacy:

This is in response to your letter dated August 13, 1990, which we received on August 13, 1990, requesting an extension of 20 days to respond to the complaint filed by the Honorable Kelly Addy. 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 September 4, 1990.

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

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

2404358278 9

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 24, 1990

Cary Davidson, Esquire
Reed & Davidson
888 West 6th Street, 12th Floor
Los Angeles, CA 90017

RE: MUR 3087

Dear Mr. Davidson:

This is in response to your letter dated August 9, 1990, which we received on August 15, 1990, requesting an extension until September 10, 1990 to respond. 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 September 10, 1990.

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

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

2040358279O

FEDERAL ELECTION COMMISSION
SECRETARIAT
90 AUG 28 AM 11:29

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SENSITIVE

August 27, 1990

MEMORANDUM

TO: The Commission

FROM: Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

SUBJECT: MUR 3087
Request for Extension of Time

By letter dated August 13, 1990, counsel for the Montana Republican State Central Committee and Shirley J. Warehime, as treasurer, requested an extension of 60 days in which to respond to the complaint in this matter. (Attachment). The letter explains that an extension is necessary in order to contact individuals who are no longer associated with the party in responding to the detailed and complex complaint.

The Office of the General Counsel recommends that the Commission grant the requested extension in view of the Commission's recent decision to grant extensions of 60 days to the National Republican Senatorial Committee and up to 90 days to the Conrad Burns for U.S. Senate committee. The due date for the response will be Monday, October 15, 1990.

RECOMMENDATIONS

1. Grant an extension of 60 days to the Montana Republican State Central Committee and Shirley J. Warehime, as treasurer.

2. Approve the appropriate letter.

Attachments
Request for Extension

Staff person: Jeffrey D. Long
George F. Rishel

2404358279 1

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Montana Republican State Central Committee and Shirley J. Warehime, as treasurer.	)	MUR 3087

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on August 30, 1990, the Commission decided by a vote of 5-0 to take the following actions in MUR 3087:

1. Grant an extension of 60 days to the Montana Republican State Central Committee and Shireley J. Warehime, as treasurer.

2. Approve the letter, as recommended in the General Counsel's Memorandum dated August 27, 1990.

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

Attest:

8-30-90
Date

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

Received in the Secretariat: Tues., August 28, 1990 11:29 a.m.
Circulated to the Commission: Tues., August 28, 1990 4:00 p.m.
Deadline for vote: Thurs., August 30, 1990 4:00 p.m.

dh

2404358279 2

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 5, 1990

Charles E. Erdmann, II
P.O. Box 5418
Helena, Montana 59604

RE: MUR 3087
Montana State Republican
Central Committee and
Shirley Warehime, as
treasurer

Dear Mr. Erdmann:

This is in response to your letter dated August 13, 1990, which we received on August 14, 1990, requesting an extension of 60 days to respond to the complaint in this matter. After considering the circumstances presented in your letter, the Federal Election Commission has granted the requested extension. Accordingly, your response is due by the close of business on October 15, 1990.

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

Sincerely,

Lawrence M. Noble
General Counsel

2043582793

LAW OFFICES OF
CHURCH, HARRIS, JOHNSON & WILLIAMS

I.W. CHURCH (1884-1972)
G.G. HARRIS (1883-1973)
KENNETH R. DYRUD
JEAN E. FAURE
DALE FORBES
RICHARD F. GALLAGHER
ROBERT P. GOFF
MARGARET M.J. JOHNSON
STEVEN M. JOHNSON
W. BJARNE JOHNSON

KRISTEN G. JURAS
DON A. LABAR
MICHEAL F. LAMB
KATHLEEN MAGONE
CREAP S. [illegible]
RON A. NELSON
GREGORY R. SCHWANDT
MILTON O. WORDAL
JEANNIE YOUNG

OF COUNSEL
BJARNE JOHNSON
WM. A. REID
CARTER WILLIAMS

P.O. BOX 1645 • GREAT FALLS, MONTANA 59403 • 21 THIRD STREET NORTH, 3RD FLOOR • PHONE (406) 761-3000 • FAX (406) 453-2313

06C7649

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 AUG 29 PM 3:14

August 28, 1990

Federal Election Commission
Attn: Jeff Long
Office of General Counsel
999 E. Street N.W.
Washington, D.C. 20463

RE: MUR 3087/Montanans For Marlenee

Dear Mr. Long:

Enclosed please find the original three Affidavits of Douglas N. Wilson, III, Treasurer, Virginia Walstad, Office Manager, and Glenn Marx, Campaign Manager, for the 1988 Congressional race.

From our prior conversations, I understand that the inquiry with respect to the campaign committee emanates solely from the broad, generalized allegation contained on page 4 as paragraph 3 of Kelly Addy's July 10, 1990, letter to the Federal Election Commission, and then is further confined to only the alleged NSRC voter list.

I do not know what additional information I can give you in search of proving the negative which is what we don't know and what we didn't get and what we do not have, other than the enclosed Affidavits.

If you have more information you wish me to specifically address, I will be happy to do so. If, in the course of your further investigation of this matter, you develop additional information you wish us to address, we will also likewise be happy to cooperate with your investigation.

Unless you have other evidence of which we are unaware, it is my belief that the recommendation of general counsel to the Commission should be, at least with respect to the "U. S. Congressional Race" involving Montanans for Marlenee, that there is no reason to believe that a violation has been committed. While I understand that you will need to process the enclosed information and collect additional information to which we will not be privy, it would nonetheless be of

9404358279 4

assistance to me in discussions with Mr. Wilson if I could approximate for him the time frame within which you would expect to have a decision on behalf of the Federal Election Commission with respect to Montanans for Marlenee.

Sincerely,

CHURCH, HARRIS, JOHNSON & WILLIAMS

BY: Gregory R. Schwandt
GREGORY R. SCHWANDT

GRS:gf
Enclosures

c: Mr. Douglas N. Wilson, III, Treasurer
Montanan's For Marlenee
P. O. Box 1776
Great Falls, MT 59403

9404358279 5

AFFIDAVIT

STATE OF MONTANA)
: ss.
County of Cascade)

I, DOUGLAS N. WILSON, III, being first duly sworn, depose and say:

1. During the 1988 campaign, the undersigned was the Treasurer for Montanans for Marlenee, working on the campaign to re-elect Congressman Ron Marlenee.

2. The duties performed in the capacity of Treasurer included responsibility for payment of campaign bills and compilation and preparation of Federal Election Commission reports.

3. As campaign Treasurer, the undersigned had access to the financial information with respect to the campaign, but was not involved in day-to-day campaign activities.

4. At no time during the 1988 campaign, or at any other time, did the undersigned see or receive a copy of a voter registration list prepared by the National Republican Senatorial Committee.

5. To the best of the undersigned's knowledge and belief, no one else connected with the campaign saw or received any such list.

6. To the best of the undersigned's knowledge and belief, the campaign did not utilize such a list and no such list was made available to the campaign.

7. The undersigned has personally searched all records maintained by the undersigned as Treasurer which pertain to the 1988 campaign. No such voter registration list has been found in such records.

FURTHER, Affiant sayeth naught.

Douglas N. Wilson III

DOUGLAS N. WILSON, III
P. O. Box 1776
Great Falls, MT 59403

SUBSCRIBED AND SWORN to before me, a Notary Public, this 24th day of August, 1990.

Gail A. Farley

(NOTARIAL SEAL)

Notary Public for the State of Montana
Residing at Great Falls, Montana
My Commission expires: 2/11/93

2 4 0 4 3 5 8 2 7 9 6

AFFIDAVIT

STATE OF MONTANA)
: ss.
County of Cascade)

I, VIRGINIA WALSTAD, being first duly sworn, depose and say:

1. During the 1988 campaign, the undersigned was Office Manager in the Great Falls office of Montanans for Marlenee, working on the campaign to re-elect Congressman Ron Marlenee.

2. The duties performed in the capacity of Office Manager included answering the telephone, getting the mail, doing the deposits, operating the computer and working with Glenn Marx, Campaign Manager, and Douglas N. Wilson, III, Treasurer, in paying bills and compiling Federal Election Commission reports.

3. As Office Manager, the undersigned had access to and knew about all daily information going into and coming out of the office.

4. At no time during the 1988 campaign, or at any other time, did the undersigned see or receive a copy of a voter registration list prepared by the National Republican Senatorial Committee.

5. To the best of the undersigned's knowledge and belief, no one else connected with the campaign saw or received any such list.

6. To the best of the undersigned's knowledge and belief, the campaign did not utilize such a list and no such list was made available to the campaign.

7. The undersigned has personally searched all records maintained in the Great Falls office pertaining to the 1988 campaign. No such voter registration list has been found in such records.

FURTHER, Affiant sayeth naught.

Virginia Walstad
VIRGINIA WALSTAD
3309 Eagle Court
Great Falls, MT 59404

SUBSCRIBED AND SWORN to before me, a Notary Public, this 24th day of August, 1990.

Peggy L. Edwards
Notary Public for the State of Montana
Residing at Great Falls, Montana
My Commission expires: 3/15/94

(NOTARIAL SEAL)

9 4 0 4 3 5 8 2 7 9 7

AFFIDAVIT

STATE OF MONTANA)
: ss.
County of Lewis & Clark)

I, GLENN MARX, being first duly sworn, depose and say:

1. During the 1988 campaign, the undersigned was the Campaign Manager for Montanans for Marlenee, working for the re-election of Congressman Ron Marlenee.

2. The duties performed by the undersigned as Campaign Manager included overall supervision of campaign staff and volunteer efforts throughout the Eastern District of Montana, scheduling of campaign appearances, press releases, and coordination of all fund raising activities.

3. As the Campaign Manager, the undersigned had access to and knew about what was happening and what was supposed to be happening in the campaign on a day-to-day basis.

4. The undersigned has been informed of allegations to the effect that the National Republican Senatorial Committee expended substantial sums of money to produce a state-wide voter list or lists which are alleged to have identified voter preferences and are further alleged to have been given to state-wide Republican federal and non-federal candidates, including the race for U. S. Congress. The undersigned is also advised of allegations that the "transactions" were never reported on Federal Election Campaign reports as in-kind contributions or otherwise, thus allegedly resulting in the avoidance of both campaign spending limits and disclosure requirements.

5. The undersigned has personally searched all records retained by the undersigned and has directed counsel to make inquiry of Virginia Walstad and Douglas N. Wilson, III, requesting that they review any records which may be available to them or maintained with respect to such campaign.

6. At no time during the 1988 campaign, or at any other time, did the undersigned see or receive, nor does the undersigned know of his own knowledge of anyone else who saw or received, a copy of a voter registration list allegedly prepared by the National Republican Senatorial Committee, nor was such a list made available or utilized by the campaign, nor has such a list been located in a search of the campaign records.

2043582798

7. If such a list exists, the undersigned has not seen it and to the best of the undersigned's knowledge, the campaign did not see it or use it in any way. So far as is known by the undersigned, as Campaign Manager for the 1988 Marlenee Congressional campaign, the campaign was at all times in compliance with the law.

FURTHER, Affiant sayeth naught.

Glenn Marx

GLENN MARX
2500 South Ridge
Helena, MT 59101

SUBSCRIBED AND SWORN to before me, a Notary Public, this 27th day of August, 1990.

Mary Jo Murray

(NOTARIAL SEAL)

Notary Public for the State of Montana
Residing at Helena, Montana
My Commission expires: 11-7-90

2404358279

0GC7762

Republican
National
Committee

Benjamin L. Ginsberg
Chief Counsel

Michael A. Hess
Janice P. Lacy
Deputy Chief Counsels

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 SEP -5 PM 4:31

September 5, 1990

Mr. Jeffrey D. Long
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20036

RE: MUR 3087

Dear Jeff:

Attached are the submissions for the Republican National Committee and the Colorado Republican Federal Campaign Committee for the above-captioned matter, which we are submitting today per our conversation yesterday.

If you have any questions, please contact me at 863-8638.

Thank you.

Sincerely,

Janice

Janice P. Lacy

Enclosures

9404358280 0

Dwight D. Eisenhower Republican Center • 310 First Street Southeast • Washington, D.C. 20003 • (202) 863-8638
Telex: 701144 • FAX: (202) 863-8820

Republican
National
Committee

Benjamin L. Ginsberg
Chief Counsel

Michael A. Hess
Janice P. Lacy
Deputy Chief Counsels

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 SEP -5 PM 4:32

September 5, 1990

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

RE: MUR 3087
Republican National Committee

9404358280 1

Dear Mr. Noble:

This letter responds to the complaint attached to your July 20, 1990 letter which alleges that The Republican National Committee (RNC) violated the Federal Election Campaign Act (Act). For the reasons set forth below, we believe the Commission should find no reason to believe that the RNC violated the Act.

The Act permits unlimited transfers among party committees of the same party. 2 U.S.C §441a(a)(4). Neither the Act nor the Commission's Regulations place limits on when such transfers can be made. See id.; 11 C.F.R. §§102.6(a)(1)(ii), 110.3(c)(1). The RNC made the following transfers to the Montana Republican State Central Committee in 1988:

10/19/88	$ 5,000	(See Exhibit A-3)
10/26/88	15,000	(Exhibit B-3)
10/27/88	25,000	(Exhibit B-3)
10/27/88	8,000	(Exhibit B-3)
TOTAL:	$53,000	

Funds transferred from a national party committee to a state party committee cannot be used for the cost of volunteer campaign materials used by a state party committee on behalf of any candidate for Federal office. See 11 C.F.R. §100.7(b)(15). RNC practice is to explicitly state this rule in its cover letters accompanying transfer checks to state parties. See, e.g., Exhibit C.

These facts show that the RNC violated no provision of the Act in transferring funds to the Montana party committee. Moreover, the RNC explicitly directed the Montana party committee to not use RNC transfers to fund the activities which are the subject of the complaint. Accordingly, the Commission should find no reason to believe that the RNC violated the Act.

Thank you for your consideration.

Sincerely,

Benjamin L. Ginsberg

BLG:ljd
Enclosure

24043582802

EXHIBIT A(1)

REPORT OF RECEIPTS AND DISBURSEMENTS

or Other Than An Authorized Committee

(Summary Page)

USE FEC MAILING LABEL OR TYPE OR PRINT

1. NAME OF COMMITTEE (in full)	
REPUBLICAN NATIONAL COMMITTEE-EXPENDITURES	
ADDRESS (number and street) ☐ Check if different than previously reported	2. FEC IDENTIFICATION NUMBER
310 FIRST STREET SE	C 00003416
CITY, STATE and ZIP CODE	3. ☐ This committee qualified as a multicandidate committee DURING THIS Reporting Period on _____ (date).
WASHINGTON, DC 20003	

4. TYPE OF REPORT

(a) ☐ April 15 Quarterly Report

☐ July 15 Quarterly Report

☐ October 15 Quarterly Report

☐ January 31 Year End Report

☐ July 31 Mid Year Report (Non-election Year Only)

☐ Termination Report

Monthly Report Due On:

☐ February 20 ☐ June 20 ☐ October 20
☐ March 20 ☐ July 20 ☐ November 20
☐ April 20 ☐ August 20 ☐ December 20
☐ May 20 ☐ September 20 ☐ January 31

☒ Twelfth day report preceding GENERAL (Type of Election) election on 11/08/88 in the NATION

☐ Thirtieth day report following the General Election on _____ in the State of _____

(b) Is this Report an Amendment? ☐ YES ☒ NO

SUMMARY

		COLUMN A This Period	COLUMN B Calendar Year-to-Date
5.	Covering Period 10/01/88 through 10/19/88		
6. (a)	Cash on Hand January 1, 19 88		$ 66,825.38
(b)	Cash on Hand at Beginning of Reporting Period	$ 453,986.56	
(c)	Total Receipts (from Line 18)	$5,644,934.92	$35,883,794.07
(d)	Subtotal (add Lines 6(b) and 6(c) for Column A and Lines 6(a) and 6(c) for Column B)	$6,098,921.48	$35,950,619.45
7.	Total Disbursements (from Line 28)	$5,407,691.80	$35,259,389.77
8.	Cash on Hand at Close of Reporting Period (subtract Line 7 from Line 6(d))	$ 691,229.68	$ 691,229.68
9.	Debts and Obligations Owed TO the Committee (Itemize all on Schedule C and/or Schedule D)	$ 7,364.80	
10.	Debts and Obligations Owed BY the Committee (Itemize all on Schedule C and/or Schedule D)	$ none	

For further information contact:
Federal Election Commission
999 E Street, NW
Washington, DC 20463
Toll Free 800-424-9530
Local 202-376-3120

I certify that I have examined this Report and to the best of my knowledge and belief it is true, correct and complete.

Type or Print Name of Treasurer
JAY C. BANNING ASSISTANT TREASURER

Signature of Treasurer

Date 12/21/88

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Report to the penalties of 2 U.S.C. §437g.

FEC FORM 3X
(revised 4/87)

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(A(2)

DETAILED SUMMARY PAGE

of Receipts and Disbursements
(Page 2, FEC FORM 3X)

Name of Committee (in full) REPUBLICAN NATIONAL COMMITTEE-EXPENDITURES	Report Covering the Period From: 10/01/88 To: 10/19/88		
I. RECEIPTS	**COLUMN A Total This Period**	**COLUMN B Calendar Year-To-Date**	
11. CONTRIBUTIONS (other than loans) FROM:			
(a) Individuals/Persons Other Than Political Committees			
(i) Itemized (use Schedule A)			11(a)(i)
(ii) Unitemized			11(a)(ii)
(iii) Total of contributions from individuals			11(a)(iii)
(b) Political Party Committees	55,000.00	55,000.00	11(b)
(c) Other Political Committees (such as PACs)			11(c)
(d) TOTAL CONTRIBUTIONS (add 11(a)(iii), (b), and (c))			11(d)
12. TRANSFERS FROM AFFILIATED/OTHER PARTY COMMITTEES	5,300,000.00	33,600,000.00	12
13. ALL LOANS RECEIVED			13
14. LOAN REPAYMENTS RECEIVED			14
15. OFFSETS TO OPERATING EXPENDITURES (Refunds, Rebates, etc.)	289,934.92	2,228,754.27	15
16. REFUNDS OF CONTRIBUTIONS MADE TO FEDERAL CANDIDATES AND OTHER POLITICAL COMMITTEES			16
17. OTHER RECEIPTS (Dividends, Interest, etc.)		39.80	17
18. TOTAL RECEIPTS (add 11(d), 12, 13, 14, 15, 16 and 17)	5,644,934.92	35,883,794.07	18
II. DISBURSEMENTS			
19. OPERATING EXPENDITURES	2,614,980.58	30,869,685.99	19
20. TRANSFERS TO AFFILIATED/OTHER PARTY COMMITTEES	2,000.00	4,000.00	20
21. CONTRIBUTIONS TO FEDERAL CANDIDATES AND OTHER POLITICAL COMMITTEES	66,000.00	123,250.00	21
22. INDEPENDENT EXPENDITURES (use Schedule E)			22
23. COORDINATED EXPENDITURES MADE BY PARTY COMMITTEES (2 U.S.C. 441a(d)) (use Schedule F)	1,015,050.15	1,031,402.10	23
24. LOAN REPAYMENTS MADE			24
25. LOANS MADE			25
26. REFUNDS OF CONTRIBUTIONS TO:			
(a) Individuals/Persons Other Than Political Committees			26(a)
(b) Political Party Committees			26(b)
(c) Other Political Committees (such as PACs)			26(c)
(d) TOTAL CONTRIBUTION REFUNDS (add 26(a), (b), and (c))			26(d)
27. OTHER DISBURSEMENTS	1,709,661.07	3,241,051.68	27
28. TOTAL DISBURSEMENTS (add 19, 20, 21, 22, 23, 24, 25, 26(d) and 27)	5,407,691.80	35,259,389.77	28
III. NET CONTRIBUTIONS/OPERATING EXPENDITURES			
29. TOTAL CONTRIBUTIONS (other than loans)(from Line 11(d))			29
30. TOTAL CONTRIBUTION REFUNDS (from Line 26(d))			30
31. NET CONTRIBUTIONS (other than loans)(subtract Line 30 from 29)			31
32. TOTAL OPERATING EXPENDITURES (from Line 19)	2,614,980.58	30,869,685.99	32
33. OFFSETS TO OPERATING EXPENDITURES (from Line 15)	289,934.92	2,228,754.27	33
34. NET OPERATING EXPENDITURES (subtract Line 33 from 32)	2,325,045.66	28,630,931.72	34

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A(3)

PERIOD 10/01/88 TO 10/19/88 REPUBLICAN NATIONAL COMMITTEE - EXPENDITURES PAGE 3/5
RUN DATE 10/21/88
ITEMIZED DISBURSEMENT
SCHEDULE B LINE 27A

NAME ADDRESS	PURPOSE OF EXPENDITURE	DATE	AMOUNT
GEORGIA REPUBLICAN PARTY 1776 PEACHTREE ST. STE. 550 ATLANTA GA 30309	TRANSFER OUT	10/13/88	71,600.00
GEORGIA REPUBLICAN PARTY 1776 PEACHTREE ST. STE. 550 ATLANTA GA 30309	TRANSFER OUT	10/19/88	50,000.00
REPUBLICAN PARTY OF KENTUCKY CAPITOL AVE AT THIRD P O BOX 1068 FRANKFORT, KY 40602	TRANSFER OUT	10/13/88	61,755.00
MASSACHUSETTS REP. ST. COMM. 20 EAST STREET BOSTON, MA 02111	TRANSFER OUT	10/13/88	15,000.00
REP PARTY OF MISSISSIPPI 555 TOM BIGBEE JACKSON MS 39201	TRANSFER OUT	10/19/88	750.00
MONTANA REP ST CENT COMM 1425 HELENA AVE. HELENA MT 59601	TRANSFER OUT	10/19/88	5,000.00
REP. PARTY OF MISSOURI PO BOX 73 JEFFERSON CITY, MO 65101	TRANSFER OUT	10/19/88	48,000.00
NEW JERSEY REP. ST. COMM. 310 W. STATE ST. TRENTON NJ 08618	TRANSFER OUT	10/13/88	5,000.00
		PAGE TOTAL	257,105.00

(EXHIBIT B(1))

REPORT OF RECEIPTS AND DISBURSEMENTS
For a Political Committee Other Than an Authorized Committee

(Summary Page)

ALIGN AREA | ALIGN AREA

1. Name of Committee (In Full)

REPUBLICAN NATIONAL COMMITTEE-EXPENDITURES

Address (Number and Street)

310 FIRST STREET SE

City, State and ZIP Code

WASHINGTON, DC 20003

☐ Check here if address is different than previously reported.

2. FEC Identification Number

C 00003416

3. ☐ This committee qualified as a multicandidate committee during this Reporting Period on _____ (Date)

4. TYPE OF REPORT (Check appropriate boxes)

(a) ☐ April 15 Quarterly Report ☐ October 15 Quarterly Report
☐ July 15 Quarterly Report ☐ January 31 Year End Report
☐ July 31 Mid Year Report (Non-Election Year Only)
☐ Monthly Report for _____
☐ Twelfth day report preceding _____ (Type of Election)
election on _____ in the State of _____
☒ Thirtieth day report following the General Election
on 11-08-88 in the XXXXX NATION
☐ Termination Report

(b) Is this Report an Amendment?
☐ YES ☒ NO

9 9 0 4 3 5 8 2 8 0 6

SUMMARY	COLUMN A This Period	COLUMN B Calendar Year-to-Date
5. Covering Period 10-20-88 through 11-28-88		
6. (a) Cash on hand January 1, 19____		$ 66,825.38
(b) Cash on Hand at Beginning of Reporting Period	$ 691,229.68	
(c) Total Receipts (from Line 18)	$ 17,034,121.94	$ 52,917,916.01
(d) Subtotal (add Lines 6(b) and 6(c) for Column A and Lines 6(a) and 6(c) for Column B)	$ 17,725,351.62	$ 52,984,741.39
7. Total Disbursements (from Line 28)	$ 17,007,397.17	$ 52,266,786.94
8. Cash on Hand at Close of Reporting Period (subtract Line 7 from Line 6(d))	$ 717,954.45	$ 717,954.45
9. Debts and Obligations Owed TO The Committee (Itemize all on Schedule C or Schedule D)	$ 8,543.16	
10. Debts and Obligations Owed BY the Committee (Itemize all on Schedule C or Schedule D)	$ NONE	

I certify that I have examined this Report and to the best of my knowledge and belief it is true, correct and complete.

JAY C. BANNING ASSISTANT TREASURER
Type or Print Name of Treasurer

SIGNATURE OF TREASURER

12/7/88
Date

For further information contact:
Federal Election Commission
Toll Free 800-424-9530
Local 202-523-4068

NOTE Submission of false, erroneous, or incomplete information may subject the person signing this report to the penalties of 2 U S C § 437g

All previous versions of FEC FORM 3 and FEC FORM 3a are obsolete and should no longer be used.

FEC FORM 3X (3/80)

B(2)

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

Name of Committee (in Full): REPUBLICAN NATIONAL COMMITTEE-EXPENDITURES

Report Covering the Period: From: 10-20-88 To: 11-28-88

	COLUMN A Total This Period	COLUMN B Calendar Year-To-Date	
I. RECEIPTS			
11. CONTRIBUTIONS (other than loans) FROM:			
(a) Individuals/Persons Other Than Political Committees. (Memo Entry Unitemized $_____)			11(a)
(b) Political Party Committees	450,450.00	505,450.00	11(b)
(c) Other Political Committees			11(c)
(d) TOTAL CONTRIBUTIONS (other than loans) (add 11(a), 11(b) and 11(c))			11(d)
12. TRANSFERS FROM AFFILIATED/OTHER PARTY COMMITTEES	15,900,000.00	49,500,000.00	12
13. ALL LOANS RECEIVED			13
14. LOAN REPAYMENTS RECEIVED			14
15. OFFSETS TO OPERATING EXPENDITURES (Refunds, Rebates, etc.)	683,671.94	2,912,426.21	15
16. REFUNDS OF CONTRIBUTIONS MADE TO FEDERAL CANDIDATES AND OTHER POLITICAL COMMITTEES			16
17. OTHER RECEIPTS (Dividends, Interest, etc.)	-0-	39.80	17
18. TOTAL RECEIPTS (Add 11(d), 12, 13, 14, 15, 16 and 17)	17,034,121.94	52,917,916.01	18
II. DISBURSEMENTS			
19. OPERATING EXPENDITURES	8,210,635.88	39,070,321.87	19
20. TRANSFERS TO AFFILIATED/OTHER PARTY COMMITTEES	165,000.00	169,000.00	20
21. CONTRIBUTIONS TO FEDERAL CANDIDATES AND OTHER POLITICAL COMMITTEES	187,000.00	310,250.00	21
22. INDEPENDENT EXPENDITURES (use Schedule E)			22
23. COORDINATED EXPENDITURES MADE BY PARTY COMMITTEES. (2 U.S.C. § 441 a(d)) (Use Schedule F)	7,141,337.35	8,172,739.45	23
24. LOAN REPAYMENTS MADE			24
25. LOANS MADE			25
26. REFUNDS OF CONTRIBUTIONS TO			
(a) Individuals/Persons Other Than Political Committees			26(a)
(b) Political Party Committees			26(b)
(c) Other Political Committees			26(c)
(d) TOTAL CONTRIBUTION REFUNDS (Add 26(a), 26(b) and 26(c))			26(d)
27. OTHER DISBURSEMENTS	1,303,423.94	4,544,475.62	27
28. TOTAL DISBURSEMENTS (add lines 19, 20, 21, 22, 23, 24, 25, 26(d) and 27)	17,007,397.17	52,266,786.94	28
III. NET CONTRIBUTIONS AND NET OPERATING EXPENDITURES			
29. TOTAL CONTRIBUTIONS (other than loans) from Line 11(d)			29
30. TOTAL CONTRIBUTION REFUNDS from Line 26(d)			30
31. NET CONTRIBUTIONS (other than loans) (Subtract Line 30 from Line 29)			31
32. TOTAL OPERATING EXPENDITURES from Line 19	8,210,635.88	39,070,321.87	32
33. OFFSETS TO OPERATING EXPENDITURES from Line 15	683,671.94	2,912,426.21	33
34. NET OPERATING EXPENDITURES (Subtract Line 33 from Line 32)	7,526,963.94	36,157,895.66	34

PERIOD 10/20/88 TO 11/28/88
RUN DATE 11/29/88

REPUBLICAN NATIONAL COMMITTEE - EXPENDITURES
ITEMIZED DISBURSEMENT
SCHEDULE B LINE 27A

NAME ADDRESS	PURPOSE OF EXPENDITURE	DATE	AMOUNT
MONTANA REP ST CENT COMM 1425 HELENA AVE. HELENA MT 59601	TRANSFER OUT	10/26/88	15,000.00
MONTANA REP ST CENT COMM 1425 HELENA AVE. HELENA MT 59601	TRANSFER OUT	10/27/88	25,000.00
MONTANA REP ST CENT COMM 1425 HELENA AVE. HELENA MT 59601	TRANSFER OUT	10/27/88	8,000.00
REP. PARTY OF MISSOURI PO BOX 73 JEFFERSON CITY, MO 65101	TRANSFER OUT	10/26/88	100,000.00
REP. PARTY OF MISSOURI PO BOX 73 JEFFERSON CITY, MO 65101	TRANSFER OUT	11/18/88	15,000.00
REP. PARTY OF MISSOURI PO BOX 73 JEFFERSON CITY, MO 65101	CONTRIBUTION	10/27/88	2,500.00
REP. PARTY OF MISSOURI PO BOX 73 JEFFERSON CITY, MO 65101	VOID #10798 - 10-24-88	10/26/88	-100,000.00
REP. PARTY OF MISSOURI PO BOX 73 JEFFERSON CITY, MO 65101	VOID #11283 - 10-27-88	10/26/88	-2,500.00
		PAGE TOTAL	63,000.00

EXHIBIT C

Republican National Committee

Frank J. Fahrenkopf, Jr.
Chairman

October 27, 1988

Mrs. Barbara Campbell, Chairman
Montana Republican State Central Committee
1425 Helena Avenue
Helena, MT 59601

Dear Barbara:

The Republican National Committee is pleased to send a check in the amount of $25,000.00 to the Montana Republican State Central Committee for legislative support. This was made at the recommendation of Regional Political Director, Mike Hudome.

This money should not be used to make contributions of expenditures in support of specific candidates for federal office without the express written approval of the RNC. None of the funds transferred from the RNC shall be used for the cost of volunteer campaign materials used by you on behalf of any candidate for federal office. (See 11CFR 100.7(b)(15)).

If I or the Republican National Committee can be of further assistance, please do not hesitate to contact us.

Very truly yours,

Frank J. Fahrenkopf, Jr.

FJF/lk

cc: Lawrence E. Bathgate, II
Jack E. Galt
Ione Brownson
Mary Matalin
John Grotta
Mike Hudome

Dwight D. Eisenhower Republican Center • 310 First Street Southeast • Washington, D.C. 20003 • (202) 863-8700
Telex: 701144 • FAX: (202) 863-8820

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Republican
National
Committee

Benjamin L. Ginsberg
Chief Counsel

Michael A. Hess
Janice P. Lacy
Deputy Chief Counsels

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 SEP -5 PM 4:32

September 5, 1990

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

RE: MUR 3087
Colorado Republican
Federal Campaign
Committee

2 4 0 4 3 5 8 2 8 1 0

Dear Mr. Noble:

This letter responds to the complaint attached to your July 20, 1990 letter which alleges that the Colorado Republican Federal Campaign Committee (Committee) violated the Federal Election Campaign Act (Act). For the reasons set forth below, we believe the Commission should find no reason to believe that the Committee violated the Act.

The Act permits unlimited transfers among party committees of the same party. 2 U.S.C. §441a(a)(4). Neither the Act nor the Commission's Regulations place limits on when such transfers can be made. See id.; 11 C.F.R. §§102.6(a)(1)(ii), 110.3(c)(1). The Committee made the following transfers to the Montana Republican State Central Committee in 1988:

October 31:	$30,000	(See Exhibit I-3)
November 2:	14,000	(Exhibit I-3)
TOTAL:	$44,000	

We have attached all documentation we found in the initial search of our files relating to this transfer. See Exhibits I-4, 5. Nothing directs the Montana party committee to use the Committee's transfers to violate the Act.

These facts show the Committee violated no provision of the Act in transferring funds to the Montana party committee. Accordingly, the Commission should find no reason to believe that the Committee violated the Act.

Thank you for your consideration.

Sincerely,

Benjamin L. Ginsberg

BLG:ljd
Enclosures

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EXHIBIT J-1

REPORT OF RECEIPTS AND DISBURSEMENTS
Other Than An[illegible]rized Committee
(Summ[illegible]age)

USE FEC MAILING LABEL OR TYPE OR PRINT

1. NAME OF COMMITTEE (In Full)
COLORADO REPUBLICAN FEDERAL CAMPAIGN COMMITTEE

ADDRESS (Number and Street) — Check if Different than previously reported
1275 TRENCHT PLACE

CITY STATE and ZIP CODE
DENVER, COLORADO 80220-

2. FEC IDENTIFICATION NUMBER
C00033134

3. [ ] This committee qualifies as a Multicandidate committee DURING THIS Reporting Period on [illegible] date

4. TYPE OF REPORT

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

Monthly Report Due On
[ ] February 20 [ ] June 20 [ ] October 20
[ ] March 20 [ ] July 20 [ ] November 20
[ ] April 20 [ ] August 20 [ ] December 20
[ ] May 20 [ ] September 20 [ ] January 31

[ ] Twelfth day report preceding [illegible] Type of Election
election on [illegible] in the State of [illegible]

[X] Twelfth day report following the General Election on 11/08/88 in the State of Colorado

(b) Is this Report an Amendment? [ ] YES [X] NO

SUMMARY	COLUMN A This Period	COLUMN B Calendar Year-to-Date
5 Covering Period 10/20/88 through 11/28/88		
5 (a) Cash on Hand January 1, 19 88	[illegible]	$ 672.77
(b) Cash on Hand at Beginning of Reporting Period	$ 286,002.97	[illegible]
(c) Total Receipts (from Line 18)	$ 170,376.15	$ 717,366.51
(d) Subtotal (add Lines 5 (b) and 6(c) for Column A and Lines 5(a) and 6(c) for Column B)	$ 456,379.12	$ 718,039.28
7. Total Disbursements (from Line 28)	$ 341,906.10	$ 603,566.26
8. Cash on Hand at Close of Reporting Period (subtract Line 7 from Line 6(d))	$ 114,473.02	$ 114,473.02
9. Debts and Obligations Owed TO the Committee (Itemize all on Schedule C and/or Schedule D)	$ -0-	
10. Debts and Obligations Owed BY the Committee (Itemize all on Schedule C and/or Schedule D)	$ 68,743.00	

For further information contact:
Federal Election Commission
999 E Street, NW
Washington, DC 20463
Toll Free 800-424-9530
Local 202-376-3120

I certify that I have examined this Report and to the best of my knowledge and belief it is true, correct and complete.

Type or Print Name of Treasurer
Douglas L. Jones

Signature of Treasurer [signature]

Date 12/3/88

NOTE: Submission of false, erroneous or incomplete information may subject the person signing this Report to the penalties of 2 U.S.C. 437g

FEC FORM 3X
Revised 4-87

9404358281 2

I-2

DETAILED SUMMARY PAGE

of Receipts and Disbursements
(Page 2, FEC FORM 3X)

Name of Committee (in full)	Report Covering the Period	
Colorado Republican Federal Campaign Committee	From: 10/20/88	To: 11/28/88
I. RECEIPTS	**COLUMN A Total This Period**	**COLUMN B Calendar Year To Date**
11. CONTRIBUTIONS (other than loans) FROM:		
(a) Individuals/Persons Other Than Political Committees		
(i) Itemized (use Schedule A)	$ 101,705.00	$ 475,979.00
(ii) Unitemized	43,026.50	179,092.45
(iii) Total of contributions from individuals	144,731.50	655,071.45
(b) Political Party Committees		
(c) Other Political Committees (such as PACs)	7,000.00	9,320.00
(d) TOTAL CONTRIBUTIONS (add 11(a)(iii), (b), and (c))	$ 151,731.50	$ 664,391.45
12. TRANSFERS FROM AFFILIATED OTHER PARTY COMMITTEES	-0-	10,180.14
13. ALL LOANS RECEIVED		
14. LOAN REPAYMENTS RECEIVED		
15. OFFSETS TO OPERATING EXPENDITURES (Refunds Rebates, etc.)	6,111.74	8,703.74
16. REFUNDS OF CONTRIBUTIONS MADE TO FEDERAL CANDIDATES AND OTHER POLITICAL COMMITTEES Interest/In-kind		
17. OTHER RECEIPTS (Dividends, interest, etc.)	12,532.91	13,931.13
18. TOTAL RECEIPTS (add 11(d), 12, 13, 14, 15, 16 and 17)	$ 170,376.15	$ 717,366.51
II. DISBURSEMENTS		
19. OPERATING EXPENDITURES	$ 270,073.89	$ 336,318.55
20. TRANSFERS TO AFFILIATED OTHER PARTY COMMITTEES	64,489.88	192,230.02
21. CONTRIBUTIONS TO FEDERAL CANDIDATES AND OTHER POLITICAL COMMITTEES	57,910.09	60,612.45
22. INDEPENDENT EXPENDITURES (use Schedule E)		
23. COORDINATED EXPENDITURES MADE BY PARTY COMMITTEES (2 U.S.C. 441a(d)) (use Schedule F)		
24. LOAN REPAYMENTS MADE		
25. LOANS MADE		
26. REFUNDS OF CONTRIBUTIONS TO:		
(a) Individuals/Persons Other Than Political Committees		
(b) Political Party Committees		
(c) Other Political Committees (such as PACs)		
(d) TOTAL CONTRIBUTION REFUNDS (add 26(a), (b), and (c))		
27. OTHER DISBURSEMENTS	12,432.24	13,805.24
28. TOTAL DISBURSEMENTS (add 19, 20, 21, 22, 23, 24, 25, 26(d) and 27)	341,906.10	603,566.26
III. NET CONTRIBUTIONS OPERATING EXPENDITURES		
29. TOTAL CONTRIBUTIONS (other than loans) (from Line 11(d))	$ 151,606.50	$ 664,486.45
30. TOTAL CONTRIBUTION REFUNDS (from Line 26(d))	-0-	-0-
31. NET CONTRIBUTIONS (other than loans) (subtract Line 30 from 29)	$ 151,606.50	$ 664,486.45
32. TOTAL OPERATING EXPENDITURES (from Line 19)	$ 207,259.13	$ 337,103.79
33. OFFSETS TO OPERATING EXPENDITURES (from Line 15)	6,111.74	8,703.74
34. NET OPERATING EXPENDITURES (subtract Line 33 from 32)	$ 201,147.39	$ 328,400.05

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SCHEDULE B ITEMIZED DISBURSEMENTS

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

PAGE 1 OF 1

FOR LINE NUMBER(S): 20

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

NAME OF COMMITTEE (In Full)

Colorado Republican Federal Campaign Committee

	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
A. Full Name, Mailing Address and ZIP Code Colorado Republican Committee 1275 Tremont Place Denver, CO 80204	transfer of incorrect deposit of donation Disbursement for: ☐ Primary ☐ General ☐ Other (specify)	11/16/88	$ 75.00
B. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement " " " Disbursement for: ☐ Primary ☐ General ☐ Other (specify)	11/22/88	50.00
C. Full Name, Mailing Address and ZIP Code Colorado Republican Committee 1275 Tremont Place Denver, CO 80204	Purpose of Disbursement Federal allocation Disbursement for: ☐ Primary ☐ General ☐ Other (specify)	11/17/88	20,000.00
D. Full Name, Mailing Address and ZIP Code Victory '88 Montana 2817 2nd Ave. North Billings, Montana 59101	Purpose of Disbursement transfer of funds Disbursement for: ☐ Primary ☐ General ☐ Other (specify)	10/31/88 11/02/88	$ 30,000.00 14,000.00
E. Full Name, Mailing Address and ZIP Code Jefferson County Republicans Bldg. 51, Suite 160 14142 Denver West Parkway Golden, CO 80401	Purpose of Disbursement county support - absentee voter program Disbursement for: ☐ Primary ☐ General ☐ Other (specify)	10/27/88	$ 89.33
F. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement " " " Disbursement for: ☐ Primary ☐ General ☐ Other (specify)	11/13/88	185.24
G. Full Name, Mailing Address and ZIP Code Mesa County Republicans P.O. Box 423 Grand Junction, CO 81502	Purpose of Disbursement county support - rally supplies Disbursement for: ☐ Primary ☐ General ☐ Other (specify)	11/18/88	$ 91.26
H. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: ☐ Primary ☐ General ☐ Other (specify)	Date (month, day, year)	Amount of Each Disbursement This Period
I. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: ☐ Primary ☐ General ☐ Other (specify)	Date (month, day, year)	Amount of Each Disbursement This Period
SUBTOTAL of Disbursements This Page (optional)			
TOTAL This Period (last page this line number only)			$ 64,489.83

9 4 0 4 3 5 8 2 8 1 4

COLORADO REPUBLICAN FEDERAL CAMPAIGN COMMITTEE
1275 TREMONT PL. 893-1776
DENVER, CO 80204

1195

Oct. 31 1988

Pay to the order of Victory '88/ Montana $ 30,000.00

Thirty thousand and 00/100 Dollars

Central Bank Denver

For Transfer to Montana Republican Party

⑈001195⑈ ⑆102000539⑆ ⑈058⑈179⑈

c/o Dave Scharner
c/o ~~Fanny Cillwak~~
Billings, Montana

PURPOSE FOR REQUEST: AMOUNT 30,000

Transfer of funds to Victory '88/ Montana Republican Party.
~~RNO~~

Victory '88
STATE or FEDERAL (circle one)

APPROVAL [signature]

pd 11/3/88 #V1195

9 4 0 4 3 5 8 2 8 1 5

COLORADO REPUBLICAN FEDERAL CAMPAIGN COMMITTEE
1870 TABOR CENTER PL. 893-1776
DENVER, CO 80204

1234

Nov 2 1988

Pay to the Order of Victory 88/Montana $14000.00

Fourteen thousand and 00 Dollars

Central Bank Denver

For transfer of funds

⑈00:214⑈ ⑆102000539⑆ ⑈051-179⑈

PURPOSE FOR REQUEST:

AMOUNT 14,000.00

transfer.

V'88

STATE or FEDERAL (circle one)

APPROVAL

Ref: 2030
INV MONTANA 1102
12547.09

9404358281 6

006 7887

RECEIVED
FEDERAL ELECTION COMMISSION

REED & DAVIDSON
ATTORNEYS AT LAW
888 WEST SIXTH STREET, 12TH FLOOR
LOS ANGELES, CALIFORNIA 90017
TELEPHONE (213) 362-9238
FACSIMILE (213) 623-1692

90 SEP 17 AM 9:39

ORANGE COUNTY OFFICE
3151 AIRWAY AVENUE, SUITE M-1
COSTA MESA, CALIFORNIA 92626
TELEPHONE (714) 641-1688
FACSIMILE (714) 546-1003

DANA W. REED
CARY DAVIDSON
BRADLEY W. HERTZ

DARRYL R. WOLD
OF COUNSEL

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 SEP 17 PM 12:33

September 10, 1990

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

VIA FACSIMILE

Re: MUR 3087/The Gary Lawrence Company

Dear Mr. Noble:

This letter responds to the Commission's July 20, 1990 letter and the complaint filed by Representative Kelly Addy of the Montana House of Representatives on July 10, 1990, and is written pursuant to 2 U.S.C. Section 437g(a)(1) and 11 CFR Section 111.6(a)

The Addy complaint, at pages 3-4, appears to make two allegations of possible violations by the Gary Lawrence Company. First, it alleges that "The Gary Lawrence Company may have made an excessive contribution to the NRSC and/or the Burns campaign by failing to charge the fair market value for services provided to the NRSC and/or the Burns campaign." Second, the complaint alleges that "The Lawrence Company, if incorporated, may have also made a prohibited contribution to the NRSC and/or the Burns campaign."

The only relevant inquiry in determining whether the Federal Election Commission should take action against the Gary Lawrence Company is: Did the Gary Lawrence Company undervalue its services rendered to the NRSC and/or the Burns campaign? The Gary Lawrence Company did not undervalue its services; it charged the full fair market value for political polling services rendered to the NRSC between October 15, 1988 and November 6, 1988, and was paid in full for these services.

9 4 0 4 3 5 8 2 8 1 7

The Gary Lawrence Company entered into an oral agreement with the National Republican Senatorial Committee (NRSC) and the Republican Governors Association (RGA) to provide polling services for both organizations. Pursuant to the agreement, the Gary Lawrence Company charged $13.50 for the first 5 questions, and $.50 per question per person surveyed thereafter, and sent its invoices, pursuant to instructions from the NRSC and the RGA, to the RGA, which was handling the paperwork. This price structure was the same price the Gary Lawrence Company charged in neighboring North Dakota and in other tracking projects around the nation that year. Approximately two thirds of the questions that were eventually asked in the total project related to Montana Senatorial candidate Conrad Burns and one third related to the Gubernatorial candidate Stan Stephens. How the NRSC and the RGA allocated their respective amounts is beyond the responsibility of the Gary Lawrence Company to know or control.

As shown by the enclosed documents, the Gary Lawrence Company sent out three invoices for the following amounts for its tracking work in Montana: $20,000 on October 24, 1988; $15,000 on November 2, 1988; and $15,100 on November 9, 1988. The $50,100 total was paid in full, most of it from the Republican National Committee (RNC), the party's umbrella organization. The RNC paid $49,650 and the Burns campaign paid $450 (for one shared tracking question). (The $18,600 shown on RNC check #012931 includes $15,000 for invoice #487 for Montana, plus $3,600 for a separate invoice for a separate North Dakota project.)

As set forth above, the Gary Lawrence Company properly valued, billed, and was compensated for all work done for the NRSC. The only statement upon which Representative Addy bases his allegation that the Gary Lawrence Company undervalued its services is taken from a newspaper article which claims that the NRSC only reported a $4,050 payment to the Gary Lawrence Company. This $4,050 payment was for survey research performed by the Gary Lawrence Company independent of the daily tracking discussed above. As with the other services, the Gary Lawrence Company properly valued, billed, and was compensated for the work it performed.

2043582318

As made clear in this letter, there is absolutely no basis for the Federal Election Commission to take any action against the Gary Lawrence Company in this matter. If we may provide additional information, please feel free to contact us.

Sincerely,

Cary Davidson

I declare under penalty of perjury under the laws of the United States and of the State of California that the foregoing is true and correct. Executed this 7th day of September, 1990 at Santa Ana, California.

Gary C. Lawrence
President
The Gary Lawrence Company

CD:jp

9404358281 9

GCL

THE GARY C. LAWRENCE COMPANY

1900 East Fourth Street, Suite 210
Santa Ana, California 92705
(714) 558-3725

No 592

Republican Governors Association
310 First Street, SE
Washington, D.C. 20003

November 15, 1988

ATTN: Ms. Michele Davis

CREDIT MEMO
~~Xnvoice~~

Re: Project #8297

Credit for $450 billed to Conrad Burns' Campaign for shared tracking question during period of October 31 - November 6, 1988: ($450.00)

Note: This $450 is to be deducted from our Invoice #495 dated November 9, 1988.

9 4 0 4 3 5 8 2 8 2 0

9404358282 1

Republican National Committee.

310 First Street Southeast, Washington, D.C. 20003

CHECK NO. 013296

58-428
56C

SIGNET BANK
8330 BOONE BLVD.
VIENNA, VA. 22180

DATE	CHECK NUMBER
01/13/89	013296

FOURTEEN THOUSAND SIX HUNDRED FIFTY AND 00/100***** DOLLARS **********

PAY TO THE ORDER OF:

GARY C LAWERENCE CO
1900 E 4TH ST STE 210
SANTA ANA, CA 92705

AMOUNT
$**$14,650.00

[redacted]

AUTHORIZED SIGNATURE

GCL

THE GARY C. LAWRENCE COMPANY

1900 East Fourth Street, Suite 210
Santa Ana, California 92705
(714) 558-3725

No 495

November 9, 1988

Republican Governors Association
310 First Street, SE
Washington, D.C. 20003

ATTN: Ms. Michele Davis

INVOICE

Re: Project #8297

Additional (final) billing on Montana Tracking: $15,100.00

A breakdown of tracking costs is attached.

Pd. 1/20/89

9404356282822

9404358282 3

Republican National Committee

310 First Street Southeast, Washington, D.C. 20003.

CHECK NO 012931

88-403
560

SIGNET BANK
8330 BOONE BLVD.
VIENNA, VA. 22180

DATE | CHECK NUMBER

EIGHTEEN THOUSAND SIX HUNDRED AND 00/100 DOLLARS 12/15/88 012931

PAY TO THE ORDER OF: GARY C LANERENCE CO
1900 E 4TH ST STE 210
SANTA ANA, CA 92705

AMOUNT
$**$18,600.00

[redacted]

GCL

THE GARY C. LAWRENCE COMPANY
1900 East Fourth Street, Suite 210
Santa Ana, California 92705
(714) 558-3725

№ 487

Republican Governors Association
310 First Street, SE
Washington, D.C. 20003

November 2, 1988

ATTN: Ms. Michele Davis.

INVOICE

Re: Project #8297

Progress Payment on Montana Tracking:	$15,000.00

A breakdown of tracking costs and final billing will be made upon completion of tracking studies.

Pd. 1/9/89

9 4 0 4 3 5 8 2 8 2 4

9404358282 5

Republican National Committee.

310 First Street Southeast, Washington, D.C. 20003.

CHECK NO. 011624

68-405
560

SIGNET BANK
8330 BOONE BLVD.
VIENNA, VA. 22180

DATE	CHECK NUMBER
11/05/88	011624

TWENTY THOUSAND AND 00/100 DOLLARS **********

AMOUNT
$**$20,000.00

PAY TO THE ORDER OF:

GARY C LAWERENCE CO
1900 E 4TH ST STE 210
SANTA ANA, CA 92705

[redacted]

AUTHORIZED SIGNATURE

GCL

THE GARY C. LAWRENCE COMPANY

1900 East Fourth Street, Suite 210
Santa Ana, California 92705
(714) 558-3725

No 474

October 24, 1988

Republican Governors Association
310 First Street, S.E.
Washington, D.C. 20003

ATTN: Ms. Michele Davis

INVOICE

Re: Project #8297

Down Payment on Montana tracking:	$20,000.00

Accounting of questions and costs per cycle will follow on periodic basis. Estimated costs for total tracking package as presently envisioned: $37,000.

9404358028826

Ld. 11/16/88

06C 8059
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

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

JAN WITOLD BARAN
(202) 429-7330

October 2, 1990

FACSIMILE
(202) 429-7049
TELEX 248349 WYRN UR

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

Attn: Jeffrey Long

Re: MUR 3087 (National Republican Senatorial Committee and James L. Hagen, as Treasurer)

Dear Mr. Noble:

I am in receipt of your letter of September 4, 1990 informing me that the Federal Election Commission ("FEC") or ("Commission") has granted the National Republican Senatorial Committee and James L. Hagen, as Treasurer an extension until October 8, 1990 to respond to the Complaint in Matter Under Review 3087.

As the Commission knows, the NRSC's officers and staff change substantially with each election cycle. Thus, as indicated in Respondent's letter of July 31, 1990, Respondents must locate those individuals with knowledge of the facts of this matter who are no longer employed by the NRSC. Respondents are still in the process of locating these and other individuals who can provide information in order to respond to this Complaint. In addition, because of the comprehensive nature of this complaint, Respondents are still in the process of identifying and locating documentation and information from the last election cycle necessary to respond to this matter. Understandably, the entire attention of the staff of the NRSC is focused on the November 6 election, only weeks away. Therefore, we believe an accurate and complete response will only be possible once the 1990 election is completed and NRSC employees can address themselves to the records and materials relevant to the 1988 election.

9 4 0 4 3 5 8 2 8 2 7

Thus, Respondents respectfully request an additional forty-two day extension of time to and including November 19, 1990 within which to respond. This would allow Respondents less than two weeks after the election to complete their response.

Your favorable consideration of this request is appreciated.

Sincerely,

Jan Witold Baran

cc: James Hagen
William B. Canfield III, Esquire

9404358282828

OGC 8239

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

90 OCT 15 PM 1:51

October 11, 1990

MUR 3087

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

90 OCT 16 PM 3:38

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

Gentlemen;

According to a recent AP news article in Montana newspapers, your office has begun the review of a complaint filed by Kelly Addy of Billings, Mt.

I understand that Mr. Addy may have included in his complaint, a copy of the law suit filed by my wife and I against the Republican National Senatorial Committee and the Montana Republican Party, in December of 1989. Because of this, and the fact that my wife and I served in the capacity of Executive Director and Executive Secretary of the Montana Republican Party during 1988, leads me to believe you may have interest in contacting us prior to making a determination, if "reasons to believe" accusations made in Mr. Addy's complaint are valid.

My wife and I are willing to cooperate and will attempt to answer any questions you may have. However, we do have concern for any possibility of affecting our pending law suit.

For the above reason we are requesting that any informal requests, or formal notifications be sent to James Goetz or Brian Gallik of the firm of Goetz, Madden and Dunn, 35 North Grand, Bozeman, Mt. 59715 (406-587-0618, FAX 587-5144), pursuant to 11 CFR 111.23.

Sincerely yours,

Terry and Neida Merica
1636 Goldrush
Helena, Mt. 59601

cc: James Goetz
Brian Gallik

9 4 0 4 3 5 8 2 8 2 9

OGC 8232

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM
90 OCT 15 AM 11:19

CHARLES E. ERDMANN II
CATHERINE M. SWIFT

ERDMANN LAW OFFICE
CAPITOL I CENTER, 208 NORTH MONTANA
SIXTH AVENUE AND NORTH MONTANA
SUITE 206
POST OFFICE BOX 5418
HELENA, MONTANA 59604

TELEPHONE
(406) 442-8813
(406) 442-8814

October 12, 1990

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 OCT 16 PM 3:38

VIA FEDERAL EXPRESS

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

Re: MUR3087
Addy Complaint - Montana State Republican Party

Dear Mr. Noble:

I am the general counsel of the Montana State Republican Party (State Party) and am representing the State Party in a complaint filed by Kelly Addy, dated July 10, 1990. The complaint alleges that the State Party violated the Federal Election Campaign Act of 1971 and the related regulations. We received a letter from your office dated July 20, 1990 requesting that the party respond in writing to the complaint filed by Mr. Addy. On August 13, 1990 I wrote you requesting a 60-day extension in which to respond on behalf of the State Party. On September 5, 1990 you granted this request.

The purpose of this letter is to request an additional 30 days in which to respond, or until November 15, 1990. I am continuing to find it difficult to obtain information regarding a number of the allegations made in Mr. Addy's complaint. My primary difficulty is that the former Executive Director of the State Party, and the individual who was in daily operational control of the party functions during this time period, was terminated by the Party in January of 1990. This individual has since brought a wrongful discharge action against the party which he later amended to include several civil RICO counts. Obviously I am not receiving the cooperation of the former Executive Director in attempting to respond to the complaint.

The Montana Party will not request an additional extension, but I believe that it would be prejudicial for us to attempt to respond to the complaint without further investigation.

2404358830

Thank you for your continuing cooperation in this matter.

Sincerely,

Charles E. Erdmann

/vlm

cc: State Party Office

9404358283 1

OGC 82660

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

TRT TELEX: 197780
TELECOPIER: 457-6315

WRITER'S DIRECT DIAL

202/457-6523

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 OCT 18 PM 12:25

October 18, 1990

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

Re: MUR 3087

Dear Mr. Noble:

Please find enclosed a statement signed by Jim Swain, Treasurer of the Conrad Burns/U.S. Senate Committee, designating me as counsel to Mr. Swain and the committee in MUR 3087.

Mr. Swain and the committee have asked me to prepare a reply to the complaint in this matter. As I read the correspondence, this reply is now due October 21, 1990. I would ask that the Commission grant the committee and Mr. Swain an additional 30 days, until Wednesday, November 21, 1990, to submit their reply.

This brief extension is sought for two reasons. First, I have just been retained and have not had an opportunity to review all the material that may be helpful in preparing a reply. Second, at least two individuals who may have knowledge relevant to a reply are employed full-time on campaigns outside Washington. They have indicated they have very little time between now and the November 6 election to speak to me but will be more than happy to do so after the election.

9 4 0 4 3 5 8 2 8 3 2

Mr. Swain and the committee are anxious to assist the Commission in resolving this matter and believe a 30 day extension would serve the Commission's purposes as well as theirs by ensuring that their reply thoroughly addresses the matters of interest to the Commission.

Thank you for your attention to this request.

Sincerely,

Richard E. Messick

REM:crg

Enclosure
cc: Jeff Long, Esquire
Federal Election Commission

Jim Swain
Conrad Burns/U.S. Senate

9404358283

STATEMENT OF DESIGNATION OF COUNSEL

MUR 3087

NAME OF COUNSEL: Richard E. Messick

ADDRESS: Patton, Boggs & Blow
2550 M Street, N.W.
Washington, D.C. 20037

TELEPHONE: 202/457-6523

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

10-16-90
Date

Jim Swain
Signature

RESPONDENT'S NAME: Conrad Burns/U.S. Senate
Jim Swain, Treasurer

ADDRESS: P.O. Box 3311
Billings, Montana 59103

HOME PHONE:

BUSINESS PHONE:

2404350280554

FEDERAL [redacted] COMMISSION
SECRETARIAT
90 OCT 11 PM 4:28

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 11, 1990

SENSITIVE

MEMORANDUM

TO: The Commission

FROM: Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

SUBJECT: MUR 3087
Request for Extension of Time

By letter dated October 2, 1990, counsel for the National Republican Senatorial Committee and James L. Hagen, as treasurer, requested an additional extension of 42 days to November 19, 1990, in which to respond to the complaint in this matter. (Attachment) The letter explains that an extension is necessary because the respondents are still in the process of locating individuals from the 1988 election cycle who can provide information in order to respond to the complaint. Counsel also states that NRSC staff are currently focused on the November 6, 1990, election, such that an accurate and complete response is only possible once the 1990 election is completed and staff can address themselves to the records and materials relevant to the 1988 election. Counsel notes that an extension to November 19, 1990, will permit only two weeks after the 1990 election to prepare the response.

The Office of the General Counsel recommends that the Commission grant the requested extension in view of the extensions of 60 days to the Montana Republican State Central Committee to October 15, 1990, and to the Conrad Burns for U.S. Senate committee until approximately October 27, 1990.

RECOMMENDATIONS

1. Grant an additional extension of 42 days to the National Republican Senatorial Committee and James L. Hagen, as treasurer.

2 9 4 0 4 3 5 8 2 8 3 5

2. Approve the appropriate letter.

Attachment
Request for Extension

Staff person: Jeffrey D. Long
George F. Rishel

9404358283 6

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

National Republican Senatorial Committee and James L. Hagen, as treasurer.

MUR 3087

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on October 17, 1990, the Commission decided by a vote of 6-0 to take the following actions in MUR 3087:

1. Grant an additonal extension of 42 days to the National Republican Senatorial Committee and James L. Hagen, as treasurer.

2. Approve the appropriate letter, as recommended in the General Counsel's Memorandum dated October 11, 1990.

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

Attest:

10-17-90
Date

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

Received in the Secretariat: Thurs., October 11, 1990 4:28 p.m.
Circulated to the Commission: Friday, October 12, 1990 12:00 p.m.
Deadline for vote: Tuesday, October 16, 1990 4:00 p.m.
At the time of deadline 4 affirmative votes had not been received.
Final vote received: Wednesday, October 17, 1990 at 12:02 p.m.

dh

9404358283 7

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 22, 1990

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

RE: MUR 3087
National Republican
Senatorial Committee and
James L. Hagen, as treasurer

Dear Mr. Baran:

This is in response to your letter dated October 2, 1990, which we received on October 3, 1990, requesting an additional extension of 42 days to respond to the complaint filed by Mr. Kelly Addy. After considering the circumstances presented in your letter, the Federal Election Commission has granted the requested extension. Accordingly, your response is due by the close of business on November 19, 1990.

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

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

9404358283 8

FEDERAL ELECTION COMMISSION

90 OCT 19 AM 10:04

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SENSITIVE

October 19, 1990

MEMORANDUM

TO: The Commission

FROM: Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

SUBJECT: MUR 3087
Request for Extension of Time

By letter dated October 12, 1990, counsel for the Montana Republican State Central Committee and Shirley J. Warehime, as treasurer, requested an additional extension of 30 days to November 15, 1990, in which to respond to the complaint in this matter. (Attachment) The letter explains that an extension is necessary because counsel is "continuing to find it difficult to obtain information regarding a number of the allegations made in Mr. Addy's complaint." He refers to the termination of the former executive director of the party and the subsequent wrongful discharge suit by the former executive director as reasons why he has not received cooperation from him in attempting to respond to the complaint. He adds that the "Montana Party will not request an additional extension, but I believe that it would be prejudicial for us to attempt to respond to the complaint without further investigation."

The Office of the General Counsel notes that the Commission recently approved a second, 42-day extension to the NRSC until November 19, 1990. The second extension requested by the Montana Republican State Central Committee would run until November 15, 1990. Therefore, we recommend that the Commission grant the requested extension to November 15, 1990.

RECOMMENDATIONS

1. Grant an additional extension of 30 days to the Montana Republican State Central Committee and Shirley J. Warehime, as treasurer.

9404358283

2. Approve the appropriate letter.

Attachment
Request for Extension

Staff person: Jeffrey D. Long
George F. Rishel

9404358284 0

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 3087
Montana Republican State Central Committee and Shirley J. Warehime, as treasurer.	)	
	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on October 23, 1990, the Commission decided by a vote of 6-0 to take the following actions in MUR 3087:

1. Grant an additional extension of 30 days to the Montana Republican State Central Committee and Shirley J. Warehime, as treasurer.

2. Approve the appropriate letter, as recommended in the General Counsel's Memorandum dated October 19, 1990.

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

Attest:

10-23-90
Date

Marjorie W Emmons
Marjorie W. Emmons
Secretary of the Commission

Received in the Secretariat: Friday, Oct. 19, 1990 10:04 a.m.
Circulated to the Commission: Friday, Oct. 19, 1990 12:00 p.m.
Deadline for vote: Tuesday, Oct. 23, 1990 4:00 p.m.

dh

9404358284 1

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 1, 1990

Charles E. Erdmann, II
Erdmann Law Office
P.O. Box 5418
Helena, Montana 59604

RE: MUR 3087
Montana State Republican
Central Committee and
Shirley Warehime, as
treasurer

Dear Mr. Erdmann:

This is in response to your letter dated October 12, 1990, which we received on October 16, 1990, requesting an additional extension of 30 days to respond to the complaint in this matter. After considering the circumstances presented in your letter, the Federal Election Commission has granted the requested extension. Accordingly, your response is due by the close of business on November 15, 1990.

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

Sincerely,

Lawrence M. Noble
General Counsel

9404358284 2

FEDERAL [redacted] COMMISSION
90 OCT 22 PM 12:41

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SENSITIVE

October 22, 1990

MEMORANDUM

TO: The Commission

FROM: Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

SUBJECT: MUR 3087
Request for Extension of Time

By letter dated October 18, 1990, counsel for the Conrad Burns/U.S. Senate Committee and Jim Swain, as treasurer, requested an additional extension of 30 days to November 21, 1990, in which to respond to the complaint in this matter. (Attachment) The letter explains that an extension is necessary because counsel has only been recently retained to represent the respondents and has not had an opportunity to review all the material that may be helpful in preparing a response. He also notes that two individuals who may have knowledge to the issues are employed full time on campaigns outside Washington and will not have time to speak to counsel before November 6. We would note that these respondents requested an advisory opinion regarding the raising of funds to pay for an attorney to represent them in this matter. The Commission issued the opinion on September 21, 1990. The Commission had previously approved an extension until 30 days after it concluded its consideration of the advisory opinion request, thus making October 21, 1990, the extended due date.

The Office of the General Counsel notes that the Commission recently approved a second, 42-day extension to the NRSC until November 19, 1990. A second extension requested by the Montana Republican State Central Committee would run until November 15, 1990. Therefore, we recommend that the Commission grant the requested extension of the Burns committee to November 21, 1990.

2043582843

RECOMMENDATIONS

1. Grant an additional extension of 30 days to the Conrad Burns/U.S. Senate Committee and Jim Swain, as treasurer.

2. Approve the appropriate letter.

Attachment
Request for Extension

Staff person: Jeffrey D. Long
George F. Rishel

9404358284

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 3087
Conrad Burns/U.S. Senate Committee)
and Jim Swain, as treasurer.)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on October 24, 1990, the Commission decided by a vote of 6-0 to take the following actions in MUR 3087:

1. Grant an additional extension of 30 days to the Conrad Burns/U.S. Senate Committee and Jim Swain, as treasurer.

2. Approve the appropriate letter, as recommended in the General Counsel's Memorandum dated October 22, 1990.

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

Attest:

10-25-90
Date

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

Received in the Secretariat: Monday, October 22, 1990 12:41 p.m.
Circulated to the Commission: Monday, October 22, 1990 4:00 p.m.
Deadline for vote: Wednesday, October 24, 1990 4:00 p.m.

dh

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 1, 1990

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

RE: MUR 3087
Conrad Burns/US Senate and
Jim Swain, as treasurer

Dear Mr. Messick:

This is in response to your letter dated October 18, 1990, which we received on October 18, 1990, requesting an additional extension of 30 days to respond to the complaint in this matter. After considering the circumstances presented in your letter, the Federal Election Commission has granted your request. Therefore, your response is due by the close on November 21, 1990.

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

Sincerely,

Lawrence M. Noble
General Counsel

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RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

ERDMANN LAW OFFICE
CAPITOL I CENTER, 208 NORTH MONTANA
SIXTH AVENUE AND NORTH MONTANA
SUITE 206
POST OFFICE BOX 5418
HELENA, MONTANA 59604

CHARLES E. ERDMANN II
CATHERINE M. SWIFT

TELEPHONE
(406) 442-8813
FAX
(406) 442-8839

90 NOV 15 PM 1:34

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 NOV 15 PM 2:58

November 14, 1990

VIA FEDERAL EXPRESS

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

Re: MUR3087
Addy Complaint - Montana State Republican Party

Dear Mr. Noble:

This letter is in response to your July 20, 1990 letter which attached a complaint from Kelly Addy alleging that the Montana State Republican Party (State Party) violated the Federal Election Campaign Act (Act). The State Party requested and received an extension in responding to this complaint. For the reasons set forth below, we believe the Commission should find no reason to believe that the State Party violated the Act.

The Addy complaint alleges a number of violations, supported entirely by various newspaper clippings and unproven allegations contained in a wrongful discharge action filed by the former Executive Director of the State Party (Terry Merica). A majority of the allegations do not involve the State Party and this letter will only respond to those allegations which are directed at the State Party. It has been, and continues to be difficult to analyze these allegations since the former Executive Director was the individual who was primarily responsible for the receipt and reporting of contributions. Since his termination and the filing of the wrongful discharge action Merica has made a number of unfounded allegations which are difficult for us to respond to from a factual perspective.

The complaint alleges that the National Republican Senatorial Committee (NRSC) transferred funds to the State Party accounts which were improperly utilized for expenditures to James R. Foster & Associates for mailings done on behalf of Senatorial Candidate Conrad Burns. The Act permits unlimited transfers between party committees of the same party. 2 U.S.C. §441(a)(4).

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11 C.F.R. §100.7(b)(15) specifically allows this type of expenditure by a state party. NRSC funds were not used to fund these expenditures. The party had raised and had on hand sufficient funds to meet these expenditures. The State Party started the reporting period commencing October 1, 1988 with a cash balance of $42,309.49. The Party received contributions from individuals during this reporting period of $90,849.49. The Party therefore had on hand $133,158.89 during this period to utilize for 11 C.F.R. §100.7(b)(15) expenditures. It should be noted that during this time period the State Party had an average cash balance on hand of approximately $47,000.00 and ended with a cash balance of $42,309.49.

The state party did mail letters to a number of individuals advocating the election of now Senator Burns. The complaint alleges that "there is no evidence that volunteers were used for [these] mailings . . ." Neither the Act nor the Commission's regulations require an affirmative showing that volunteers were used, and thus the assertion that one is absent is not, by itself, a basis for triggering an investigation. In any event, volunteers were involved in every mailing; depending upon the particular mailing they sorted, sacked, stuffed and performed other work necessary for the letters to be accepted for mailing by the U.S. Post Office.

The complaint also alleges that Bush and Burns mailings made by the State Party contained an inadequate disclaimer. 11 C.F.R. §110.11 requires a disclaimer which provides the reader with adequate notice of the identity of the persons who paid for and who authorized the communication. All of the mailings complained of are clearly identified as originating from the Montana Republican State Central Committee, along with the Committee's address. While the mailings do not contain a direct authorization from the candidates, the State Party is clearly identified and any individual seeking further information had the means with which to make further inquiries. Certainly if the purpose of the disclaimer provision is to provide adequate notice to the public of the identity of the people who paid for the mailing, this purpose was met.

The complaint also alleges that the State Party improperly spent money on the presidential election campaigns of George Bush and Dan Quail. Again, 11 C.F.R. §100.7(b)(15) allows a

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state party to take activities on behalf of a nominee if the mailings were not made from a commercial vender or mailings made from commercial lists; the funds are not from national political committees; and the materials are distributed by volunteers. Again in this situation all of these criteria were met by the State Party. This type of practice is commonly done by the state committees of both political parties.

The material submitted in the Addy complaint is based upon speculation and conjecture. They have provided nothing but mere allegations of improper activity and have not supplied any actual documentation to support these allegations. The Montana State Party acted in accordance with the express provisions of the Act in regard to all of the allegations levied by Mr. Addy. Accordingly, the Commission should find no reason to believe that the Montana State Party violated the Act.

Sincerely,

Charles E. Erdmann

/vlm

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WILEY, REIN & FIELDING

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

FACSIMILE
(202) 429-7049
TELEX 248349 WYRN UR

November 19, 1990

WRITER'S DIRECT DIAL NUMBER

(202) 429-7301

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 NOV 19 PM 5:27

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

Attn: Jeffrey Long

Re: MUR 3087 (National Republican Senatorial Committee and James L. Hagen, as Treasurer)

Dear Mr. Noble:

The attached response is submitted on behalf of the National Republican Senatorial Committee and James L. Hagen, as Treasurer ("Respondents") in reply to a complaint filed with the Federal Election Commission and designated Matter Under Review 3087.

We will forward the signed original of the Affidavit of Robert Bissen before the Federal Election Commission upon receipt.

Sincerely,

Carol A. Laham

Carol A. Laham

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OGC 8679

WILEY, REIN & FIELDING

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

JAN WITOLD BARAN
(202) 429-7330

November 19, 1990

FACSIMILE
(202) 429-7049
TELEX 248349 WYRN UR

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 NOV 19 PM 5:20

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

Attn: Jeffrey Long

Re: MUR 3087 (National Republican Senatorial Committee and James L. Hagen, as Treasurer)

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Dear Mr. Noble:

This Response, along with the attached Affidavits and materials, is submitted on behalf of the National Republican Senatorial Committee, and James L. Hagen, as Treasurer ("NRSC"), in reply to a complaint filed by the Democratic Speaker Pro Tem of the Montana House of Representatives, Kelly Addy, and designated Matter Under Review ("MUR") 3087. For the reasons set forth herein, the Federal Election Commission ("FEC" on "Commission") should find no reason to believe that the NRSC has violated the Federal Election Campaign Act of 1971, as amended ("Act").

Introduction

Conrad Burns defeated an incumbent Democratic Senator in the 1988 general election for Senator from Montana. More than a year and one half after that election was complete,

and just months prior to another general election for Senator from Montana in which another Democratic incumbent was seeking reelection, the Democratic Speaker Pro Tem of the Montana House of Representatives filed this Complaint. The political motivations behind this Complaint are obvious. In addition, the Complainant has no independent basis for bringing this complaint, but rather he relies exclusively on press reports and a lawsuit brought by a disgruntled former employee of the Montana Republican Party.

The NRSC addresses below the allegations from those sources which are applicable to its activity and which have been reiterated in the Complaint filed in this Matter.

A. Contributions

1. Coordinated and Direct Contribution Limits

The NRSC was permitted, pursuant to 2 U.S.C. § 441a(d)(3), to make $92,200 in coordinated contributions to the Republican candidate for election to the office of Senator from Montana in 1988. That individual was Conrad Burns. In addition, pursuant to 11 C.F.R. § 110.2(e), "the Republican and Democratic Senatorial campaign committees . . . may make contributions of not more than a combined total of $17,500 to a candidate for nomination or election during the calendar year of the election for which he or she

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is a candidate." The term contribution is not limited to direct payments, but includes services or other things of value such as an in-kind contribution in the form of a payment for a particular service for which a campaign committee may otherwise have paid. See 11 C.F.R. § 110.7. Thus, the NRSC was permitted to make a combined total of $109,500 in contributions and coordinated expenditures to Conrad Burns in connection with his 1988 general election campaign.

Based solely on a newspaper article which apparently failed to take into account the technical distinctions between contributions and coordinated expenditures, and the total NRSC limit when they are combined. The Complaint presumes that the NRSC must have exceeded its limit on coordinated expenditures by $15,824. The articles inaccurately cited the FEC Reports filed by the NRSC to support this contention. In fact, the NRSC's reports, attached hereto, show that the NRSC made $91,494.72[1] in coordinated expenditures in addition to $17,477.54 in contributions. (Attachment 1).

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[1] This total takes into account a $161.50 refund received by the NRSC which had been treated as a coordinated expenditure on behalf on Conrad Burns. See Attachment 1.

2. Tracking Polls

Based on this same erroneous newspaper article, the Complaint presumes that the NRSC undervalued services provided to the Burns Campaign. In particular, the newspaper article focuses on a payment by the NRSC of $4,050 to the Gary Lawrence Company for polling. The Complaint assumes that this payment was for a tracking poll and that the NRSC paid the full costs of tracking polls to benefit Conrad Burns. On these grounds, the Complaint presumes that the NRSC must have made an excessive contribution or coordinated expenditure to the Burns campaign at less than fair market value. See Complaint at 3-4.

The premise of this allegation is flawed. The $4,050 payment to the Gary Lawrence Company was not, in fact, for a tracking poll. See Affidavit of Jeff Willis before the Federal Election Commission (hereinafter "Willis Aff." at ¶ 3 (Attachment 2). Rather, as shown by the invoice attached to that Affidavit, the $4,050 payment was for the Burns Campaign's "Participation in Montana Statewide Study." This was a distinct, isolated survey conducted by the Gary Lawrence Co. for the Burns Campaign. Id. The invoice for this survey was addressed to the Burns Campaign, was paid by the NRSC as a coordinated expenditure on behalf of Burns, and was reported as such. See Attachment 1 and invoice attached

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to Willis Aff. As is evident from the face of the invoice, the NRSC paid the full value of the survey and thus made no "hidden" in-kind contribution.

3. Voter Identification Project.

Complainant alleges that "[r]espondents also appear to have made massive expenditures on a voter identification project which were never reported on their FEC reports." Complaint at 4.

As an initial matter, this allegation misconstrues the law as it applies to party-building activities such as voter lists. In the ordinary course of business, national party committees produce and maintain voter lists for their own use. See Affidavit of Robert J. Bissen before the Federal Election Commission (hereinafter "Bissen Aff.") at ¶ 2. (Attachment 3). This is a standard party-building activity which has been long-sanctioned by the FEC. See e.g. Advisory Opinion 1975-87, Fed. Election Camp. Fin. Guide (CCH) ¶ 5178. Lists maintained by party committees need not be allocated to any particular candidate or candidate committees. Such a list was created with regard to the State of Montana. This project was directed by Robert Bissen, Director of Special Projects/Voter Programs for the NRSC. As stated in his Affidavit:

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> Because there is no statewide repository of registered voters in Montana, we collected lists of registered voters from each county in Montana. These lists were publicly available lists which did not distinguish between Republican and Democratic voters. There was then an attempt to enhance the list by identifying Republican, Democratic, and Independent voters. The creation of this Montana list, a standard party-building activity, was not allocated to any particular candidate or candidate committees. The normal practice is that this enhanced list, when completed, would be jointly owned by the national party committees and the Montana Republican Party.

Bissen Aff. at ¶ 2. The costs of merely developing these lists are allocable to the NRSC's federal account and need only be reported as a standard operating expenditure by the NRSC, and not as contributions to any particular candidate.

The Complainant then alleges that, upon completion of these party lists, the NRSC "gave the extremely valuable resulting lists to statewide Republican federal and nonfederal candidates . . . ." Complaint at 4. The Complaint is mistaken. Specific federal candidate activity involving this list was paid for by the candidate or as part of coordinated expenditures on behalf of that candidate. See Bissen Aff. at ¶ 4. For instance, a phone bank was conducted which asked a question regarding now-Senator Burns. The results of this phone bank were not provided free of charge to Senator Burns. Rather, the Burns campaign paid the vendor directly for the share of the phone bank attributable to that question. See Bissen Aff. at ¶ 4 and attached checks.

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Because the Burns Campaign paid the vendor directly, the costs of this phone bank would not have to be reported by the NRSC either as a in-kind contribution or coordinated expenditure on behalf of Senator Burns. Rather, the Burns campaign itself would be responsible for reporting this expenditure. See 2 U.S.C. § 434(b).

In sum, the basic premise that the NRSC produced a voter list which it provided to federal and nonfederal candidates free of charge for use in connection with the 1988 elections is erroneous. The NRSC did have a voter identification list which it used for party building activities. Moreover, any phone banks involving the list were paid for by federal candidates identified in the phone bank as appropriate.

4. Transfers to the State Party

The Complaint alleges that the NRSC paid over $150,000 for mailings on behalf of Senator Burns which the State Party reported as exempt volunteer mailings.

There is no doubt that the NRSC provided substantial support to the Montana Republican Party throughout the 1987-1988 election cycle. This support is entirely consistent with that permitted by the Act and Regulations, which exempt intra-party committee transfers from the expenditure limits. Pursuant to 2 U.S.C. § 441a(a)(4) "[t]he limitations on

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contributions contained in paragraphs (1) and (2) do not apply to transfers between and among political committees which are national, State, district, or local committees . . . of the same political party." Nowhere does the Act itself limit these transfers, or the purposes for which these transfers can be made. Rather, a national party is permitted to make unrestricted transfers to a State Party for use as it sees fit.

The Commission regulations restrict party funds designated for use in connection with exempt volunteer activities. See 11 C.F.R. §§ 100.7(b)(15) and 100.8(b)(16). Here the Complaint provides no evidence that the NRSC transferred funds designated for these purposes. Absent such proof, the payments by the State Party for its volunteer exempt activities are presumptively legal.

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B. Filing FEC Reports

The Complaint alleges that the NRSC failed to file its FEC reports with the Montana Office of Political Practices as required. These reports are on file with the Montana Office of Political Practices. Moreover, there is no question that the NRSC has always timely filed its FEC disclosure reports with the Commission. These reports identified in detail all activity undertaken by the NRSC with regard to federal

elections, including the elections for Senator from Montana. Thus, this information has always been publicly available in a timely manner.[2]

C. Alleged Bundling

Finally, the Complaint baldly alleges that the NRSC employed a bundling operation in Montana identical to that at issue in Common Cause v. FEC. The Complaint provides no basis for this allegation and no evidence in support of this allegation. The only materials found attached to the complaint is a one page chart which shows that the NRSC delivered a $100 earmarked contribution to the Burns campaign on November 12, 1986. This certainly is not evidence of bundling. In addition Albert Mitchler, the NRSC's Finance Director attests that the NRSC did not employ the "1986 Direct To" Program in 1988. Affidavit of Albert Mitchler before the Federal Election Commission at ¶ 4. (Attachment 4). Thus, this baseless and unsubstantiated charge, made without any evidence, provides no basis upon which the Commission could find reason to believe.

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[2] The Complaints cites to 2 U.S.C. § 439(b)(3) and 11 C.F.R. § 105.2 for support. These two provisions obviously do not apply to the NRSC.

D. **Other Matters**

The Complaint makes two additional allegations which concern the State Party, rather than the NRSC: first that the state party mailings attached to the Complaint contain no authorization statements as part of their disclaimers; and second that the State Party may not engage in exempt volunteer activity on behalf of the presidential and vice presidential candidates. Since there is no suggestion that the NRSC was responsible for these alleged State Party activities (which appear, in any case, on their face to be legitimate), this Response does not address these allegations.

E. **Conclusion**

For the reasons set forth above, the Commission should find no reason to believe that the NRSC violated the Act in this Matter.

Sincerely,

Carol A. Laham

Carol A. Laham
for: Jan Witold Baran

Counsel for the National
Republican Senatorial
Committee, and James L. Hagen,
as Treasurer

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Contributions

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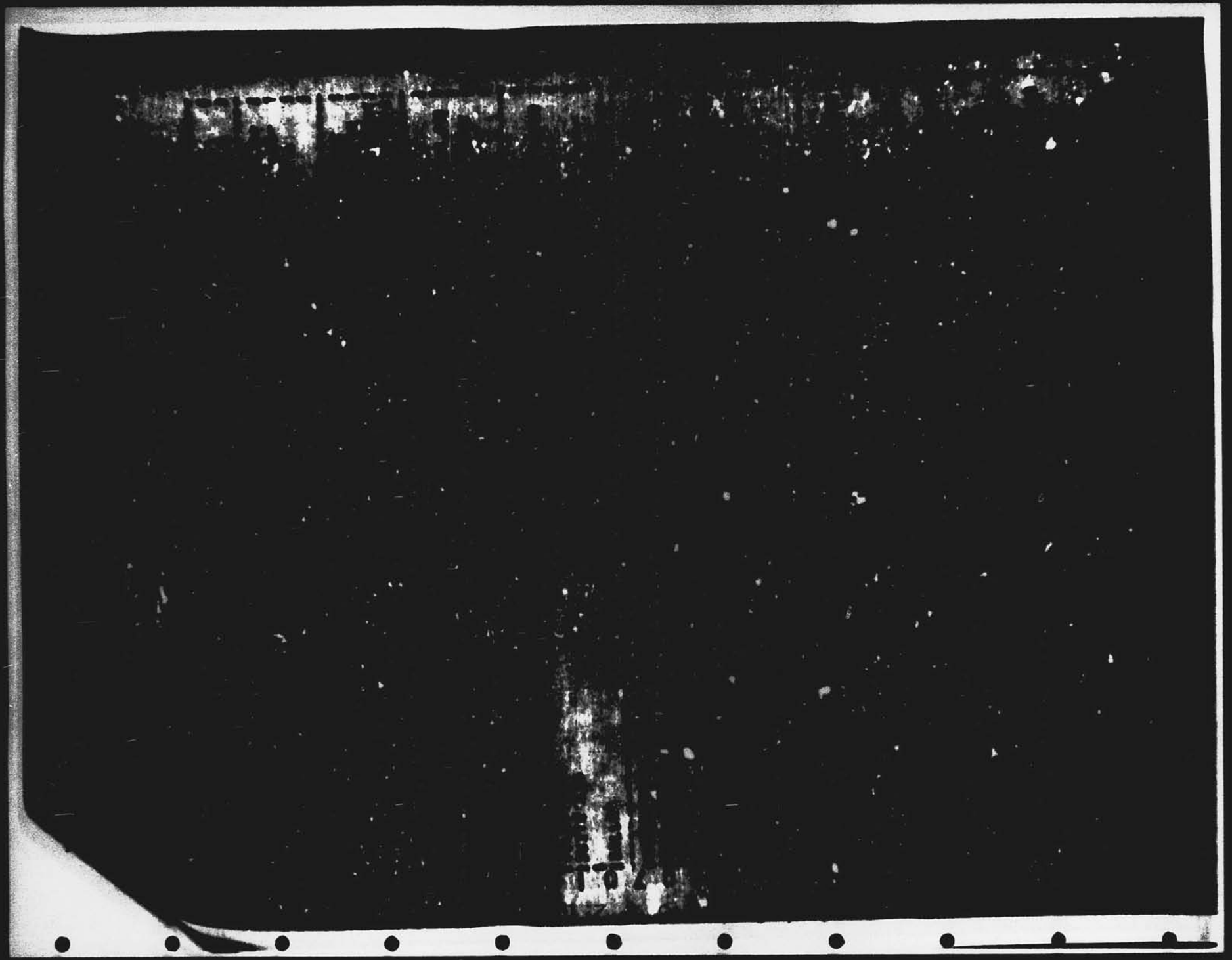

SCHEDULE B — ITEMIZED DISBURSEMENTS — Page [illegible] of [illegible] — Line Number 21

NAME OF COMMITTEE
NATIONAL REPUBLICAN SENATORIAL COMMITTEE - EXPENDITURES

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

NAME, ADDRESS, CITY, STATE, ZIP	PURPOSE OF DISBURSEMENT	DATE (MONTH, DAY, YEAR)	AMOUNT OF EACH DISBURSEMENT THIS PERIOD
NAME, ADDRESS, CITY, STATE, ZIP HALLEY SENATE DRIVE POST OFFICE BOX 6001 SHERIDAN WY 82801	PURPOSE OF DISBURSEMENT CAMPAIGNED CONTRIBUTION DISBURSEMENT FOR:	[illegible]	$1000.00
NAME, ADDRESS, CITY, STATE, ZIP DEGREEN FOR US SENATE CMTE 3300 N. 32ND STREET, #201 PHOENIX AZ 85018	PURPOSE OF DISBURSEMENT DIRECT CONTRIBUTION DISBURSEMENT FOR:	07/08/[illegible]	$10000.00
NAME, ADDRESS, CITY, STATE, ZIP PINKERTON PRESS 555 NEW JERSEY AVE. NW WASHINGTON DC 20001	PURPOSE OF DISBURSEMENT MAILING DISBURSEMENT FOR: [illegible] U.S. SENATE	[illegible]	$263.83 (139.25) [illegible] RE HOUSE MAILING
NAME, ADDRESS, CITY, STATE, ZIP PCPILLAR FOR SENATE 505 S. BROADWAY PRICESVILLE NV 11001	PURPOSE OF DISBURSEMENT DIRECT CONTRIBUTION DISBURSEMENT FOR:	07/15/[illegible]	$15000.00
NAME, ADDRESS, CITY, STATE, ZIP	PURPOSE OF DISBURSEMENT		
NAME, ADDRESS, CITY, STATE, ZIP	PURPOSE OF DISBURSEMENT		
NAME, ADDRESS, CITY, STATE, ZIP	PURPOSE OF DISBURSEMENT		
SUBTOTAL OF DISBURSEMENTS THIS PAGE (optional)			[illegible]
TOTAL THIS PERIOD (last page this line number only)			[illegible]

NAME OF COMMITTEE
NATIONAL REPUBLICAN SENATORIAL COMMITTEE - EXPENDITURES

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

NAME, ADDRESS, CITY, STATE, ZIP	PURPOSE OF DISBURSEMENT	DATE (MONTH, DAY, YEAR)	AMOUNT OF EACH DISBURSEMENT THIS PERIOD
ALAN KEYES FOR US SENATE 8115 FENTON STREET 8314 SILVER SPRING MD 20910	INKIND-RADIO ACTUALITIES DISBURSEMENT FOR: NRSC - IN HOUSE SERVICE	11/01/88	(144.00 MEMO
ALONE FOR US SENATE 107 SOUTH STREET BOSTON MA 02111	INKIND-RADIO ACTUALITIES DISBURSEMENT FOR: NRSC - IN HOUSE SERVICE	11/01/88	(144.00 MEMO
CONRAD BURNS FOR US SENATE P.O. BOX 3311 BILLINGS MT 59103	INKIND-POSTAGE DISBURSEMENT FOR: USPS	11/01/88	(250.00 MEMO
CONRAD BURNS FOR US SENATE P.O. BOX 3311 BILLINGS MT 59103	INKIND-PHOTOGRAPHY DISBURSEMENT FOR: TWIN LENS	11/01/88	(337.50 MEMO
CONRAD BURNS FOR US SENATE P.O. BOX 3311 BILLINGS MT 59103	INKIND-MEDIA EXPENSE DISBURSEMENT FOR: FRANKENBERRY, LAUGHLIN	11/01/88	(1405.19 MEMO
FRIENDS OF SEN. DAVID KARNES 626 N 108TH STREET OMAHA NE 68154	INKIND-RADIO ACTUALITIES DISBURSEMENT FOR: NRSC - IN HOUSE MAILING	11/01/88	(39.00 MEMO
THE HECHT REELECTION COMMITTEE P.O. BOX 2139 LAS VEGAS NV 89125	INKIND-MEDIA EXPENSE DISBURSEMENT FOR: FRANKENBERRY, LAUGHLIN	11/01/88	(1405.19 MEMO
SUBTOTAL OF DISBURSEMENTS THIS PAGE (optional)			
TOTAL THIS PERIOD (last page this line number only)			

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SCHEDULE B ITEMIZED DISBURSEMENTS Page 7 Of 18
Line Number 21

NAME OF COMMITTEE
NATIONAL REPUBLICAN SENATORIAL COMMITTEE - EXPENDITURES

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

NAME, ADDRESS, CITY, STATE, ZIP	PURPOSE OF DISBURSEMENT	DATE (MONTH, DAY, YEAR)	AMOUNT OF EACH DISBURSEMENT THIS PERIOD
NAME, ADDRESS, CITY, STATE, ZIP RECNT REELECTION COMMITTEE 9805 KOMOUTER CT. VIENNA VA 22180	PURPOSE OF DISBURSEMENT EARMARKED CONTRIBUTION DISBURSEMENT FOR: GERALD KESSLER	11/04/88	33.34
NAME, ADDRESS, CITY, STATE, ZIP RECNT REELECTION COMMITTEE 9805 KOMOUTER CT. VIENNA VA 22180	PURPOSE OF DISBURSEMENT EARMARKED CONTRIBUTION DISBURSEMENT FOR: JOSEPH CONTOWNIK	11/04/88	250.00
NAME, ADDRESS, CITY, STATE, ZIP TRENT LOTT FOR MISSISSIPPI P.O. BOX 1744 GULFPORT MS 39502	PURPOSE OF DISBURSEMENT INKIND-RADIO ACTUALITIES DISBURSEMENT FOR: NRSC - IN HOUSE SERVICES	11/04/88	(20.00) MEMO
NAME, ADDRESS, CITY, STATE, ZIP CALIFORNIANS FOR PETE WILSON 7710 IVY STREET SAN DIEGO CA 92101	PURPOSE OF DISBURSEMENT EARMARKED CONTRIBUTION DISBURSEMENT FOR: JAMES D. KLINGBEIL	10/25/88	1000.00
NAME, ADDRESS, CITY, STATE, ZIP PETE DAWKINS FOR U.S. SENATE 121 STATE HIGHWAY 36 WEST LONG BRANC NJ 07764	PURPOSE OF DISBURSEMENT EARMARKED CONTRIBUTION DISBURSEMENT FOR: JAMES D. KLINGBEIL	10/25/88	1000.00
NAME, ADDRESS, CITY, STATE, ZIP CMTE TO REELECT JOHN MILLER 540 C NORTH GATEWAY #602 SEATTLE WA 98125	PURPOSE OF DISBURSEMENT DIRECT CONTRIBUTION DISBURSEMENT FOR:	10/25/88	5000.00
NAME, ADDRESS, CITY, STATE, ZIP MINUTEMAN PRESS 555 NEW JERSEY AVE. NW WASHINGTON DC 20001	PURPOSE OF DISBURSEMENT INKIND - PRINTING DISBURSEMENT FOR: CONRAD BURNS/US SENATE	10/25/88	61.77
SUBTOTAL OF DISBURSEMENTS THIS PAGE (optional)			
TOTAL THIS PERIOD (last page this line number only)			

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Coordinated Expenditures

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SCHEDULE B

ITEMIZED COORDINATED EXPENDITURES MADE BY POLITICAL PARTY COMMITTEES OR DESIGNATED AGENTS ON BEHALF OF CANDIDATES FOR FEDERAL OFFICE (2 U.S.C. §441a(d))

Page 1 of 2

(To be used only by Political Committees in the General Election)

Name of Political Committee (in Full)

NATIONAL REPUBLICAN SENATORIAL COMMITTEE EXPENDITURES

Has your Committee been designated to make coordinated expenditures by a political party committee? ☒YES ☐NO
If YES, name the designating committee:

Full Name, Mailing Address and ZIP Code of Subordinate Committee

Full Name, Mailing Address and ZIP Code of Each Payee	Name of Federal Candidate Supported, State, District & Office Sought	Purpose of Expenditure	Date Month, day, year	Amount
THE NOVEMBER GROUP P.O. BOX 10418 MARINA DEL REY, CA	BILL VALENTINE NEW MEXICO U.S. SENATE	MEDIA BUY	6/16/98	45,000.00
	Aggregate General Election Expenditures for this Candidate ▶ $45,000.00			
MEDIA MARKETING 2309 B S SOUTH WOODSTOCK ARLINGTON, VIRGINIA 22206	CHUCK HAGEL NEBRASKA U.S. SENATE	MEDIA BUY MEDIA BUY	6/04/98 6/16/98	13,000.00 2,345.00
	Aggregate General Election Expenditures for this Candidate ▶ $15,345.00			
INTERVOICE VIDEO SYSTEMS 1333 NEW HAMPSHIRE AVE. WASHINGTON, D.C. 20036	CHUCK HAGEL NEBRASKA U.S. SENATE	MEDIA ADS	6/23/98	100.59
	Aggregate General Election Expenditures for this Candidate ▶ $100.59			
JAMES E. FOSTER 2020 E. TRINITY MILLS CARROLLTON, TEXAS 75006	PHIL GRAMM TEXAS U.S. SENATE	MAILING COSTS	6/23/98 6/01/98 6/30/98	20,016.74 40,030.94 14,450.00
	Aggregate General Election Expenditures for this Candidate ▶ $74,497.68			
SUBTOTAL of Expenditures This Page (optional) ▶				
TOTAL This Period (last page this line number only) ▶				

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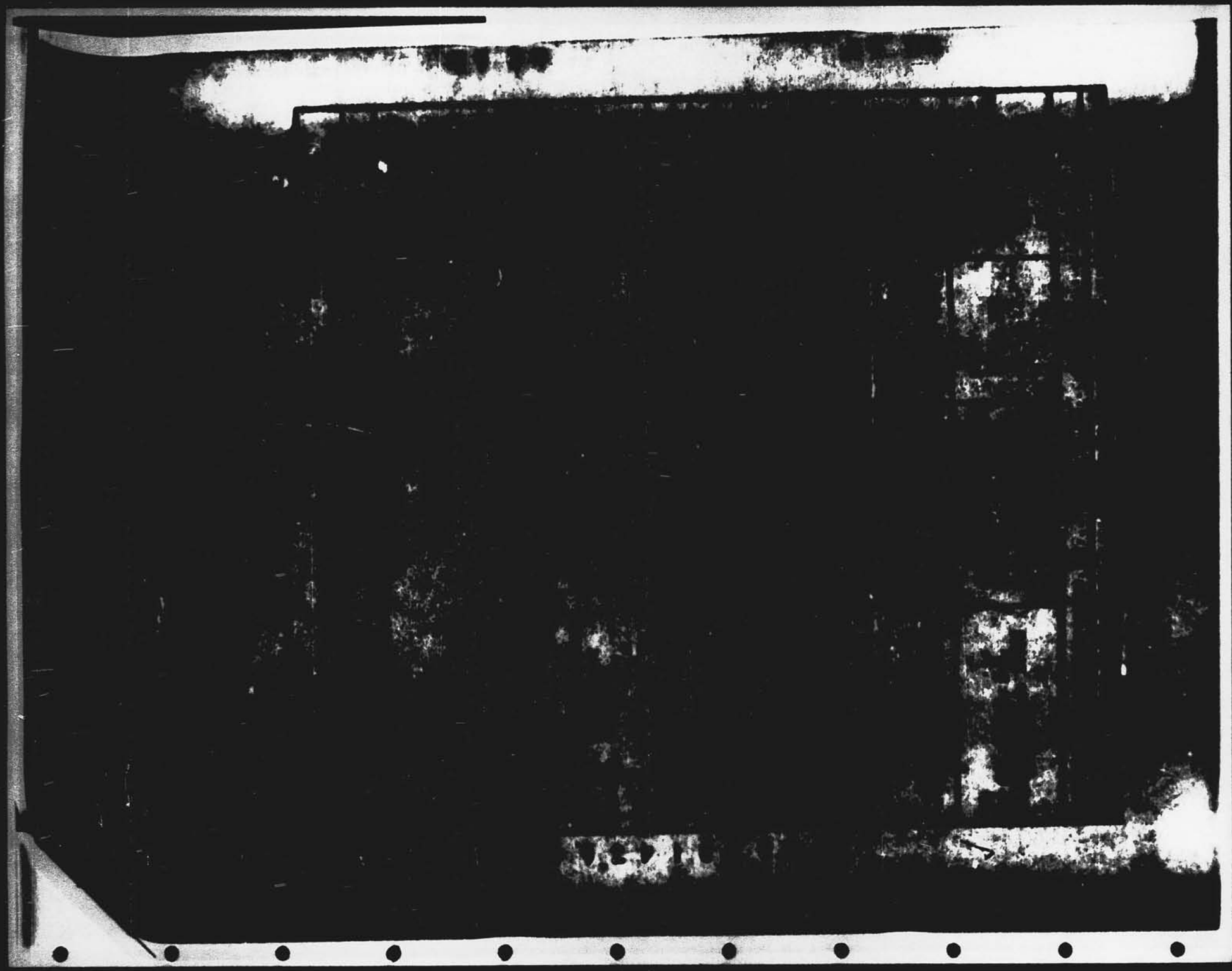

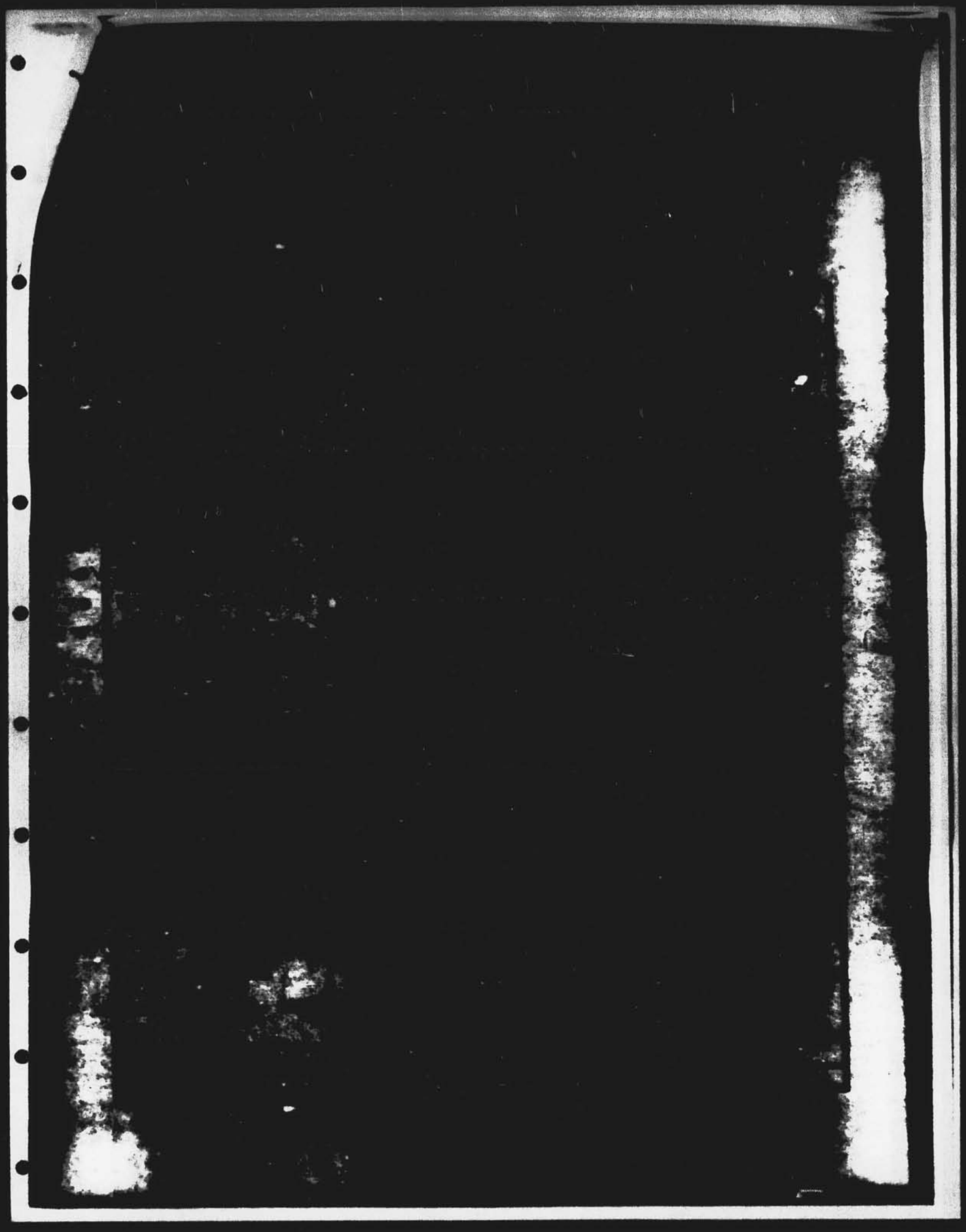

SCHEDULE F ITEMIZED COORDINATED EXPENDITURES MADE BY POLITICAL PARTY COMMITTEES OR DESIGNATED AGENT(S) ON BEHALF OF CANDIDATES FOR FEDERAL OFFICE (2 U.S.C. 441a(d))

(To be used by Political Committees in the [illegible])

Name of Committee
NATIONAL REPUBLICAN SENATORIAL COMMITTEE - EXPENDITURES

Has your Committee been designated to make coordinated expenditures by a political party committee? If YES, name the designating committee: ( ) [illegible] ( ) NO

Full Name, Mailing Address and Zip Code of Subordinate Committee

	FULL NAME, MAILING ADDRESS and ZIP of Each Payee	NAME OF FEDERAL CANDIDATE SUPPORTED, STATE, DISTRICT and Office sought	Date (month, day, yr)	Amount
a	CAPITOL VIDEO COMMUNICATIONS 2121 WISCONSIN AVE., NW WASHINGTON DC 20007	CONRAD BURNS U.S. SENATE MONTANA	08/30/88	1431.00
b	PURPOSE OF EXPENDITURE MEDIA	AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - $94046.49		
a	INTERFACE VIDEO SYSTEMS 1333 NEW HAMPSHIRE AV,NW WASHINGTON DC 20036	CONRAD BURNS U.S. SENATE MONTANA	08/30/88	1405.92
b	PURPOSE OF EXPENDITURE MEDIA	AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - $94046.49		
a	JAMES R. FOSTER & ASSOCIATES 2828 E. TRINITY MILLS RD CARROLLTON TX 75006	BEAU BOULTER U.S. SENATE TEXAS	08/12/88	93969.34
b	PURPOSE OF EXPENDITURE MAILING EXPENSE	AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - $494041.77		
a	JAMES R. FOSTER & ASSOCIATES 2828 E. TRINITY MILLS RD CARROLLTON TX 75006	BEAU BOULTER U.S. SENATE TEXAS	08/09/88	3498.00
b	PURPOSE OF EXPENDITURE MAILING EXPENSE	AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - $494041.77		
	SUBTOTAL OF EXPENDITURES THIS PAGE (optional)			100,300.26
	CALENDAR YR. PERIOD (last page this line number only)			

SCHEDULE F ITEMIZED COORDINATED EXPENDITURES MADE BY POLITICAL PARTY COMMITTEES OR DESIGNATED AGENT(S) ON BEHALF OF CANDIDATES FOR FEDERAL OFFICE (2 U.S.C. 441a(d))

Page 2 CY 4
Line Number 23

(To be used by Political Committees in the General Election)

NAME OF COMMITTEE
NATIONAL REPUBLICAN SENATORIAL COMMITTEE - EXPENDITURES

Has your Committee been designated to make coordinated expenditures by a political party committee? If YES, name the designating committee: [ ] [ ] NO

Full Name, Mailing Address and Zip Code of Subordinate Committee

FULL NAME, MAILING ADDRESS and ZIP of Each Payee	NAME OF FEDERAL CANDIDATE SUPPORTED, STATE, DISTRICT and Office Sought	Date (month, day, yr)	Amount
JAMES R. FOSTER & ASSOCIATES [illegible] E. TRINITY MILLS RD [illegible] TX 75006 PURPOSE OF EXPENDITURE MAILING EXPENSE	BEAU BOULTER U.S. SENATE TEXAS AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - 8494041.77	08/02/88	1814.20
NAT'L REPUBLICAN CONGRESSIONAL 320 FIRST STREET, SE WASHINGTON DC 20003 PURPOSE OF EXPENDITURE MEDIA	CONRAD BURNS U.S. SENATE MONTANA AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - 854046.49	08/04/88	1413.78
NAT'L REPUBLICAN CONGRESSIONAL 320 FIRST STREET, SE WASHINGTON DC 20003 PURPOSE OF EXPENDITURE MEDIA	CONRAD BURNS U.S. SENATE MONTANA AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - 854046.49	08/30/88	709.00
CONEY AD AGENCY P.O. BOX 2035 BISMARK ND 58502 PURPOSE OF EXPENDITURE MEDIA	EARL STRINDEN U.S. SENATE NORTH DAKOTA AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - 891598.47	08/09/88	91598.47
SUBTOTAL OF EXPENDITURES THIS PAGE (optional)			95,935.45
TOTAL THIS PERIOD (last page this line number only)			

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SCHEDULE F ITEMIZED COORDINATED EXPENDITURES MADE BY POLITICAL PARTY COMMITTEES OR DESIGNATED AGENT(S) ON BEHALF OF CANDIDATES FOR FEDERAL OFFICE (2 U.S.C. 441a(d))

(To be used by Political Committees in the General Election)

NAME OF COMMITTEE
NATIONAL REPUBLICAN SENATORIAL COMMITTEE - EXPENDITURES

Has your Committee been designated to make coordinated expenditures by a political party committee? If YES, name the designating committee: ( ) YES ( ) NO

Full Name, Mailing Address and Zip Code of Subordinate Committee

FULL NAME, MAILING ADDRESS and ZIP of Each Payee	NAME OF FEDERAL CANDIDATE/ SUPPORTED, STATE, DISTRICT and Office Sought	Date (month, day, yr)	Amount
ROBERT NEIL WEISS 8201 16TH STREET, #1119 SILVER SPRING MD 20910 PURPOSE OF EXPENDITURE MAILING EXPENSE	ALAN KEYES U.S. SENATE MARYLAND AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - $17479.44	08/31/88	7163.50
ROBERT NEIL WEISS 8201 16TH STREET, #1119 SILVER SPRING MD 20910 PURPOSE OF EXPENDITURE MAILING EXPENSE	ALAN KEYES U.S. SENATE MARYLAND AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - $17479.44	08/29/88	4971.12
ROGER WILLIAMS AD, INC. 482 CONGRESS STREET PORTLAND ME 04101 PURPOSE OF EXPENDITURE MEDIA	JASPER WYMAN U.S. SENATE MAINE AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - $32862.66	08/09/88	32862.66
RSM 719 8TH STREET S.E. WASHINGTON DC 20003 PURPOSE OF EXPENDITURE MEDIA	CONRAD BURNS U.S. SENATE MONTANA AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - $54046.49	08/05/88	15000.00
SUBTOTAL OF EXPENDITURES THIS PAGE (optional)			59,997.28
TOTAL THIS PERIOD (last page this line number only)			

SCHEDULE F ITEMIZED COORDINATED EXPENDITURES MADE BY POLITICAL PARTY COMMITTEES OR DESIGNATED AGENT(S) ON BEHALF OF CANDIDATES FOR FEDERAL OFFICE (2 U.S.C. §441a(d))

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Line Number 23

(To be used by Political Committees in the [illegible])

NAME OF COMMITTEE
NATIONAL REPUBLICAN SENATORIAL COMMITTEE - EXPENDITURE

Has your Committee been designated to make coordinated expenditures by a political party committee? If YES, name the designating committee: ( ) YES ( ) NO

Full Name, Mailing Address and Zip Code of Subordinate Committee

PULL NAME, MAILING ADDRESS and ZIP of Each Payee	NAME OF FEDERAL CANDIDAT SUPPORTED,STATE,DISTRICT and Office sought	Date (month, day,yr)	Amount
THE ROBERT GOODMAN AGENCY 2201 OLD COURT ROAD BALTIMORE MD 21208	TRENT LOTT U.S. SENATE MISSISSIPPI	09/09/88	104400.00
PURPOSE OF EXPENDITURE MEDIA EXPENSE	AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - $1598980.00		
MULTI-MEDIA SERVICES CORP. 1800 DIAGONAL ROAD ALEXANDRIA VA 22314	CONNIE MACK U.S. SENATE FLORIDA	09/09/88	237417.75
PURPOSE OF EXPENDITURE MEDIA EXPENSE	AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - $4630796.00		
OUTDOOR POSTERS, INC 2890 VASSAR STREET RENO NV 89502	JAY ROLPE U.S. SENATE WEST VIRGINIA	09/13/88	7500.00
PURPOSE OF EXPENDITURE YARD SIGNS	AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - $18687.54		
RSM 719 8TH STREET S.E. WASHINGTON DC 20003	CONRAD BURNS U.S. SENATE MONTANA	09/13/88	10636.16
PURPOSE OF EXPENDITURE MEDIA EXPENSE	AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - $83669.93		
SUBTOTAL OF EXPENDITURES THIS PAGE (optional)			359,953.91
TOTAL THIS PERIOD (last page this line number only)			

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SCHEDULE F ITEMIZED COORDINATED EXPENDITURES MADE BY POLITICAL PARTY COMMITTEES OR DESIGNATED AGENT(S) ON BEHALF OF CANDIDATES FOR FEDERAL OFFICE (2 U.S.C. §441a(d))

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Line Number 23

(To be used by Political Committees in the General Election)

NAME OF COMMITTEE
NATIONAL REPUBLICAN SENATORIAL COMMITTEE - EXPENDITURES

Has your Committee been designated to make coordinated expenditures by a political party committee? If YES, name the designating committee: [ ] YES [ ] NO

Full Name, Mailing Address and Zip Code of Subordinate Committee

FULL NAME, MAILING ADDRESS and ZIP of Each Payee	NAME OF FEDERAL CANDIDAT SUPPORTED,STATE,DISTRICT and Office sought	Date (month, day,yr)	Amount
STU MOLLRICH COMMUNICATIONS 1900 QUAIL STREET NEWPORT BEACH CA 92660 PURPOSE OF EXPENDITURE MEDIA EXPENSE	PETE WILSON U.S. SENATE CALIFORNIA AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - $1698048.40	09/28/88	8797.19
TRICE TALENT PAYMENTS, INC. 115 CLAYBROOK DRIVE, #1 SILVER SPRING MD 20902 PURPOSE OF EXPENDITURE MEDIA EXPENSE	CONRAD BURNS U.S. SENATE MONTANA AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - $83665.93	09/28/88	1986.00
USPS JACKSON MAIN POST OFFICE JACKSON MS 39201 PURPOSE OF EXPENDITURE POSTAGE	TRENT LOTT U.S. SENATE MISSISSIPPI AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - $150000.00	09/28/88	1000.00
ODELL ROPER & ASSOCIATES 7316 WISCONSIN AVENUE BETHESDA MD 20814 PURPOSE OF EXPENDITURE MAILING EXPENSE	JOHN DANFORTH U.S. SENATE MISSOURI AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - $70266.71	09/29/88	22250.00
SUBTOTAL OF EXPENDITURES THIS PAGE (optional)			34,033.89
TOTAL THIS PERIOD (last page this line number only)			

SCHEDULE F ITEMIZED COORDINATED EXPENDITURES MADE BY POLITICAL PARTY COMMITTEES OR DESIGNATED AGENT(S) ON BEHALF OF CANDIDATES FOR FEDERAL OFFICE (2 U.S.C. 441a(d))

(To be used by Political Committees in the General Election)

NAME OF COMMITTEE
NATIONAL REPUBLICAN SENATORIAL COMMITTEE - EXPENDITURES

Has your Committee been designated to make coordinated expenditures by a political party committee? If YES, name the designating committee: [ ] [ ] NO

Full Name, Mailing Address and Zip Code of Subordinate Committee

FULL NAME, MAILING ADDRESS and ZIP of Each Payee	NAME OF FEDERAL CANDIDAT SUPPORTED,STATE,DISTRICT and Office sought	Date (month, day,yr)	Amount
ALLYN AND COMPANY 3232 MCKINNEY, STE 1280 DALLAS TX 75204 PURPOSE OF EXPENDITURE MEDIA EXPENSE	BEAU BOULTER U.S. SENATE TEXAS AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - $499918.49	09/20/88	1374.72
TAIT RECORDING SERVICE 1347 SOUTH CAPITOL ST.SW WASHINGTON DC 20003 PURPOSE OF EXPENDITURE MEDIA EXPENSE	CONRAD BURNS U.S. SENATE MONTANA AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - $83665.93	09/20/88	313.23
ROBERT NEIL WEISS 8201 16TH STREET, #1119 SILVER SPRING MD 20910 PURPOSE OF EXPENDITURE MAILING EXPENSE	ALAN KEYES U.S. SENATE MARYLAND AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - $199474.44	09/20/88	4614.00
OMNI DIRECT MAIL SERVICES, INC 8330 OLD COURTHOUSE RD VIENNA VA 22180 PURPOSE OF EXPENDITURE MAILING EXPENSE	JAY WOLFE U.S. SENATE WEST VIRGINIA AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - $18687.54	09/08/88	1900.00
SUBTOTAL OF EXPENDITURES THIS PAGE (optional)			8,401.95
TOTAL THIS PERIOD (last page this line number only)			

SCHEDULE F ITEMIZED COORDINATED EXPENDITURES MADE BY POLITICAL PARTY COMMITTEES OR DESIGNATED AGENT(S) ON BEHALF OF CANDIDATES FOR FEDERAL OFFICE (2 U.S.C. §441a(d))

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Line Number 23

(To be used by Political Committees in the General Election)

NAME OF COMMITTEE
NATIONAL REPUBLICAN SENATORIAL COMMITTEE - EXPENDITURES

Has your Committee been designated to make coordinated expenditures by a political party committee? If YES, name the designating committee: [ ] YES [ ] NO

Full Name, Mailing Address and Zip Code of Subordinate Committee

FULL NAME, MAILING ADDRESS and ZIP of Each Payee	NAME OF FEDERAL CANDIDAT SUPPORTED,STATE,DISTRICT and Office sought	Date (month, day,yr)	Amount
AMERICAN EXPRESS POST OFFICE BOX 1270 NEWARK NJ 07101	CONRAD BURNS U.S. SENATE MONTANA	09/13/88	626.75
PURPOSE OF EXPENDITURE MEDIA EXPENSE	AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - 883665.93		
INTERFACE VIDEO SYSTEMS 1333 NEW HAMPSHIRE AV,NW WASHINGTON DC 20036	CONRAD BURNS U.S. SENATE MONTANA	09/13/88	2655.31
PURPOSE OF EXPENDITURE MEDIA EXPENSE	AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - 883665.93		
MONTANA TELEVISION NETWORK STA BOX 2557 BILLINGS MT 59103	CONRAD BURNS U.S. SENATE MONTANA	09/13/88	125.00
PURPOSE OF EXPENDITURE MEDIA EXPENSE	AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - 883665.93		
NAT'L REPUBLICAN CONGRESSIONAL 320 FIRST STREET, SE WASHINGTON DC 20003	CONRAD BURNS U.S. SENATE MONTANA	09/13/88	680.52
PURPOSE OF EXPENDITURE MEDIA EXPENSE	AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - 883665.93		
SUBTOTAL OF EXPENDITURES THIS PAGE (optional)			4,087.58
TOTAL THIS PERIOD (last page this line number only)			

SCHEDULE F ITEMIZED COORDINATED EXPENDITURES MADE BY POLITICAL PARTY COMMITTEES OR DESIGNATED AGENT(S) ON BEHALF OF CANDIDATES FOR FEDERAL OFFICE (2 U.S.C. 441a(d))

Line Number 23

(To be used by Political Committees in the General Election)

NAME OF COMMITTEE
NATIONAL REPUBLICAN SENATORIAL COMMITTEE - EXPENDITURES

Has your Committee been designated to make coordinated expenditures by a political party committee? If YES, name the designating committee: [ ] [ ] NO

Full Name, Mailing Address and Zip Code of Subordinate Committee

FULL NAME, MAILING ADDRESS and ZIP of Each Payee	NAME OF FEDERAL CANDIDAT SUPPORTED,STATE,DISTRICT and Office sought	Date (month, day,yr)	Amount
Pa PARRELL MEDIA 211 EAST 43RD STREET NEW YORK NY 10017 PURPOSE OF EXPENDITURE MEDIA EXPENSE	PETE DAWKINS U.S. SENATE NEW JERSEY AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - 9537704.40	09/21/88	537000.00
FRSH 1719 8TH STREET S.E. WASHINGTON DC 20003 PURPOSE OF EXPENDITURE MEDIA EXPENSE	CONRAD BURNS U.S. SENATE MONTANA AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - 983669.93	09/20/88	11239.44
THE ROBERT GOODMAN AGENCY 2201 OLD COURT ROAD BALTIMORE MD 21208 PURPOSE OF EXPENDITURE MEDIA EXPENSE	GEORGE VOINOVICH U.S. SENATE OHIO AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - 8722107.30	09/20/88	8740.80
AILES COMMUNICATIONS INC 456 WEST 43RD ST NEW YORK NY 10036 PURPOSE OF EXPENDITURE MEDIA EXPENSE	JOHN DANFORTH U.S. SENATE MISSOURI AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - 870266.71	09/20/88	9251.00
SUBTOTAL OF EXPENDITURES THIS PAGE (optional)			566,231.24
TOTAL THIS PERIOD (last page this line number only)			

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SCHEDULE F ITEMIZED COORDINATED EXPENDITURES MADE BY POLITICAL PARTY COMMITTEES OR DESIGNATED AGENT(S) ON BEHALF OF CANDIDATES FOR FEDERAL OFFICE (2 U.S.C. 441a(d))

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Line Number 23

(To be used by Political Committees in the General Election)

NAME OF COMMITTEE
(NATIONAL REPUBLICAN SENATORIAL COMMITTEE - EXPENDITURES)

Has your Committee been designated to make coordinated expenditures by a political party committee? If YES, name the designating committee: ( ) YES ( ) NO

Full Name, Mailing Address and Zip Code of Subordinate Committee

FULL NAME, MAILING ADDRESS and ZIP of Each Payee	NAME OF FEDERAL CANDIDAT SUPPORTED,STATE,DISTRICT and Office sought	Date (month, day,yr)	Amount
TAIT RECORDING SERVICE 1347 SOUTH CAPITOL ST.SW WASHINGTON DC 20003 PURPOSE OF EXPENDITURE MEDIA EXPENSE	CONRAD BURNS U.S. SENATE MONTANA AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - 886607.22	10/04/88	75.26
PRODUCTION CONSULTANTS 462 K STREET, NW WASHINGTON DC 20001 PURPOSE OF EXPENDITURE MEDIA EXPENSE	CONRAD BURNS U.S. SENATE MONTANA AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - 886607.22	10/04/88	84.00
INTERFACE VIDEO SYSTEMS 1333 NEW HAMPSHIRE AV.,NW WASHINGTON DC 20036 PURPOSE OF EXPENDITURE MEDIA EXPENSE	CONRAD BURNS U.S. SENATE MONTANA AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - 886607.22	10/18/88	566.12
ATLANTIC VIDEO 150 S. GORDON STREET ALEXANDRIA VA 22304 PURPOSE OF EXPENDITURE MEDIA EXPENSE	CONRAD BURNS U.S. SENATE MONTANA AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - 886607.22	10/04/88	2215.91
SUBTOTAL OF EXPENDITURES THIS PAGE (optional)			2,941.29
TOTAL THIS PERIOD (last page this line number only)			

SCHEDULE F ITEMIZED COORDINATED EXPENDITURES MADE BY POLITICAL PARTY COMMITTEES OR DESIGNATED AGENT(S) ON BEHALF OF CANDIDATES FOR FEDERAL OFFICE (2 U.S.C. 441a(d))

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Line Number

(To be used by Political Committees in the General Election)

NAME OF COMMITTEE
NATIONAL REPUBLICAN SENATORIAL COMMITTEE - FEDERAL FUND

Is your committee been designated to make coordinated expenditures by a political party committee? If YES, name the designating committee.

Full Name, Mailing Address and Zip Code of Subordinate Committee

FULL NAME, MAILING ADDRESS and ZIP of Each Payee	NAME OF FEDERAL CANDIDAT SUPPORTED, STATE, DISTRICT and Office sought	Date (month, day, yr)	Amount
THE GARY C LAWRENCE COMPANY 1900 EAST FOURTH ST. SANTA ANA CA 92705 PURPOSE OF EXPENDITURE POLLING	CONRAD BURNS U.S. SENATE MONTANA AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - $90697.22	10/21/88	4050.00
USPS MAIN POST OFFICE WASHINGTON DC 20001 PURPOSE OF EXPENDITURE MAILING EXPENSE	DAVID KARNES U.S. SENATE NEBRASKA AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - $104648.69	11/01/88	250.00
THE ROBERT GOODMAN AGENCY 2201 OLD COURT ROAD BALTIMORE MD 21208 PURPOSE OF EXPENDITURE MEDIA EXPENSE	DAVID KARNES U.S. SENATE NEBRASKA AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - $104648.69	10/20/88	95302.00
ROBERT H. BORK 5171 PALISADE LANE, NW WASHINGTON DC 20016 PURPOSE OF EXPENDITURE FUNDRAISING EXPENSE	DAVID KARNES U.S. SENATE NEBRASKA AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - $104648.69	11/10/88	801.01
SUBTOTAL OF EXPENDITURES THIS PAGE (optional)			99,403.01
TOTAL THIS PERIOD (last page this line number only)			

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SCHEDULE F ITEMIZED COORDINATED EXPENDITURES MADE BY POLITICAL PARTY [illegible] DESIGNATED [illegible] IN BEHALF [illegible] Page [illegible] Line Number [illegible]

[illegible] (2))

[illegible] committees in the [illegible]

NAME OF COMMITTEE
NATIONAL REPUBLICAN SENATORIAL COMMITTEE - EXPENDITURES

Has your committee been designated to make coordinated expenditures by a political party committee? If yes, name the designating committee: [illegible]

Full Name, Mailing Address and Zip Code of Subordinate Committee

Full Name, Mailing Address and ZIP of Each Payee	Name of Federal Candidate Supported, State, District and Office sought	Date (month, day, yr)	Amount
ODELL ROPER & ASSOCIATES 7316 WISCONSIN AVENUE BETHESDA MD 20814 PURPOSE OF EXPENDITURE MAILING EXPENSE	DAVE DURENBERGER U.S. SENATE MINNESOTA AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - $289046.41	12/35/88	13712.51
THE BLACKWELL CORPORATION 1255 23RD STREET, NW WASHINGTON DC 20037 PURPOSE OF EXPENDITURE MEDIA EXPENSE	CONRAD BURNS U.S. SENATE MONTANA AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - $91157.22	12/35/88	500.00
POSTMASTER MAIN POST OFFICE WASHINGTON DC 20001 PURPOSE OF EXPENDITURE POSTAGE	PETE DAWKINS U.S. SENATE NEW JERSEY AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - $537883.68	12/15/88	250.00
THE ROBERT GOODMAN AGENCY [illegible] OLD COURT ROAD BALTIMORE MD 21208 PURPOSE OF EXPENDITURE MEDIA EXPENSE	GEORGE VOINOVICH U.S. SENATE OHIO AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - $732648.20	12/31/88	8800.00

SUBTOTAL OF EXPENDITURES THIS PAGE (optional) | 23,262.51

TOTAL THIS PERIOD (last page this line number only) |

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NAME OF COMMITTEE
NATIONAL REPUBLICAN SENATORIAL COMMITTEE - EXPENDITURES

Has your Committee been designated to make coordinated expenditures by a political party committee? If YES, name the designating committee:

Full Name, Mailing Address and Zip Code of Subordinate Committee

FULL NAME, MAILING ADDRESS and ZIP of Each Payee	NAME OF FEDERAL CANDIDATE SUPPORTED, STATE, DISTRICT and Office sought	Date (month, day, yr)	Amount
PURPOSE OF EXPENDITURE	AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE -		
REPUBLICAN NATIONAL COMMITTEE 310 FIRST STREET NE WASHINGTON DC 20003 PURPOSE OF EXPENDITURE MEDIA EXPENSE	JOE MALONE U.S. SENATE MASSACHUSETTS AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - $414,821.75	05/30/89	496.75
TWIN LENS PHOTOGRAPHY 15221 WATERGATE ROAD SILVER SPRING MD 20904 PURPOSE OF EXPENDITURE PHOTO SERVICE	CONRAD BURNS U.S. SENATE MONTANA AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - $91,494.72	05/30/89	337.50
TWIN LENS PHOTOGRAPHY 15221 WATERGATE ROAD SILVER SPRING MD 20904 PURPOSE OF EXPENDITURE PHOTO SERVICE	EARL STRINDEN U.S. SENATE NORTH DAKOTA AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - $92,000.22	05/30/89	337.50

SCHEDULE A

ITEMIZED RECEIPTS

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

PAGE 2 OF 6

FOR LINE NUMBER: 15

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NAME OF COMMITTEE (In Full)

NATIONAL REPUBLICAN SENATORIAL COMMITTEE - CONTRIBUTIONS

A. Full Name, Mailing Address and ZIP Code ADVANCED LIST MARKETING ASSOCIATES 731-H2 WALKER ROAD GREAT FALLS, VA 22066 Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Name of Employer REIMBURSEMENT MAILING EXPENSE Occupation Aggregate Year-to-Date > $	Date (month, day, year) 8/23/88	Amount of Each Receipt this Period 7,201.08
B. Full Name, Mailing Address and ZIP Code ADVANCED LIST MARKETING ASSOCIATES 731-H2 WALKER ROAD GREAT FALLS, VA 22066 Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Name of Employer REIMBURSEMENT MAILING EXPENSE Occupation Aggregate Year-to-Date > $	Date (month, day, year) 8/23/88	Amount of Each Receipt this Period 8,430.00
C. Full Name, Mailing Address and ZIP Code VEDCRAFT TECHNOLOGIES, INC. RT. 1 AND ADAMS STATION ROAD NORTH BRUNSWICK, NJ 08902 Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Name of Employer REFUND Occupation Aggregate Year-to-Date > $	Date (month, day, year) 9/13/88	Amount of Each Receipt this Period 10.59
D. Full Name, Mailing Address and ZIP Code MEDIA MARKET, INC. 2909D SOUTH WOODSTOCK ST. ARLINGTON, VA 22206 Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Name of Employer REFUND - MI COORDINATED EXPENDITURE Occupation Aggregate Year-to-Date > $	Date (month, day, year) 9/14/88	Amount of Each Receipt this Period 161.50
E. Full Name, Mailing Address and ZIP Code AUTOMATIC DATA PROCESSING 502 COVINA BLVD. SAN DIMAS, CA 91773 Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Name of Employer REFUND Occupation Aggregate Year-to-Date > $	Date (month, day, year) 9/14/88	Amount of Each Receipt this Period 448.19
F. Full Name, Mailing Address and ZIP Code CROWNE PLAZA 333 POYDRAS ST. NEW ORLEANS, LA 70130 Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Name of Employer REFUND Occupation Aggregate Year-to-Date > $	Date (month, day, year) 9/15/88	Amount of Each Receipt this Period 7.04
G. Full Name, Mailing Address and ZIP Code HECHT REELECTION COMMITTEE P.O. BOX 2139 LAS VEGAS, NV 89125 Receipt For: ☐ Primary ☐ General ☐ Other (specify)	Name of Employer REIMBURSEMENT PHOTO EXPENSE Occupation Aggregate Year-to-Date > $	Date (month, day, year) 9/23/88	Amount of Each Receipt this Period 1,026.30

SUBTOTAL of Receipts This Page (optional) .....

TOTAL This Period (last page this line number only) .....

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BEFORE THE FEDERAL ELECTION COMMISSION

City of Washington)
) MUR 3087
District of Columbia)

AFFIDAVIT OF JEFF WILLIS

Jeff Willis, first being duly sworn, deposes and says:

1. I am Jeff Willis. Since August 1988, I have served as the Director of Polling Services for the National Republican Senatorial Committee (NRSC).

2. I am familiar with the allegations of the Complaint filed with the Federal Election Commission styled Matter Under Review ("MUR") 3087 which alleges that the NRSC listed only one payment to Gary Lawrence for $4,050 for tracking polls which represents an undervaluation of these services.

3. The payment of $4050 to the Gary Lawrence Co. from the NRSC for the benefit of Conrad Burns/U.S.Senate, referred to on page 3 of the Complaint in MUR 3087, was not payment for daily tracking polls. As evidenced by the attached invoice, that payment was for a separate, isolated, survey of 400 Montana voters by the Gary Lawrence Co. This Survey was done between September 9-11, 1988. The $4050 amount represented payment by the NRSC for half the costs of that activity. It is the understanding of the NRSC that the Gary Lawrence Co. separately billed another organization for the remainder of that bill.

9404358286

The above is true and correct to the best of my knowledge.

Jeff Willis

Signed and sworn to before me this 19 day of November, 1990.

Notary Public

My Commission Expires: July 14, 1992

9404358288887

GCL

№ 440

THE GARY C. LAWRENCE COMPANY
1900 East Fourth Street, Suite 210
Santa Ana, California 92705
(714) 558-3725

Conrad Burns for U.S. Senate
2710 First Avenue North
Billings, Montana 59103

September 14, 1988

ATTN: Dennis Rehberg

INVOICE

Re: Project #8271

Participation in Montana Statewide Study: N = 400 Registered Voters	$4050.00

2404358288

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BEFORE THE FEDERAL ELECTION COMMISSION

County of Morrison)
) MUR 3087
State of Minnesota)

AFFIDAVIT OF ROBERT J. BISSEN

ROBERT J. BISSEN, first being duly sworn, deposes and says:

1. I am Robert J. Bissen. I served as Special Projects/Voter Programs Director for the National Republican Senatorial Committee (NRSC) from February 1987 to March 1989.

2. As Special Projects/Voter Programs Director I am familiar with the Voter Identification Project undertaken by the various national party committees and the Montana Republican Party in Montana in 1987-88 as a party-building activity.

Because there is no statewide repository of registered voters in Montana, we collected lists of registered voters from each county in Montana. These lists were publicly available lists which did not distinguish between Republican and Democratic voters. There was then an attempt to enhance the list by identifying Republican, Democratic, and Independent voters. The creation of this Montana list, a standard party-building activity, was not allocated to any particular candidate or candidate committees. The normal practice is that this enhanced list, when completed, would be jointly owned by the national party committees and the Montana Republican Party.

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3. I am also familiar with the separate allegations in the Complaint filed with the Federal Election Commission styled Matter Under Review ("MUR") 3087 that the NRSC "apparently completed identification of voter preferences, and then gave the extremely valuable resulting lists to statewide Republican federal and nonfederal candidates . . . . Yet these transactions were never reported on FEC or state campaign disclosure reports." Complaint at 4.

4. The premise of this allegation is incorrect. While a "voter preference" phone bank was conducted, each candidate mentioned in the survey paid for his share of the survey. Thus, the Burns Campaign paid the vendor directly for the share of the phone bank attributable to a question relating to Senator Burns. Attached are copies of two checks issued by the Burns Campaign to Campaign Telecommunications for its share of this phone bank.

The above information is true and correct to the best of my knowledge, information and belief.

Robert J. Bissen

Signed and sworn to before me
this 19 day of November, 1990.

Joyce M. Kahl
Notary Public

My Commission Expires: May 31, 1993

JOYCE M. KAHL
NOTARY PUBLIC-MINNESOTA
MORRISON COUNTY
My Comm. Exp. May 31, 1993

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CONRAD BURNS/U.S. SENATE
GENERAL ELECTION FUND
P. O. BOX 3311
BILLINGS, MT 59103

1350

Oct 1 19 88

93-119/929

PAY TO THE ORDER OF Campaign Telecom $ 3784.80

Three thousand seven hundred eighty four + 80/100 DOLLARS

FIRST CITIZENS BANK
1ST AVENUE NORTH AT BROADWAY
BILLINGS, MONTANA 59101

FOR

⑈001350⑈ ⑆092901191⑆ 149-307⑈

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CONRAD BURNS/U.S. SENATE
GENERAL ELECTION FUND
P. O. BOX 3311
BILLINGS, MT 59103

1460

93-119/929

Oct 20 1988

PAY TO THE ORDER OF Campaign Telecommunications $ 965 11

Nine hundred sixty-five + 11/100 DOLLARS

FIRST CITIZENS BANK
(406) 259-5531
1ST AVENUE NORTH AT BROADWAY
BILLINGS, MONTANA 59101

FOR

Jon Swain

⑈001460⑈ ⑆092901191⑆ 149-307⑈

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BEFORE THE FEDERAL ELECTION COMMISSION

City of Washington)
) MUR 3087
District of Columbia)

AFFIDAVIT OF ALBERT MITCHLER

Albert Mitchler, first being duly sworn, deposes and says:

1. I am Albert Mitchler. I have served as Finance Director for the National Republican Senatorial Committee ("NRSC") from December 1988 to the present.

2. As Finance Director of the NRSC I have reviewed the fundraising programs engaged in by the NRSC in 1986 and 1988. I am familiar with the "Direct To" program that was conducted by the NRSC in 1986 and was the subject of Common Cause v. FEC, 729 F. Supp. 148 (D.D.C. 1990).

3. I am also familiar with the allegations of in the Complaint filed with the Federal Election Commission styled Matter Under Review ("MUR") 3087 which alleges that the NRSC employed a program in the 1988 campaign in Montana identical to its 1986 "Direct To" program.

4. The NRSC did not employ any program identical to or similar to the "1986 Direct To" program in 1988.

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The above information is true and correct to the best of my knowledge, information and belief.

Albert Mitchler

Albert Mitchler

Signed and sworn to before me this 19th day of November, 1990.

Lora C Fuller

Notary Public

My Commission Expires: July 14 1992

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MUR 3087

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

TRT TELEX: 197780
TELECOPIER: 457-6315

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

90 NOV 26 AM 10:33

WRITER'S DIRECT DIAL

202/457-6523

November 21, 1990

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

90 NOV 25 PM 3:01

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

90 NOV 26 PM 1:31

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

Re: MUR 3087

Dear Mr. Noble:

The Conrad Burns/U.S. Senate Committee and Jim Swain, its treasurer, have asked me to reply to your July 20 letter regarding alleged violations of the Federal Election Campaign Act.

These allegations appear in a letter to the Commission from Mr. Kelly Addy, the Democratic Speaker of the Montana House of Representatives. Mr. Addy alleges that both the National Republican Senatorial Committee and the Montana Republican Party violated the Act in a number of ways during the 1988 election. He contends that the two failed to properly record intraparty transfers and to disclose their activities to Montana state election officials. He also asserts that the two made excess contributions to both the Bush/Quayle Committee and the Burns Committee.

All Representative Addy's allegations raise questions about the operation and management of the NRSC and the state party. Burns Committee personnel were not involved in the workings of either the NRSC or the state party. See attached Affidavit of Dennis R. Rehberg, Burns' campaign manager, at ¶2. No one associated with the Burns Committee thus has any first-hand knowledge of whether Mr. Addy's charges about the operation and management of the two committees are true.

Furthermore, nothing Burns Committee personnel learned second-hand during the course of the campaign, in conversations with NRSC or state party officials or otherwise, suggests there is any merit to his charges. Id. at ¶3. In particular, Terry and Neida Merica, former employees of the Montana state party who have sued the party for wrongful discharge, never told anyone at the Burns Committee that they had any reservations about the

9404358289 7

legality of state party or NRSC activities. Id. at ¶4. Representative Addy's allegations all appear to stem from charges in the Mericas' complaint. The first time Burns Committee personnel learned of the Mericas' contentions was when the Merica lawsuit was filed. Id. at ¶5.

The Burns Committee fully complied with all FEC regulations. With respect to the limits on contributions:

> The Burns Committee never knowingly accepted an unlawful contribution or contribution in-kind from the NRSC or the state party. If any proffered contribution appeared to raise a question under the Federal Election Campaign Act, Burns Committee personnel carefully scrutinized it. If, upon review, it was determined that acceptance would violate the Act, the contribution was returned. As disclosed on the Committee's reports to the Commission, there were instances where a contribution was accepted and then later determined to be in excess of what the Committee was permitted to receive. In each case the contribution was refunded.

Id. at ¶6.

Commission regulations require the treasurer of a political committee to examine all contributions "for evidence of illegality" and to make "best efforts" to determine the lawfulness of suspect contributions. 11 C.F.R. § 103.3 (1990); see also Federal Election Commission v. Re-Elect Hollenbeck to Congress Committee, No. 85-2239 (D.D.C. June 16, 1986) (best efforts rule applies to contributions from party committees). Mr. Swain and other personnel of the Burns Committee observed this rule at all times. Nowhere in his letter does Representative Addy allege that the Burns Committee failed to make best efforts to ensure that all contributions it received were lawful. Nor can it be inferred from any of Mr. Addy's allegations that there was such a failure.

Under the Commission's rules a complainant must "clearly identify . . . each person or entity who is alleged to have committed a violation." 11 C.F.R. § 114(d)(1). Mr. Addy identified two respondents in his letter: the NRSC and the Montana state party. But his letter is barren of any assertion

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or suggestion that the Burns Committee or its treasurer violated the best efforts rule or any other provision of the Act or the Commission's regulations.

Under these circumstances the Burns Committee does not understand why your July 20 letter states that the Addy letter alleges that the Committee "may have violated" the Act. The allegations in the complaint, even if true, simply do not support such a statement. Indeed, the complainant himself recognized this by declining to identify the Burns Committee as a possible respondent.

The Burns Committee therefore respectfully requests the Commission to find no reason to believe the Committee or its treasurer violated the Act.

Sincerely,

Richard E. Messick

REM:crg

Enclosure

cc: Jeff Long, Esquire
Federal Election Commission

Jim Swain, Treasurer
Conrad Burns/U.S. Senate Committee

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Affidavit of Dennis R. Rehberg

Dennis R. Rehberg, under of penalty of perjury pursuant to section 1746 of title 28 of the U.S. Code, declares as follows:

1. I was the manager of the 1988 Conrad Burns Senate campaign from July 19, 1988, through the end of the campaign. In this position I was responsible for all aspects of the campaign including compliance with FEC regulations and liaison with the Montana state Republican Party and the National Republican Senatorial Committee.

2. No one associated with the Burns Committee was involved in the operation or management of either the NRSC or the state party.

3. During the campaign no one at the state party or the NRSC ever gave me any reason to believe that either the state party or the NRSC was not fully complying with Commission regulations. Nor did anyone associated with the Burns Committee ever report to me that they had been given any reason to believe that either the NRSC or the state party was not fully complying with Commission regulations.

4. Neither Terry nor Neida Merica ever suggested to me that they believed the state party or the NRSC was violating Commission regulations. And no one associated with the Burns Committee ever reported to me that the Mericas had suggested either the NRSC or the state party was violating Commission regulations.

5. The first time I learned of the Mericas' charges was when they filed their lawsuit against the state party. I subsequently inquired of all Burns Committee staff responsible for finance matters if they had been aware of the Mericas' contentions. Each stated that they first learned of these contentions when the lawsuit was filed.

6. The Burns Committee never knowingly accepted an unlawful contribution or contribution in-kind from the NRSC or the state party. If any proffered contribution appeared to raise a question under the Federal Election Campaign Act, Burns Committee personnel carefully scrutinized it. If, upon review, it was determined that acceptance would violate the Act, the contribution was returned. As disclosed on the Committee's reports to the Commission, there were instances where a contribution was accepted and then later determined to be in excess of what the Committee was permitted to receive. In each case the contribution was refunded.

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

Dennis R. Rehberg

Executed this 21 day of November, 1990.

MUR 3204

COMPLAINT - DECEMBER 20, 1990

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CGC 9064

WILMER, CUTLER & PICKERING
2445 M STREET, N. W.
WASHINGTON, D. C. 20037-1420

TELEPHONE (202) 663-6000
FACSIMILE (202) 293-0074,
293-8829, 429-4930, 429-9853
TELEX 440239 WCPI UI,
892402 WICRING WSH
ADA NET ABA1384
SOURCE WCP001

EUROPEAN OFFICE
4 CARLTON GARDENS
PALL MALL
LONDON SW1Y 5AA, ENGLAND
TELEPHONE 011 (44) 839-4466
FACSIMILE 011 (44) 839-3537
TELEX 8813918 WCP LDN

W. HARDY CALLCOTT
DIRECT LINE (202)
663-6231

December 20, 1990

MUR3204

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 DEC 20 AM 10:44

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

Dear Mr. Noble:

Enclosed is the signed, notarized original of a complaint by Common Cause. The complaint names as respondents the National Republican Senatorial Committee, and the Montana Republican Party. Also enclosed are three copies of the complaint; please stamp one copy as received and return it to our messenger, who has been instructed to wait for a stamped copy.

If you wish to discuss this complaint, please feel free to call Roger Witten, Carol Lee or myself at Wilmer, Cutler & Pickering, (202) 663-6000. Please send any notifications concerning FEC action on the complaint care of Roger Witten, Wilmer, Cutler & Pickering, 2445 M St. N.W., Washington D.C. 20037-1420. We look forward to a prompt resolution of the matters contained in this complaint.

Sincerely,

W. Hardy Callcott

Enclosure

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MUR 3204

UNITED STATES OF AMERICA
Before the
FEDERAL ELECTION COMMISSION

COMMON CAUSE 2030 M Street, N.W. Washington, D.C. 20036 (202) 833-1200, Complainant, v. NATIONAL REPUBLICAN SENATORIAL COMMITTEE, MONTANA REPUBLICAN PARTY, Respondents.	COMPLAINT

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COMPLAINT OF COMMON CAUSE

1. This Complaint charges that the National Republican Senatorial Committee ("NRSC") has knowingly and willfully violated the Federal Election Campaign Act, 2 U.S.C. § 431, et seq., as amended ("FECA"), by making contributions and expenditures in connection with the 1988 Montana U.S. Senate campaign of Conrad Burns in excess of the NRSC's contribution and expenditure limits, and by failing to report those contributions and expenditures accurately, and that the Montana Republican Party has violated the FECA by participating in these violations.

PARTIES

2. Complainant Common Cause is a nonprofit membership corporation organized under the laws of the District of Columbia. It has approximately 280,000 dues-paying members in the 50 states and the District of Columbia. Common Cause promotes, on a non-partisan basis, its members' interest in open, honest, and effective government and political representation. Common Cause seeks to achieve this objective by making government more responsive to the needs and demands of citizens through government and election reform.

3. Respondent NRSC is an unincorporated association comprised of Republican members of the U.S. Senate. The NRSC is a political committee registered with the Federal Election Commission ("FEC") that provides financial support to Republican Senatorial candidates.

4. Respondent Montana Republican Party is a "State committee" as defined in 2 U.S.C. § 431(15) responsible for the day-to-day operation of the Republican Party in Montana.

APPLICABLE STATUTES AND REGULATIONS

5. The FECA provides that the NRSC and the Republican National Committee ("RNC") are subject to a combined contribution limit of $17,500 for each U.S. Senate candidate during the year in which an election is held. 2 U.S.C. § 441a(h).

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6. The FECA also provides that the RNC may make coordinated expenditures on behalf of each U.S. Senate candidate equal to the greater of: (a) two cents times the voting age population of the state; or (b) $20,000, with each figure to be adjusted for inflation. A state party such as the Montana Republican Party may make coordinated expenditures on behalf of a U.S. Senate candidate running for election in that state equal to the coordinated expenditures the RNC may make. 2 U.S.C. § 441a(d). In practice, the RNC and state Republican parties usually delegate their expenditure authority to the NRSC, and in 1988 both the RNC and the Montana Republican Party delegated their coordinated expenditure authority in support of Burns to the NRSC. Pursuant to 2 U.S.C. §§ 441a(d) and (h), the NRSC was allowed to spend and contribute approximately $92,220 in connection with the 1988 Montana U.S. Senate race.

7. The FECA requires political committees such as the NRSC to file reports with the FEC accurately reporting their receipts and disbursements. 2 U.S.C. § 434.

8. The FECA exempts from the definitions of "contributions" and "expenditures" subject to the limits of the FECA a state or local party's cost of volunteer materials (such as pins, bumper stickers, handbills, brochures, posters, party tabloids and yard signs, but not including any broadcasting, newspaper, magazine, billboard, direct mail or similar type of

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general public communication or political advertising), so long as such payments are made from contributions subject to the limits and prohibitions of the FECA, and such payments are not made from contributions designated to be spent on behalf of a particular candidate or candidates. 2 U.S.C. §§ 431(8)(x), 431(9)(viii). This exception is not available to national party committees such as the NRSC.

9. FEC regulations provide that campaign materials purchased by a national party committee such as the NRSC and delivered to a state or local party committee, or campaign materials purchased by a state or local party committee with funds donated by a national party committee, cannot qualify under the "volunteer materials" exemption from the definitions of contribution and expenditure. 11 C.F.R. §§ 100.7(b)(15)(vii), 100.8(b)(16)(vii).

10. The FECA exempts from the definitions of "contributions" and "expenditures" subject to the limits of the Act a state party's cost of voter registration and get-out-the-vote activities in support of the party's nominees for President and Vice President, subject to the same restrictions as the volunteer materials exception discussed above, including the restriction that expenses for direct mail are not exempt from the definitions of "contribution" and "expenditure". 2 U.S.C. §§

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431(8)(xii), 431(9)(ix). This exception is not available to national party committees such as the NRSC.

11. FEC regulations provide that voter registration and get-out-the-vote activities by a state or local party are not exempt from the definitions of contribution and expenditure if made from funds donated by a national party committee such as the NRSC. 11 C.F.R. §§ 100.7(b)(17)(vii), 100.8(b)(18)(vii).

12. The FECA provides that a contribution by a person (including a political committee) made either directly or indirectly on behalf of a particular candidate, including contributions which are in any way earmarked or otherwise directed through an intermediary or conduit, shall be treated as contributions by that person to that candidate. The intermediary or conduit must report both the original source and the intended recipient of such contribution to the FEC and the candidate. 2 U.S.C. § 441a(a)(8).

13. The FECA provides that, for a knowing and willful violation of the Act, the FEC may seek a civil penalty of the greater of $10,000 per violation or 200 percent of the contribution or expenditure involved in such violation. 2 U.S.C. § 437g(a)(6)(C).

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GROUNDS FOR COMPLAINT

Facts

14. The NRSC's actions described below are part of a knowing and willful pattern or practice of engaging in illegal schemes so as to exceed the contribution and expenditure limits set forth in 2 U.S.C. §§ 441a(d) and (h).[1/]

15. In 1988, a U.S. Senate campaign took place in Montana between Democratic incumbent Senator John Melcher and Republican challenger Conrad Burns, which Burns won by a narrow margin.

16. On information and belief, in 1988 Ann Prestridge was the NRSC staff person with primary responsibility for the NRSC's efforts in support of Burns.

17. On information and belief: in 1988, the NRSC transferred over $200,000 to the Montana Republican Party above

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1/ Common Cause's information and belief as to this and the subsequent allegations are based on the First Amended Complaint filed by Terry Merica and Neida Merica in the U.S. District Court for the District of Montana in an action styled Merica v. Campbell, CV-90-6-H-CCL (D. Mont., filed Jul. 18, 1990). A copy of this Complaint is attached as Exhibit A to this complaint. In 1988, Terry Merica was executive director of the Montana Republican party, and Neida Merica was an administrative secretary for the Montana Republican party. Thus, both were in a unique position to observe the matters alleged in that complaint. See also Barnes, Using the Election Rule Book Creatively, 22 Nat'l J. 26 (Jan. 6, 1990) (attached as Exhibit B to this complaint).

and beyond the statutory amounts by which the NRSC could support Burns. This amount was over one-third of the Montana Republican Party's receipts for the entire year, with the majority of this money being transferred in the last month before the 1988 general election, after the NRSC had already exhausted its statutory ability to make contributions to and coordinated expenditures on behalf of the Burns campaign.

18. On information and belief: in 1988 the NRSC repeatedly incurred and directed the Montana Republican party to incur expenses purportedly subject to the "volunteer materials" exception to the FECA, and then transferred money to the Montana Republican party to pay for these expenses. In some of these instances, involving materials prepared by, inter alia, James R. Foster and Associates, the Montana Republican party was not aware of these expenditures until after they had been incurred. The money so expended was not reported by the NRSC or the Montana Republican Party as a coordinated expenditure in support of Burns, nor was it counted against the coordinated expenditure limit in support of Burns of the NRSC or the Montana Republican Party.

19. On information and belief: in 1988 the NRSC repeatedly incurred and directed the Montana Republican Party to incur expenses purportedly subject to the "voter registration and get-out-the-vote" exception to the FECA, and then transferred

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money to the Montana Republican party to pay for these expenses. Many of the materials purchased with this money advocated the election of Burns for U.S. Senator as well as George Bush and Dan Quayle for President and Vice President. In some of these instances, the Montana Republican Party was not aware of these expenditures until after they were incurred.

20. On information and belief: among the expenses incurred by the NRSC was approximately $20,000 to hire Corey Lane to plan a voter identification project in Montana, and $130,000 to complete that project. The NRSC had sole control over this project, and supplied all of the funds for the project. The NRSC funnelled these funds through the Montana Republican Party, which had no control over (or even knowledge about the progress of) this project. The NRSC eventually required the Montana Republican Party to purchase the results of the project for the use of local Republican candidates. Although Burns was a major beneficiary of this project, none of the expenses of the project were ever reported as coordinated expenditures by the NRSC or the Montana Republican Party on his behalf, nor were any of these expenses counted against the NRSC's or the Montana Republican Party's coordinated expenditure limits in support of Burns.

21. On information and belief: at least three employees of the NRSC, Tom Hannah, Ken Knudson, and Elwood English, were reported as being paid by the Montana Republican

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Party and not the NRSC, although they continued to report solely to the NRSC and not to the Montana Republican Party. These three individuals were paid solely by funds transferred from the NRSC to the Montana Republican Party, but which at all times remained under the sole effective control of the NRSC. These employees worked for the election of Burns, and therefore the salaries of these employees constituted a coordinated expenditure in support of Burns. Neither the NRSC nor the Montana Republican Party reported any of the funds expended to pay the salaries of these employees as coordinated expenditures in support of Burns or counted these funds against their coordinated expenditure limit in support of Burns. In addition, Tony Payton, a consultant hired by the NRSC in 1988, spent a substantial amount of his time while employed for the NRSC engaged in activities in support of Burns, but the NRSC did not report any of his salary as a coordinated expenditure in support of Burns or count these funds against its coordinated expenditure limit in support of Burns.

22. FEC reports indicate that, on October 1, 1988, the Montana Republican Party had just over $46,000 cash on hand, and in the next two months raised an additional amount just under $91,000 from sources other than the NRSC. However, in that same time, the Montana Republican Party reported spending over $109,000 to James R. Foster & Associates to prepare its mailings, and over $72,000 for postage to pay for those mailings. The inescapable inference is that the amounts the Montana Republican

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Party spent on these mailings was paid for out of the transfers from the NRSC.

Violations

23. The NRSC, by engaging in the conduct described above, committed numerous knowing and willful violations of the FECA. The Montana Republican Party, by participating in those violations, also committed numerous violations of the FECA.

24. The "volunteer materials" and "voter registration and get-out-the-vote" exceptions to the definitions of contributions and expenditures subject to the FECA are available only to state and local party committees, not to the NRSC. The Senate Report to the bill that enacted these exceptions, S. Rep. 319, 96th Cong., 1st Sess. at 4 (1979), specifically provides that "State committees . . . may not accept transfers from other State or national committees for these expenditures."[2/] Because in Montana in 1988 the NRSC directed and/or controlled the contributions and expenditures of the Montana Republican Party purportedly subject to these exceptions, those contributions and

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2/ Similarly, the House Report, H.R. Rep. No. 422, 96th Cong., 1st Sess. at 9 (1979), states "Campaign materials purchased by the national party committee of a political party and delivered to a State or local party committee would not come within the exemption." This legislative history is codified in the FEC's regulations at 11 C.F.R. §§ 100.7(b)(15)(vii), 100.7(b)(17)(vii), 100.8(b)(16)(vii), 100.8(b)(18)(vii).

expenditures were subject to the reporting requirements and contribution and expenditure limits of the FECA.

25. Moreover, the "voter registration and get-out-the-vote" exception to the definitions of contributions and expenditures is only available in support of a party's candidates for President and Vice President. The NRSC's funding of the Montana voter identification project in Montana in 1988 to support Burns' U.S. Senate campaign did not qualify for this exemption.[3/]

26. All of the contributions and expenditures in support of Burns in 1988 which the NRSC did not report (and which the NRSC directed the Montana Republican Party not to report) in reliance on the "volunteer materials" and "voter registration and get-out-the-vote" exceptions to the definitions of contribution and expenditure were in fact required to be reported by the NRSC (and the Montana Republican Party), because they were in fact

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[3/] See H.R. Rep. No. 422, 96th Cong., 1st Sess. at 10 (1979) ("This new provision exempts certain voter registration and get-out-the-vote activity conducted by a State or local party organization on behalf of the Presidential and Vice-Presidential nominees. . . . The costs attributable to the House and Senate candidates would be considered contributions to or expenditures on behalf of such candidates"); 11 C.F.R. §§ 100.7(b)(17)(iv), 100.8(b)(18)(iv).

directed and controlled by the NRSC, were funded by transfers from the NRSC, and were in support of a U.S. Senate candidate.[4/]

27. In no instance did the NRSC report that it had earmarked any of its transfers to the Montana Republican Party for use on behalf of Burns. The NRSC caused the Montana Republican Party not to report that the transfers from the NRSC were earmarked for Burns.

28. The NRSC and the Montana Republican Party, by engaging in the conduct described above, violated their obligation under 2 U.S.C. § 434 to submit accurate reports to the FEC, and violated their contribution and expenditure limits in support of Burns as set forth in 2 U.S.C. § 441a.

29. On information and belief, in 1988 the NRSC through its agent Ann Prestridge was specifically informed by the employees and attorneys of the Montana Republican Party (including Terry Merica, Neida Merica, and Ward Shanahan) that its conduct in the above incidents violated the FECA, but it insisted on continuing that conduct, demanded that the Montana

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4/ On information and belief, the James R. Foster mailings also did not qualify for the "volunteer materials" exceptions to the definitions of contribution and expenditure because they were "direct mail" within the meaning of the FECA: they were sent to a mailing list generated and controlled by the NRSC, not by the Montana Republican Party, and were professionally written, printed and mailed. For these reasons as well, the mailings did not qualify as volunteer materials within the meaning of 2 U.S.C. §§ 431(8) or (9). See 11 C.F.R. §§ 100.7(b)(15)-(16), 100.8(b)(16)-(17).

Republican Party file inaccurate FEC reports concerning the expenditures at issue, itself filed inaccurate FEC reports concerning those expenditures, and threatened and eventually secured the ouster of the Montana Republican Party officials who had objected to that conduct. As a result, the NRSC's actions in committing these violations was knowing and willful within the meaning of 2 U.S.C. § 437g(a)(6)(C).

RELIEF

30. Common Cause respectfully urges the FEC to conduct a prompt and thorough investigation into the allegations in this Complaint. Common Cause urges the FEC to declare that the NRSC has knowingly and willfully violated the FECA, and impose penalties equal to the greater of $10,000 per violation or 200 percent of the amount of the violations. Common Cause urges the FEC to declare that the Montana Republican Party has violated the FECA, and impose penalties equal to the greater of $5,000 per violation or 100 percent of the amount of the violation. In addition, because of the apparently pervasive nature of the violations set forth above, Common Cause respectfully urges the FEC to conduct a thorough audit of all contributions and expenditures in Montana in 1988 by the NRSC and the Montana Republican Party to determine if any additional violations of the FECA occurred, and to conduct a similar investigation of the

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NRSC's activities in other states in 1988 to determine if similar violations occurred.

Respectfully submitted,

Roger M. Witten

Roger M. Witten
Carol F. Lee
W. Hardy Callcott

Wilmer, Cutler & Pickering
2445 M Street, N.W.
Washington, D.C. 20037-1420
(202) 663-6000

Counsel for Common Cause

December 19, 1990

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VERIFICATION

The undersigned counsel for complainant Common Cause swears that the statements in this complaint are based on the sources indicated, and, as such, are true and correct to the best of his information and belief.

Roger M. Witten

Roger M. Witten

Subscribed and sworn before me this 17th day of Decmeber, 1990.

Notary Public

My Commission Expires: My Commission Expires March 31, 1993

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EXHIBIT A

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James H. Goetz
Brian K. Gallik
GOETZ, MADDEN & DUNN, P.C.
Attorneys at Law
35 North Grand
Bozeman, MT 59715

ATTORNEYS FOR PLAINTIFFS

FILED

JUL 18 1990

LOU ALEKSICH, JR., Clerk
By
Deputy Clerk

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MONTANA

HELENA DIVISION

TERRY MERICA and NEIDA MERICA,

Plaintiffs,

v.

BARBARA CAMPBELL; THE MONTANA REPUBLICAN PARTY; ANN PRESTIDGE; and THE NATIONAL REPUBLICAN SENATORIAL COMMITTEE,

Defendants.

Cause No. CV-90-6-H-CCL

FIRST AMENDED COMPLAINT

The Plaintiffs, Terry and Neida Merica, for their cause of action allege as follows:

NATURE OF ACTION

This is an action for damages to remedy the unlawful actions of the Defendants or their directors, officers, agents, other representatives, or co-conspirators. The Defendants wrongfully discharged the Plaintiffs, Terry and Neida Merica, because they refused to participate in the Defendants' pattern

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of illegal campaign finance activities and other misconduct, and because they questioned the legality of the Defendants' conduct by reporting such conduct to the State Republican Legal Counsel, Ward Shanahan. Defendants' retaliation against Terry and Neida Merica caused them to lose compensation and benefits, and caused permanent injury to their business and property, in violation of federal and state statutes.

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JURISDICTION

1. Plaintiffs, Terry and Neida Merica, state a claim for damages arising from Defendants' violation of 18 U.S.C. § 1962 which confers jurisdiction upon this Court pursuant to 18 U.S.C. § 1964 and 28 U.S.C. § 1331. By virtue of its authority to adjudicate the federal claims, this Court has jurisdiction to adjudicate the pendent state claim arising under Montana's Wrongful Discharge Act, also described in this Complaint.

PARTIES AND NON-PARTY PARTICIPANTS

2. The Plaintiff Terry Merica is a resident and citizen of the State of Montana and the former Executive Director of the Montana Republican Party.

3. The Plaintiff Neida Merica is the wife of Terry Merica and is a resident and citizen of the State of Montana. Neida Merica was formerly employed by the Montana Republican Party as an Administrative Secretary.

4. The Defendant Barbara Campbell ("Campbell") is, and

was during all periods relevant to this Complaint, Chairperson of the Montana Republican Party. As such, Ms. Campbell is the recognized leader of the Republican Party organization in Montana. Ms. Campbell is responsible, with limited exceptions, for the hiring and termination of employment of appointed officers of the Republican Party, including the Executive Director, and all paid employees of the Montana Republican Party. Ms. Campbell presides at all meetings of the State Republican Central Committee, Executive Committee and all Republican Conventions. Ms. Campbell appoints all committees, including a portion of the Executive Committee, and is an ex-officio member of all committees. Ms. Campbell represents the State Central Committee in an official capacity and has all the usual powers of supervision and management as pertain to the office of a chairperson.

5. The Defendant Montana Republican Party, is an association, committee or organization which, among other things, nominates or selects a candidate for election to any Federal Office, whose name appears on the election ballot as the candidate of such association, committee or organization. The Montana Republican Party has a duty under 2 U.S.C. § 434(b) to file accurate periodic reports with the FEC and the Montana Commission on Political Practices regarding its expenditures and contributions.

6. The Defendant National Republican Senatorial Committee (NRSC) is a political committee (as generally defined by 2

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U.S.C. § 431(4)(A) (1982)) registered with the Federal Election Commission (FEC) under the Federal Election Campaign Act, 2 U.S.C. §§ 431, et seq. The NRSC is organized and dedicated to the election of republican candidates to the United States Senate. In Montana, the NRSC was dedicated in 1988 to the election of Conrad Burns to the United States Senate.

The NRSC has a duty under 2 U.S.C. § 434(b) to file accurate periodic reports with the FEC and the Montana Commission on Political Practices regarding its expenditures and contributions.

7. Defendant Ann Prestidge, upon information and belief, was, during all periods relevant to this complaint, an employee of the Defendant National Republican Senatorial Committee and was responsible for, among other things, supervising the election campaign efforts of Federal Republican Senatorial Candidates in certain States, including the State of Montana.

8. Ward Shanahan, at all times mentioned in this complaint, served as the general counsel for the Montana Republican Party. As general counsel for the Montana Republican Party, Mr. Shanahan was responsible for advising the Chairman, Executive Director, the State Central Committee, and all other officers and committees on all legal matters relative to their duties.

9. Mike Letson, at all times relevant to this complaint, served as the Treasurer of the Montana Republican Party. As Treasurer, Mr. Letson was responsible for requiring an

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accounting, at least monthly, for all receipts and disbursements of the State Central Committee and was responsible for the timely filing of all reports required to be made to any governmental body or agency by the State Central Committee. Mr. Letson was also responsible for ensuring that the financial reports of the Montana Republican Party complied with the Federal Election Campaign Act, 2 U.S.C. § 434.

10. Helen S. Kellicut was the Assistant Treasurer of the Montana Republican Party until January of 1989 when she replaced Michael Letson as Treasurer for the Montana Republican Party. Upon the resignation of Mr. Letson, Ms. Kellicut became responsible for completion of the 1988 year-end financial reports due to the F.E.C. on January 31, 1987. As Assistant Treasurer, Ms. Kellicut was responsible for the performance of such duties as were assigned to her by the Chairman or the Treasurer.

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GENERAL FACTS

11. The Plaintiff Terry Merica was hired on or about December 15, 1987, by Defendant Campbell to serve as the Executive Director of the Montana Republican Party.

12. Article XI, Section A, of the State Party Rules of the Montana Republican Party describes the position of Executive Director as follows:

> Executive Director. The Executive Director shall be appointed by the Chairman, subject to prior approval of the Executive Committee. The Executive Director shall be a paid employee who shall serve at the pleasure of the Chairman. All terms of

> employment of the Executive Director must be set out in detail in the minutes of the Executive Committee. He shall preserve all permanent records of the State Central Committee and shall relinquish them to his successor at the termination of his employment. He shall perform such duties as may be assigned to him from time to time by the Chairman.

13. The terms of employment for Plaintiff Terry Merica were not set out in detail in the minutes of the Executive Committee as required by Article XI(A) of the Republican Party Rules.

14. The Plaintiff Neida Merica was hired by the Defendants in or around February 1988, as an Administrative Secretary.

15. As Administrative Secretary of the Montana Republican Party, Plaintiff Neida Merica was the custodian of all committee books and records and the individual responsible for preparing the Reports of Receipts and Disbursements which were submitted to the Federal Election Commission (F.E.C.), and the Montana Commissioner of Political Practices.

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DEFENDANTS' PATTERN OF TRANSACTIONS

A. SUMMARY OF TRANSACTIONS.

16. As the 1988 campaign year began, the Montana Republican Party was in substantial debt. To remedy this problem, various plans and methods were devised by the National Republican Senatorial Committee to raise and transfer substantial funds in support of their election objectives in Montana. During the course of 1988, several other committees

became involved, including the National Republican Committee, (RNC), the Republican Governors' Association, (RGA), the M & N Committee, the Midwestern Majority Committee, the Bush/Quayle Committee, the Colorado Republican Committee and the Stephens/Kolstad Committee.

17. Between January and December of 1988, these Republican committees and organizations transferred, contributed and spent hundreds of thousands of dollars in support of Montana republican candidates. Most of this money originated from outside the state of Montana.

18. Federal election laws set forth strict contribution and expenditure requirements for political committees and associations. For example, the National Republican Committee was limited by federal law in 1988 to contributing a total of approximately $97,500 in support of Conrad Burns' election efforts to the United States Senate. Montana election laws limit a political committee's contributions to gubernatorial candidates to $8,000.00.

19. Beginning in March, 1988, Plaintiffs Terry Merica and Neida Merica began to question the legality of certain contributions, expenditures, and transfers of campaign funds by the NRSC in the Montana Federal Senatorial election.

20. By December, 1988, the Plaintiffs were also concerned about the legality of certain contributions, expenditures, and transfers of campaign funds by the National Republican Governor's Association, the various committees responsible for

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aiding in the election of George Bush and Dan Quayle to their respective offices of President and Vice President of the United States, and the various committees responsible for aiding the election efforts of the Stephens/Kolstad Committee. By this time, the Plaintiffs had also raised serious questions about the legality of how the NRSC and other parties, including the Montana Republican Party, reported these contributions, expenditures and transfers of funds to the Federal Election Commission and the State Commission on Political Practices.

B. THE VOTER IDENTIFICATION PROJECT.

21. For example, on May 1, 1988 at a meeting in Helena, conducted by Tony Payton, a political consultant to the NRSC, a discussion was held concerning ways the Montana Republican State Central Committee could raise $150,000 for a voter identification program in Montana. Mr. Payton explained the concept whereby the NRSC could transfer funds to replace operating expenditures, thus freeing all the $150,000 for the project. As a result of the meeting, the NRSC agreed to transfer $20,000, in four monthly installments of $5,000, for the purpose of hiring someone to facilitate fund-raising activities.

22. In April 1988, Corey Lane was hired, subject to the prior approval of the NRSC, to coordinate the fund-raising activities.

23. By June of 1988, Mr. Lane had designed a three-phase program to complete the voter identification program. In

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correspondence drafted by Mr. Lane in June of 1988, he explained the three phases:

> First, the Republican National Committee is inputting data for every registered voter in Montana onto a data file. This information will then be cross referenced to existing telephone numbers.
>
> Second, the Montana Republican Party will commission a polling company to physically call every registered voter. A series of questions will determine their political party preference, issue concerns, voting habits, etc.
>
> Third, the information will be made available to every Republican candidate to assist in their campaign efforts.

24. Mr. Lane, in this same correspondence, explained that the funding for the voter ID project was intended to come from various sources:

> The RNC [Republican National Committee] has consented to provide the financial resources for the first phase of the project and completion is expected June 30.
>
> The second phase is to be paid for via special fund raising events in Montana and must be completed no later than August 30. The Senatorial Committee has supplied the financial resources to enable the Montana Republican Party to commission my services to initiate these events.

25. It soon became apparent that Corey Lane was considering funding methods that would circumvent Montana Election Laws regarding corporate political campaign contributions.

26. Plaintiff Terry Merica attempted to persuade Lane of the illegality of his proposed course of action but was unsuccessful.

27. Plaintiff Terry Merica discussed Lane's tactics with

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Defendants Campbell and Prestidge but was directed to "mind his own business" and to "be optimistic" about Lane's project. Accordingly, Plaintiff Terry Merica referred the matter to Mr. Ward Shanahan, legal counsel for the Montana Republican Party.

28. During the next several months, Plaintiff Merica continued to express concern regarding the activities of Corey Lane. His concerns apparently prompted a July 11, 1988 letter from Lane to Defendant Prestige in which Lane complained that his "[a]ctivities in Montana have been seriously hampered due to the Montana GOP Executive Director, Terry Merica."

29. Eventually, Corey Lane abandoned his attempts to raise funds for the voter ID project. At that time, the National Republican Senatorial Committee assumed control of all aspects of the voter identification program and began funding the project with its own money.

30. Although the voter ID project was intended to be conducted by the Montana Republican Party for the purpose of aiding all Montana Republican candidates, the NRSC exercised such direction and control over the voter identification project that no one in the Montana Republican Party, including the Defendant Barbara Campbell, (Chairperson of the Party) and Plaintiff Terry Merica, (Executive Director of the Party) knew how the project was progressing.

31. For example, on August 26, 1988, at an executive board meeting of the Montana Republican State Central Committee, the Assistant Treasurer, Helen Kellicut, reported to the board that

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the voter identification project had received contributions from the NRSC, the RGA (Republican Governors' Association), and the RNC (Republican National Committee). When a Mr. Joe Briggs asked about the progress of the voter identification project, no one, including the Chairman of the Montana Republican Party, was able to respond to Mr. Briggs' inquiry because "not much is known."

32. Eventually, the state party learned that the National Republican Senatorial Committee had completed the voter identification project. However, the NRSC refused to share the results of its project with the local party; instead, the NRSC used the information solely to aid the elections of Conrad Burns, and Stan Stephens and Allen Kolstad.

33. Plaintiff Terry Merica reported the refusal of the NRSC to share the results of the project to Ward Shanahan. In an October 1988 memo to Barbara Campbell, Shanahan chastised the conduct of the NRSC:

> PROBLEMS, PROBLEMS: (a) Terry Merica has advised me yesterday that the voter identification list we thought we would be getting from the Senatorial WON'T BE COMING i.e THEY W"ONT (sic) GIVE THEM TO HIM WITHOUT A SUBSTANTIAL CASH PAYMENT... IF THIS PROBLEM IS NOT SOLVED IMMEDIATELY NEITHER BILLINGS NOR HELENA WILL BE ABLE TO FUNCTION in setting up phone banks and getting on with our "get out the vote effort". [I]'m requesting you and Terry Merica to immediately make available any and all voter lists that it is possible to give to Billings and Helena. The Billings office is under the impression that Terry is refusing to cooperate. I have assured them that he isn't able to help because the lists promised by senatorial are being held for ransom. IT IS TIME TO STOP PLAYING GAMES.

34. Shanahan's memo was to no avail. The NRSC refused to

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share the results of the voter ID program with the Montana party. As a result, Terry Merica was forced to purchase, for a substantial sum of money, a copy of the voter ID lists from a company that the NRSC had made arrangements with for the storage of the completed project on magnetic media. Through this purchase, local Republican candidates were able to secure the benefits of the voter ID project.

35. The voter ID project, as organized, controlled and funded by the NRSC was devoted primarily to aid the elections of Conrad Burns and Stan Stephens and Allen Kolstad. Thus, all funds expended by the NRSC in this endeavor should have been reported by the NRSC as contributions to Conrad Burns, Stan Stephens and Allen Kolstad. As such, they are subject to the same limits as any other type of contribution.

36. The NRSC deliberately concealed the true character of its participation in the voter ID program by failing to report its expenditures for the voter ID project as contributions to the Conrad Burns and Stephens/Kolstad campaigns. The NRSC's fraudulent reporting of its expenditures for the voter ID program therefore violated federal and state election laws.

37. Upon information and belief, the NRSC's expenditures for the voter ID program -- alone -- exceeded applicable federal spending limitations imposed upon the NRSC. It therefore violated federal election law spending limitations.

38. Upon information and belief, the NRSC provided J.R. Foster & Associates with the voter identification list for the

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purpose of addressing a joint mailing advocating the election of George Bush and Conrad Burns. This action violated federal election law spending limitations and advertising disclaimer notice requirements.

C. THE TRANSFER OF FUNDS THROUGH THE MONTANA REPUBLICAN PARTY TO AVOID SPENDING LIMITATIONS.

39. During this same period of time, the NRSC frequently demanded the movement of substantial funds in and out of the state Republican Party accounts, often without adequate explanation to Executive Director Merica or his staff. It was apparent that Defendant Prestidge controlled all aspects of the various transactions that took place under the guise of the state Republican Party and that the Montana Party was simply being used as a clearing-house for NRSC transactions. Upon information and belief, certain transfers, contributions and expenditures by the NRSC violated federal election laws.

40. Plaintiffs questioned Defendant Prestidge on the legality and propriety of her actions. On each occasion, Plaintiffs received phone calls from Defendant Campbell with instructions to follow the dictates of Defendant Prestidge. During one conversation with Defendant Prestidge, regarding payment by the State Party of certain expenditures incurred by the NRSC, Prestidge became furious with Plaintiff Terry Merica and called him a "foot-dragging, obstructionist, son-of-a-bitch." Plaintiff subsequently received a call from Defendant Campbell instructing him to comply with Defendant Prestidge's requests.

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41. On several occasions, Defendant Prestidge telephoned Plaintiffs Terry and Neida Merica with instructions to wire transfers of funds to J.R. Foster Company for direct mailings of campaign materials on behalf of Conrad Burns. In one instance Defendant Prestidge requested the transfer of $60,000. Plaintiffs Terry and Neida Merica again expressed their concern over the legality of Defendant Prestidge's actions but were instructed by Defendant Campbell not to "bring this issue up again."

42. Following the $60,000 transfer of funds, Plaintiff Neida Merica visited Ward Shanahan's office concerning the legality of these transfers and payments.

43. On another occasion, the Montana Republican Party received an invoice from J.R. Foster & Associates for $6,879.01. Plaintiffs did not know what J.R. Foster & Associates had done to warrant this pay request. Nevertheless the National Republican Senatorial Committee transferred to the Montana Party $6,879.01 with instructions to remit the same, under the name of the Montana Republican Party, to J.R. Foster and Associates.

44. The Montana Republican Party headquarter staff did not, at any time, have any direct communications or relationship with J.R. Foster and Associates; nor did the staff have any knowledge of the form or content of the work, prior to its completion, by J.R. Foster for the NRSC. The NRSC incurred all obligations, transferred the necessary funds to the Montana Republican Party and directed the Montana Party to pay the

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bills.

45. One final dispute arose over bills totalling $24,000 from J.R. Foster & Associates. Again, the state Republican Party had no documentation to account for the expenditures. Plaintiffs again resisted payment because of a conflict with FEC regulations.

46. Consequently, Defendant Prestidge telephoned Neida Merica demanding to know the amount of funds in "her account." When informed by Neida Merica that the Montana Party did not have sufficient funds to pay for the J.R. Foster bill, Prestidge became enraged and demanded a "full accounting of her funds." In response, Plaintiffs complied and transmitted to Prestidge a statement of "her" account.

47. The statement of account compiled for Defendant Prestidge indicates that the National Republican Senatorial Committee transferred to the Montana Republican Party $10,000 on August 9, 1988; $10,000 on August 30, 1988; $10,000 on September 15, 1988; $6,879 on October 10, 1988; $15,000 on October 10, 1988; $16,000 on October 20, 1988; $4,956 on October 25, 1988; $49,000 on October 26, 1988; $32,110 on November 1, 1988; $19,000 on November 4, 1988; and $5,200 on November 16, 1988.

48. Later that same day, Defendant Campbell demanded assurances from Neida Merica that Prestige had received her statement of account because, in her words, "after all it is her money."

49. Ward Shanahan was present in Terry Merica's office

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when the above referenced incidents with Prestidge and Campbell occurred. In response, on November 3, 1988, Ward Shanahan wrote to Defendant Prestidge to caution her about the propriety of her actions:

> On behalf of the state Chairman of the Republican Party and also as Chairman of Victory-'88-MONTANA, I want to caution you about issuing directives to the State Executive Director and his staff without proper authority.
>
> This cautionary note is particularly appropriate with respect to the movement of funds, in and out of our state accounts and the Victory-'88 account.
>
> We have been trying to give you full cooperation to accomplish your objectives. But at the same time we need courtesy and an adequate explanation from you so that we can make the appropriate response.

50. Five days later, in a memorandum to the Republican Party, Ward Shanahan again discussed the overreaching of the NRSC:

> The National Presidential Committee and the National Senatorial and Congressional Committees are aware of the weak and fragmented nature of the Montana party organization and use it to their own advantage. For example:
>
> (a) They routinely reach over the state chairman and the state executive director and deal directly with local county people.
>
> (b) They keep their agendas confidential, and the state offices are often the last to find out what they intend to do, until after they have already done it.
>
> (c) A great strain is created by financial shenanigans of these national committees. The people running this end of the national committees are rude, insulting to the state office staff, they take advantage of confusion, often misrepresent the facts and would have, I believe, if we hadn't stopped them, committed serious breaches of state and federal law. They

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> routinely attempt to incur expenditures in the name of the Montana Republican Party or the state Republican Central Committee, without the knowledge of the chairman, the state treasurer, or the executive director. Despite this kind of chicanery the executive director and the state chairman are expected to "go along" in the interest of party loyalty, without any assurance that they won't become the official "sack holders." It remains to be seen upon audit, how we will fare this year.

51. While a State or local party committee or organization may pay for campaign materials, like those produced by J.R. Foster, it is a violation of federal election law to pay for such materials from transfers made by a national party committee specifically to fund the activity. Thus, the transfers of funds from the National Republican Senatorial Committee for purposes of payment to J.R. Foster & Associates violated federal election law.

52. In addition to illegal transfers from the NRSC for campaign materials, the NRSC illegally transferred substantial funds to the Montana Party to pay the salaries of individuals working for the NRSC on behalf of Conrad Burns.

53. For example, the NRSC transferred over $12,000 to pay for the salaries of Tom Hannah, Ken Knudson and Elwood English. Accompanying the transfer of funds were specific instructions by Defendant Prestidge to "create the appearance that these individuals are employees of the Montana Republican Party." In fact, Plaintiff Merica had no control or authority over any of these individuals. Instead, it was readily apparent that these individuals were under the direction and control of Defendant

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Prestige and the NRSC.

54. Plaintiffs questioned the legality of the actions of the NRSC and were rebuffed by Defendants Campbell and Prestidge. For this reason, Plaintiffs reported the practices to the state Republican legal counsel Ward Shanahan.

D. CONTRIBUTIONS BY THE REPUBLICAN GOVERNORS ASSOCIATION (RGA).

55. As election day grew closer in 1988, the amount of funds transferred from national committees and associations to the Montana campaign substantially increased. Many of these contributions, as reported, violated state and federal election laws.

56. For example, on October 28, 1988, the Republican Governors Association contributed $8,000 "to be used on behalf of...republican candidates during these last critical days of Election '88." In the October 28 letter to Barbara Campbell, Michele Davis, the Executive Director of the Republican Governors Association, wrote:

> Although the enclosed check is issued from a Republican National Committee (RNC) account, every dime of this contribution is Republican Governors Association monies -- but should be reported as the check reads -- RNC.

A copy of this letter was sent to Steve Yeakel, the campaign manager for the Stephens/Kolstad Committee. (Copy of letter attached to this Complaint as "App. A.")

57. Upon receipt of the RGA letter, Plaintiff Terry Merica called Steve Yeakel and asked him for advise on handling the

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contribution. In response, Yeakel told Merica to report the contribution as an "ear-marked contribution" from the RNC.

58. On December 6, 1988, the Montana Republican Party, in separate mailings to the Federal Election Commission and the Montana Commissioner of Political Practices, submitted its "Post General Election Report, Form 3X." In that document, the Montana Republican Party reported the $8,000 contribution from the RGA as a "Ear Marked" contribution from the Republican National Committee for the "Stephens for Governor" committee.

59. The contribution, acceptance and subsequent reporting of this contribution was a clear breach of federal and state election laws. 2 U.S.C. § 441(f) provides:

> No person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution, and no person shall knowingly accept a contribution made by one person in the name of another person.

60. Similarly, MCA § 13-37-217 provides:

> **Contributions in name of undisclosed principal.** No person may make a contribution of his own money or of another person's money to any other person in connection with any election in any other name than that of the person who in truth supplies such money. No person may knowingly receive such a contribution or enter or cause the same to be entered in his accounts or records in another name than that of the person by whom it was actually furnished.

E. <u>THE FRAUDULENT REPORTING OF THE VARIOUS TRANSFERS, EXPENDITURES AND CONTRIBUTIONS</u>.

61. Further problems arose for Neida Merica when she compiled the Reports of Receipts and Disbursements for the Montana Republican Party.

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62. Plaintiff Neida Merica initially reported certain expenditures by the State Republican Party on a "Schedule F" form ("Itemized Coordinated Expenditures Made By Political Party Committees Or Designated Agent(s) On Behalf Of Candidates For Federal Office") as required by federal law. However, Neida Merica was directed by Defendant Prestidge to use the "Schedule B" form ("Itemized Disbursements") instead. In this fashion, upon information and belief, the NRSC was able to avoid federal campaign spending limitations.

63. Neida Merica, still unsure of the legality of Defendant Prestidge's instructions, mailed a copy of her expenditure report to Ben Ginsburg, Chief Counsel for the RNSC. After reviewing the "Schedule B," Ginsburg telephoned Neida Merica and informed her that the report "looks fine." In response, Neida asked for written confirmation to which Ginsburg responded, "We never put anything in writing."

64. Defendant Prestige's instructions were again followed in later filings and Plaintiff Neida Merica was instructed by Defendant Campbell to follow Defendant Prestidge's instructions regarding this matter.

65. Prior to submitting the second quarter FEC report (mid-June of 1988), Plaintiff Neida Merica was instructed by Defendant Prestidge to use the word "volunteer" for certain identified transactions. At that time, Plaintiffs were unfamiliar with the reports and relied upon information received from Defendant Prestidge. In retrospect, and upon information

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and belief, such entries violated federal election laws and allowed the NRSC to escape the spending limitations imposed by federal law.

66. Another scheme devised by the NRSC to avoid federal campaign spending limits involved their reported expenditures for the services of Tony Payton. Payton, a professional consultant hired by the RNSC, was paid approximately $60,000 for his efforts to elect Republican Senatorial Candidates. The NRSC reported this expenditure as an "operating expense" (Itemized Disbursements). Instead, upon information and belief, a substantial portion of Mr. Payton's salary was properly allocable to the NRSC's contribution limits to Conrad Burns since a substantial portion of his time was spent in Montana on behalf of the Burns election effort.

67. Several weeks before the preliminary final reports were due to the F.E.C., on December 8, 1988, the Plaintiffs, Terry and Neida Merica, informed Mike Letson, Treasurer of the Montana Republican Party, that they were concerned about the legality of numerous contributions, transfers, and expenditures and the subsequent reporting of these expenditures, transfers, and contributions.

68. In response to both Plaintiffs, Mike Letson wrote:

> Following yesterday's telephone conversations, I am requesting that you provide to me a written listing of all areas you believe that were handled incorrectly or reported incorrectly on our most recent F.E.C. report.
>
> Your absence of reply will mean that there are no areas in question as outlined above.

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69. In response, Terry Merica outlined his concerns in a memorandum to Ward Shanahan. Attached to that memorandum were citations to the relevant federal election laws.

70. Ward Shanahan, upon receipt of Terry Merica's memorandum and Letson's letter, wrote to Barbara Campbell and informed her:

> By now you have received a copy of a letter addressed to me by Terry Merica which enclosed a letter from Mike Letson about the FEC reporting.
>
> I am concerned about the effect of Mike's request. The possibility of violations of the federal election campaign act should not be 'written off' by a 'put up or shut up' or 'forever hold you (sic) peace' response to Terry Merica.
>
> You know and Mike knows, because I have told you both since September that there were actions and requests (by the senatorial campaign committee in Washington in particular), as well as some problems with activities of other campaigns that concern the state office.

71. In that same letter Shanahan admonished Barbara Campbell:

> I think it is extremely important that you and Mike (Helen, if necessary), Terry and Neida sit down and review these problems in a sane and sensible manner. I hope most of them can be resolved, but some preventative medicine may be necessary. You should acknowledge that Terry Merica's letter of December 12 is an attempt to give you the opportunity to protect yourselves and the party well in advance of the final due date. I think you should avail yourself of this opportunity.
>
> Remember, this an attempt to give you good legal advice, and to identify possible legal problems and possible solutions.

72. Eventually, a meeting was held in the office of the Plaintiff, Terry Merica. Present at the meeting were Barbara Campbell, Ward Shanahan, Terry Merica, Neida Merica, Helen

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Kellicut, and Mike Letson.

73. At the meeting, Terry and Neida Merica discussed the numerous problems with the campaign contributions, expenditures and the reporting of the same. At issue was the proper reporting of approximately $200,000.

74. In response to the Plaintiffs' concerns, Mike Letson stated, "Can't we minimize the amount?" Letson's comment in turn prompted the response of Helen Kellicut that if there is any problem in our reporting," we will simply alter the report."

75. Shortly after this meeting, Mike Letson resigned as Treasurer and Helen Kellicut assumed the responsibilities and duties of Treasurer.

76. Ward Shanahan also resigned effective December 31, 1988. In his resignation letter addressed to Barbara Campbell, Mr. Shanahan wrote:

> It has been an interesting and educational year.
>
> The most interesting was a phone conversation I just had with Ann Prestidge of the RNSC. She accuses you of several private deals that I had no way of knowing about, and tries to balance the books by implying that you had full knowledge of some rather "interesting" transactions. I can't be a part of this, but I'll stay in it long enough to see that she gets what's coming to her.

F. THE DECISION TO DISCHARGE THE MERICAS.

77. Beginning in August 1988, certain complaints were made and differences expressed by Barbara Campbell with respect to the activities of Plaintiff Terry Merica. This matter was discussed at the Montana Republican State Central Committee

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Executive Board Meeting on August 2, 1988, in Helena, Montana. At that meeting the Executive Board unanimously decided that the goals and requirements of Barbara Campbell were too unclear and indefinite to establish clear guidelines for performance. The Board directed Defendant Barbara Campbell to draft a set of guidelines for the State Headquarters Staff, including the position held by Plaintiff Terry Merica.

78. Despite her professed concern about the "activities of Terry Merica," Defendant Campbell, later that month, "complimented" both Terry and Neida Merica for their "hard work in preparation for the Platform convention."

79. On September 22, 1988 a "Memorandum of Terms of Employment" was drafted by Counsel to the Montana Republican Party to "clarify the employment, duties and responsibilities of the Executive Director . . . ."

80. Defendant Campbell did not discuss the terms of the Memorandum with Plaintiff Terry Merica, and thus, the Memorandum remained unsigned by her.

81. Thereafter, without good cause, by letter dated November 29, 1988 Defendant Campbell terminated Plaintiff Terry Merica from his position as Executive Director of the Montana Republican Party. The effective date of the termination was December 15, 1988:

> I have no option but to terminate you from your position as Executive Director of the Montana Republican Party effective December 15, 1988. At that time you will be provided with two weeks severance pay.

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82. On December 1, Plaintiff Neida Merica was terminated from her employment effective December 15, 1988.

83. In the November 29, 1989 termination letter, Defendant Campbell informed Plaintiff Terry Merica that he would "be provided with two weeks severance pay" on December 15, 1988.

84. Defendant Campbell later reneged on her promise to provide two weeks severance pay, and instead, conditioned receipt of the severance pay on the execution by Plaintiffs Terry and Neida Merica, of releases of liability. In a December 14, 1988 "memo letter," Ward Shanahan informed Plaintiff Terry Merica that "[t]he checks dealing with severance pay and withholding which include severance pay were not signed. Barbara [Campbell] asked me to tell you that she is willing to discuss severance benefits but that she wants a complete release of all claims before she signs any such checks."

85. Because of substantial economic pressure, the Plaintiffs signed the releases on January 13, 1989 and were at that time provided with the severance checks.

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COUNT I

WRONGFUL DISCHARGE FROM EMPLOYMENT

86. Plaintiffs reallege paragraphs 1 through 85.

87. Defendants' termination of Terry Merica's employment was without good cause and in retaliation for his refusal to violate public policy and/or for reporting a violation of public policy and therefore his discharge was unlawful.

88. As a result of Defendants' wrongful conduct, Terry Merica has suffered damages in an amount to be proven at trial.

COUNT II

CONSTRUCTIVE DISCHARGE FROM EMPLOYMENT

89. Plaintiffs reallege paragraphs 1 through 88.

90. Because of the situation created by the Defendants' intolerable acts, Plaintiff Neida Merica was constructively discharged from her employment without good cause and in retaliation for her refusal to violate public policy and/or for reporting a violation of public policy and was therefore unlawful.

91. As a result of Defendants' wrongful conduct, Neida Merica has suffered damages in an amount to be proven at trial.

COUNT III

PUNITIVE DAMAGES

92. Plaintiffs reallege paragraphs 1 through 91.

93. The Defendants engaged in actual fraud or actual malice when they discharged the Plaintiffs for their refusal to violate public policy or for reporting a violation of public policy.

94. As a result of Defendants' wrongful conduct, the Plaintiffs are entitled to punitive damages in an amount to be determined at trial.

COUNT IV

CIVIL CONSPIRACY

95. Plaintiffs reallege paragraphs 1 through 94.

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96. Defendants acted in concert and conspiracy to cause the termination of Plaintiffs' employment.

97. Such actions by the Defendants have damaged Plaintiffs in an amount to be determined at trial.

COUNT V

INTERRELATIONSHIP OF NATIONAL COMMITTEE AND STATE PARTY

98. Plaintiffs reallege paragraphs 1 through 97.

99. The NRSC exercised such dominance and control and was so integrated with the State Republican Party so as to hold the NRSC liable under Montana law for the wrongful discharge of Plaintiffs Terry Merica and Neida Merica.

COUNT VI

RELEASES NULL AND VOID

100. Plaintiffs reallege paragraphs 1 through 99.

101. The releases of liability signed by Plaintiffs Terry and Neida Merica are void and null for lack of consideration, coercion, undue influence, duress, compulsion and are in any event contrary to public policy.

COUNT VII

RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT (RICO) (18 U.S.C. §§ 1961, et seq.)

102. Plaintiffs reallege paragraphs 1 through 101.

103. Each of the Defendants, Barbara Campbell, the Montana Republican Party, Ann Prestidge, and the National Republican Senatorial Committee, is a "person" as that term is defined in

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18 U.S.C. § 1961(3), and as that term is used in 18 U.S.C. § 1962.

104. The Defendant, Montana Republican Party, is an association, and therefore is an "enterprise" as that term is defined in 18 U.S.C. § 1961(4) and used in 18 U.S.C. § 1962, and this enterprise was at all relevant times engaged in or affecting interstate commerce.

105. Defendant NRSC, through its directors, officers or employees, and Defendants Barbara Campbell and Ann Prestidge, in their individual capacities, conspired to conduct the affairs of the enterprise, described in paragraph 100, through a pattern of violations of 18 U.S.C. §§ 1341, 1343 and 1346, each violation of which is an "act of racketeering activity," as that term is defined is 18 U.S.C. §§ 1961(1) and 1961(5), and used in 18 U.S.C. § 1962.

106. Beginning in the spring or summer of 1988, Defendants formed a scheme or artifice to defraud the United States Government, the Montana Government, Terry and Neida Merica, and the citizens of Montana and the United States of their right to honest services through the filing of false, incomplete and inaccurate federal election forms and through the fraudulent contributions and transfers of campaign funds to the Montana Republican Party for the purpose of evading and circumventing federal and state election laws and for the purpose of electing republican candidates to federal and state offices.

107. In furtherance of these schemes, Defendants sent or

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caused to be sent via the United States mails, or interstate wire communications, at least the following communications, in violation of 18 U.S.C. §§ 1341, 1343 and 1346:

(a) A letter with the Montana Republican Party's Year-End Report, Form 3X, from Helen S. Kellicut, Treasurer of the Montana Republican Party, to the Federal Elections Commission dated January 24, 1989.

(b) A letter with the Montana Republican Party's Year-End Report, Form 3X, from Helen S. Kellicut, Treasurer of the Montana Republican Party, to Ms. Colberg, Commissioner of Political Practices, Helena, Montana, dated January 24, 1988.

(c) A letter from Michael L. Letson, Treasurer of the Montana Republican Party, to Terry Merica, dated December 9, 1988, requesting a written list of all areas reported by Terry Merica to have been handled incorrectly or reported incorrectly to the F.E.C..

(d) A letter from Michael L. Letson, Treasurer of the Montana Republican Party, to Neida Merica, dated December 9, 1988, requesting a written list of all areas reported by Terry Merica to have been handled incorrectly or reported incorrectly to the F.E.C..

(e) Letter and enclosed "Post General Election Report, Form 3X" from Helen Kellicut, Assistant Treasurer, Montana Republican Party, to Federal Elections Commission, dated December 6, 1988, which, among other things,

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fraudulently reports as a contribution from the Republican National Committee, $8,000 in ear-marked funds for the Stephens for Governor Committee and fraudulently reports the expenditures for campaign materials produced by J.R. Foster & Associates.

(f) Letter and enclosed "Post General Election Report, Form 3X" from Helen Kellicut, Assistant Treasurer, Montana Republican Party, to Montana Commissioner of Political Practices, dated December 6, 1988, which, among other things, fraudulently reports as a contribution from the Republican National Committee, $8,000 in ear-marked funds for the Stephens for Governor Committee and fraudulently reports the expenditures for campaign materials produced by J.R. Foster & Associates.

108. From mid-July to November, 1990, Defendants schemed to deprive the Plaintiffs Terry and Neida Merica of their income as employees of the Republican Party, in furtherance of their conspiracy to evade federal and state campaign election laws. Initially, Defendants sought to mislead Plaintiff Terry Merica by criticizing his job performance. In August 1988, Barbara Campbell convened a meeting of the Executive Board of the Montana Republican Party to complain about the activities of Terry Merica. The Board however decided that a set of guidelines were needed in order to measure the performance of the Executive Director. Although counsel for the Montana Republican Party drafted a "Memorandum of Terms of Employment"

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to "clarify the employment, duties and responsibilities of the executive director..." Defendant Campbell refused to discuss the matter with Plaintiff Terry Merica and, thus, the memorandum remained unsigned by her. Moreover, because Plaintiff Terry Merica questioned the legality of Defendant Prestidge's transfers and expenditures of funds, Prestidge called Merica a "foot-dragging, obstructionist, son-of-a-bitch" and complained to Defendant Campbell about Plaintiff Terry Merica.

109. Later, in furtherance of their scheme, Defendants sent or caused to be sent via the United States mails or interstate wire the following communications in violation of 18 U.S.C. §§ 1341, 1343, and 1346:

(a) Letter dated November 29, 1988, from Barbara Campbell to Terry Merica terminating his employment with the Montana Republican Party effective December 15, 1988.

110. Defendants' acts of retaliation against Plaintiffs as described above constitute acts of intimidation, harassment and retaliation against Terry and Neida Merica to deter or hinder them from reporting Defendants' illegal schemes and cover up to the United States Federal Election Commission.

111. The acts of racketeering activity described in paragraphs 107(a)-(f) through 109, supra, constitute a "pattern of racketeering activity," as that term is defined in 18 U.S.C. §§ 1961(1) and 1961(5), and as used in 18 U.S.C. § 1962. The acts of racketeering activity described in paragraphs 107(a)-(f) through 109, supra, have the same or similar purposes, results,

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participants and methods of commission. The past conduct of the Defendants, as set forth above, establish that the Defendants regularly conduct their business through the predicate activities described above and, by their very nature, project into the future with the threat of repetition.

112. By reason of Defendants' violation of 18 U.S.C. § 1962(c) and § 1962(d), Plaintiffs Terry and Neida Merica have been injured in their business and property through the loss of present and future income and other compensation, and through related costs and expenses, and are entitled to monetary relief, including treble damages and reasonable attorney's fees.

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COUNT VIII

RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT (RICO) (18 U.S.C. §§ 1961, et seq.)

113. Plaintiffs reallege paragraphs 1 through 112.

114. The Defendant, Ann Prestidge, is a "person" as that term is defined in 18 U.S.C. § 1961(3), and as that term is used in 18 U.S.C. § 1962.

115. The National Republican Senatorial Committee is an association and, therefore, is an "enterprise" as that term is defined in 18 U.S.C. § 1961(4), and as that term is used in 18 U.S.C. § 1962, and at all relevant times was engaged in or affecting interstate commerce.

116. Defendant, Ann Prestidge, was at all relevant times employed by or associated with the NRSC, and conspired to

conduct the NRSC's affairs through a "pattern of racketeering activity," as that term is defined in 18 U.S.C. § 1961(5), and as that term is used in 18 U.S.C. § 1962. Defendant's pattern of racketeering activity consisted of violations of 18 U.S.C. § 1341, 1343, and 1346, each violation of which is an "act of racketeering activity" as that term is defined in 18 U.S.C. § 1961(1) and as used in 18 U.S.C. § 1962.

117. Plaintiffs reallege the statements contained in paragraphs 107(a)-(f) through 109, above.

118. By reason of Defendant Prestidge's violation of 18 U.S.C. § 1962(b) and § 1962(d), Plaintiffs Terry and Neida Merica have been injured in their business and property through the loss of present and future income and other compensation, and through related costs and expenses, and are entitled to monetary relief, including treble damages and reasonable attorney's fees.

119. Defendant Prestidge engaged in a conspiracy to make and conceal illegal campaign contributions and transfers and reporting of the same in her capacity as an employee of the NRSC, and did so in part to benefit the NRSC. The Defendant, NRSC, therefore, is liable for the illegal acts of Defendant Prestidge and the resulting injuries to the Mericas, according to principles of respondeat superior.

120. The acts of racketeering activity described in paragraphs 107(a)-(f) through 109, supra, constitute a "pattern of racketeering activity," as that term is defined in 18 U.S.C.

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§ 1961(1) and § 1961(5), and as used in 18 U.S.C. § 1962. The acts of racketeering activity described in paragraphs 107(a)-(f) through 109, supra, have the same or similar purposes, results, participants and methods of commission. The past conduct of the Defendants, as set forth above, establish that the Defendants regularly conduct their business through the predicate activities described above and, by their very nature, project into the future with the threat of repetition.

121. By reason of Defendants' violation of 18 U.S.C. § 1962(c) and § 1962(d), the Plaintiffs, Terry and Neida Merica, have been injured in their business and property through the loss of present and future income and other compensation, and through related costs and expenses, and they are entitled to monetary relief, including treble damages and reasonable attorney's fees.

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COUNT IX

RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT (RICO) (18 U.S.C. §§ 1961, et seq.)

122. Plaintiffs reallege paragraphs 1 through 121.

123. The Defendant Barbara Campbell is a "person" as that term is defined in 18 U.S.C. § 1961(3), and as used in 18 U.S.C. § 1962.

124. The Montana Republican Party is an association and, therefore, is an "enterprise," as that term is defined in 18 U.S.C. § 1961(4), and as used in 18 U.S.C. § 1962, and this enterprise was at all relevant times engaged in or affecting interstate commerce.

125. The Defendant Barbara Campbell was associated with and Chairperson of the Montana Republican Party at all times relevant to this complaint.

126. The Defendant Barbara Campbell, as Chairperson of the Montana Republican Party, conducted the affairs of the Montana Republican Party through a pattern of racketeering activity.

127. Defendant's pattern of racketeering activity consisted of violations of 18 U.S.C. §§ 1341, 1343, and 1346, each pattern of which is an "act of racketeering activity" as that term is defined in 18 U.S.C. § 1961(1), and as used in 18 U.S.C. § 1962.

128. Plaintiffs reallege the statements contained in paragraphs 107(a)-(f) through 109, supra.

129. The acts of racketeering activity described in paragraphs 107(a)-(f) through 109, supra, constitute a "pattern of racketeering activity," as that term is defined in 18 U.S.C. § 1961(1) and § 1961(5), and as used in 18 U.S.C. § 1962. The acts of racketeering activity described in paragraphs 107(a)-(f) through 109, supra, have the same or similar purposes, results, participants and methods of commission. The past conduct of the Defendants, as set forth above, establish that the Defendants regularly conduct their business through the predicate activities described above and, by their very nature, project into the future with the threat of repetition.

130. By reason of Defendant Campbell's violation of 18 U.S.C. § 1962(c), Plaintiffs have been injured in their business and property through the loss of present and future income and

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other compensation, and through related costs and expenses, and are entitled to monetary relief, including treble damages and reasonable attorney's fees.

WHEREFORE Plaintiffs pray that they be given judgment against the Defendants for their damages, and injury to their business and property, in an amount to be proven at trial, trebled, together with their costs of suit and attorney's fees under 18 U.S.C. § 1964(c), and, in general, for attorney's fees and such other punitive measures as are allowed by the Court; and for such other and further relief as this Court may deem just and proper. Further, Plaintiffs reserve the opportunity to amend this complaint should further discovery indicate such is warranted.

DEMAND FOR JURY TRIAL

Plaintiffs demand trial by jury on all issues triable by right by jury.

DATED this 17th day of July, 1990.

GOETZ, MADDEN & DUNN, P.C.
Attorneys at Law
35 North Grand
Bozeman, MT 59715

By: _____
James H. Goetz
Brian K. Gallik
ATTORNEYS FOR PLAINTIFFS

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REPUBLICAN GOVERNORS ASSOCIATION

October 28, 1988

Mrs. Barbara Campbell
Chairman
Montana Republican State Central Committee
1425 Helena Avenue
Helena, Montana 59601

Dear Barbara:

On behalf of the Republican Governors Association, please accept the enclosed contribution of $8,000.00, to be used on behalf of our Republican candidates during these last critical days of Election '88. I hope it will be of good use to the Party's efforts.

Although the enclosed check is issued from a Republican National Comittee (RNC) account, every dime of this contribution is Republican Governors Association monies -- but should be reported as the check reads -- RNC.

All of us at the Republican Governors Association look forward to working with you and the State Party in the future.

With every good wish,

Sincerely,

Michele Davis

Michele Davis
Executive Director

cc: Steve Yeakel

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310 First Street, Southeast, Washington, D.C. 20003 • (202) 863-8587

Paid for by the Republican Governors Association

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Legislator alleges political misdeeds

By Kevin McRae
Standard State Bureau

HELENA — A Democratic legislator from Billings has asked federal investigators to examine questionable campaign finance methods linked to the Republican Party and the 1988 campaign of U.S. Sen. Conrad Burns, R-Mont.

State Rep. Kelly Addy, D-Billings, filed a complaint with the Federal Election Commission Tuesday charging that the Montana Republican Party and National Republican Senatorial Committee broke numerous campaign spending laws in 1988.

"I expect that the same thing is happening again, or will happen with the Kolstad campaign this fall," Addy said in an interview, referring to Republican Lt. Gov. Allen Kolstad's challenge of incumbent Democratic Sen. Max Baucus. "It is important that the people know who is supporting the candidate they are being asked to vote for."

BURNS

Addy referred to the NRSC's "hand picking" of Kolstad as a candidate last winter, after three other GOP candidates had already announced their intention to run for Senate.

Newspaper stories over the past four months have raised questions about whether the NRSC's contributions to the Burns campaign and its cash transfers to the state party exceeded legal limits, and whether finance reports were filed properly for public disclosure.

Addy said he was prompted by the news stories to file the complaint. Some stories and many of

Please see ADDY Page 8

...ks investigation . . .

(Continued from Page 1)

Addy's concerns referred to a wrongful discharge lawsuit filed by former state GOP Executive Director Terry Merica. Merica claims he was fired for complaining about the alleged NRSC violations, but the case has not yet gone to court.

"Numerous newspaper accounts subsequent to the filing of this complaint, as well as the FEC reports themselves, further reveal the extent of the violations," Addy wrote to the FEC commissioners.

Chris Jungham, who handles media relations for the state GOP, said he had not yet read the complaint but that the party will openly cooperate with the FEC in any investigation. He stressed that the NRSC has filed timely reports in recent months with state officials.

State GOP Chairwoman Barbara Campbell and party Executive Director Jacqueline Irby could not be reached for comment.

Addy's complaint will be submitted to the FEC commissioners, three Republicans and three Democrats who preside over campaign investigations and make the final decisions.

Addy charged that much information regarding the GOP expenditures in 1988 is still concealed from the public. "At a minimum, I respectfully ask the commission to obtain and make public relevant documents that immediately should be disclosed, including those in support of Mr. Merica's civil complaint," he wrote.

Violation of federal campaign laws are punishable by a fine of up to $10,000 or twice the amount of money in question.

In a recent interview with Insight magazine, former NRSC consultant Tony Fabrizio said the Burns campaign probably received between $600,000 and $700,000 in illegal Republican contributions. If those expenditures were made on Burns' behalf, they don't appear on campaign finance disclosures that are required by federal and state law.

National Republican Party leaders have maintained that they abided by federal campaign laws, although FEC staff members said in earlier interviews that the NRSC's failure to file spending reports with state officials apparently broke the law.

The group contributed $107,000 directly to the Burns campaign in 1988 that was reported to the FEC but not to the Montana Commissioner of Political Practices.

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EXHIBIT B

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January 6, 1990

SECTION: WASHINGTON UPDATE; Policy and Politics in Brief; Vol. 22, No. 1; Pg. 26

LENGTH: 1428 words

HEADLINE: Using the Election Rule Book Creatively

BYLINE: By James A. Barnes

BODY:

On Election Day 1988, in an internal Republican Party memorandum, Ward A. Shanahan, who was then legal counsel to the Montana state GOP, criticized what he termed the "financial shenanigans" of certain national Republican Party operatives who had been working with the state party. The operatives, he said, "routinely attempt to incur expenditures in the name of the Montana Republican Party or the state Republican Central Committee without the knowledge of the chairman, the state treasurer or the executive director."

Shanahan's memo is among the information found in a wrongful discharge complaint that was filed in the Montana First Judicial District Court shortly before Christmas 1989 by Terry Merica, the former executive director of the Montana GOP. His suit, which was filed against the state party, also names the National Republican Senatorial Committee (NRSC) as a defendant.

The suit charges, among other things, that contribution and expenditure limits established by the Federal Election Campaign Act (FECA) were violated when the NRSC used the state party as a "clearing house" for its "transaction." Merica alleged that he was fired for complaining about these NRSC activities.

"All I can say is it is my understanding that everything that was done was done legally," Charles E. Erdmann, the new Montana state party counsel, said in an interview. Merica had been fired, Erdmann said, because of his job performance, not because of his complaints.

The details of how the Montana campaign was financed seem to demonstrate the extent to which a national party committee can subsidize state and local party efforts on behalf of a federal candidate: in this instance, the NRSC's efforts on behalf of Conrad Burns, who defeated Democratic Sen. John Melcher.

The Montana GOP received the largest NRSC transfers to a state party's federal account in 1988. Other Republican state parties that received significant amounts of money from the NRSC were North Dakota, $ 87,741, and Wisconsin, $ 182,675. There were Senate races in both of these states in 1988, but in other states with hard-fought Senate contests -- Florida and Ohio among them -- the NRSC made few or no contributions to state parties. Given the committee's success so far in fund raising, there are likely to be more such transfers during the 1990 election season.

Reports filed in Washington with the Federal Election Commission (FEC) describe the NRSC's assistance for the Montana GOP. Of $ 608,882 in

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receipts reported by the state party in 1987-88, about a third, $ 204,429, came from the NRSC. More than half of these funds were transferred in the last 20 days of the campaign. The Montana GOP also received $ 41,986 from the Republican National Committee and $ 44,000 from the Colorado Republican Party. Combined, the funds from these three party committees amounted to almost half of the state party's entire receipts.

Under FEC rules, each national party is allowed to contribute $ 17,500 directly to its candidates for the Senate. Responsibility for making that national party contribution is usually assigned to the party's Senate campaign committee. State parties can also give a candidate $ 5,000. In addition to these funds, the national party and the state organization are each allowed to make coordinated expenditures on behalf of a Senate candidate during the general election campaign equal to two cents for every voting-age person in the state plus a cost-of-living adjustment (COLA), or $ 20,000 plus a COLA, whichever amount is greater.

That coordinated expenditure limit in Montana in 1988 was $ 46,110. In most Senate races, the national and state parties gave the party's Senate campaign committee their authority to make coordinated expenditures. Thus, in 1988, in Montana, the NRSC could make coordinated expenditures, in consultation with the Burns campaign, of as much as $ 92,220. Reports filed at the FEC by the NRSC show that by Oct. 4, the NRSC had spent practically all of its coordinated expenditures on Burns's behalf.

On the very next day, the NRSC sent $ 15,000 to the Montana Republican Party and kept sending money, $ 137,989 in a month. Meanwhile, the state party began to pay James R. Foster & Associats, a direct mail-firm based in Carrollton, Texas, which had helped Burns earlier with his fund raising, to blanket the state with pro Burns letters and brochures. In some instances, the checks from the NRSC to the state party were for an identical amount that the state party owed Foster. There was a $ 6,879 transfer from the NRSC on Oct. 7 to the state party, which, on that same day, paid $ 6,879.01 to Foster; in another instance, a $ 32,110 state party payment to Foster followed by two days a check from the NRSC to the state party for that same amount.

Though this kind of pattern could suggest that the state GOP was being reduced to little more than a conduit for the NRSC, as Merica suggested, both Republican and Democratic political aides said that if the mailings meet certain standards, a national party can get around the FEC's coordinated expenditure limits.

Basically, the national committee can pay for such things as salaries, supplies, rent and other state party expenses, freeing up funds that would once have covered those costs to pay for mailings. "Is that a loophole in the law? Yeah, it is," a former NRSC aide said. "It's one both sides freely take advantage of." Merica's complaint alleges that "on several occasions," he was ordered by an NRSC operative to wire payments to Foster "for direct mailings on behalf of Burns. "

Under FEC guidelines, the mailings had to meet three criteria for the state party to be able to pay for them: letters or brochures would have to be addressed from a list that was owned or generated by the state party as opposed to, for instance, a commercial list of American Express Co. card holders in Montana; volunteers would have to be involved in the mailing process

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(stuffing envelopes and the like); and the state party would have to use its own money, not funds transferred from the national committee.

James R. Foster, president of Foster & Associates, said that all of his work for the state party at the close of the campaign was "non-allocable volunteer-intensive mail" that advocated Burns's election. Foster did not know who owned the list, but he added that he did not think it violated the "commercial" standard.

But a review of the state party's FEC reports indicates that the state party may not have had sufficient funds to pay for mailings on its own, even if the NRSC picked up all the other expenses of the state party at the end of the campaign. On Oct. 1, 1988, the Montana Republican Party reported having $ 46,012.50 cash-on-hand, and through Nov. 30, 1988, the party raised an additional $ 90,849.49. That covers the payments to Foster during this time, $ 109,553.01, but not the state party postage bill of $ 72,569 for these two months. If just half of that amount went to pay for the state party's two permits that were used for the mailings Foster prepared, that would exceed the amount that the state party had raised on its own.

The amount of congressional campaign committee funds that find their way to state parties is still relatively small. An FEC tabulation of the NRSC and National Republican Congressional Committee transfers to state and local parties in the 1988 election cycle added up to $ 1,153,190. The RNC transferred $ 4,806,365, and the total receipts reported to the FEC by those GOP groups was $ 61,520,473. According to FEC records, the Democratic National Committee sent $ 13,604,809 to its state and local parties, but over all, their receipts were less than half the Republicans'. The Democratic Senatorial Campaign Committee (DSCC) and the Democratic Congressional Campaign Committee transferred $ 263,225.

With the NRSC's proven ability to channel money quickly to GOP Senate candidates from bundled campaign contributions and its potent fund-raising machine that can spare much more money for state parties, the DSCC's staff in particular thinks that what happened in Montana in 1988 should be a warning to lethargic incumbents.

A DSCC analysis of the Montana race concluded that the Republicans had come up with an effective campaign strategy based largely on "their formidable capability for mobilizing large sums of money in the last few weeks of a campaign. In a small state, they can move sums several times greater than the coordinated expenditure in that state."

GRAPHIC: Picture, no caption, G. Moss

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 27, 1990

Roger M. Witten, Esq.
Wilmer, Cutler & Pickering
2445 M. Street, N.W.
Washington, D.C. 20037-1420

RE: MUR 3204

Dear Mr. Witten:

This letter acknowledges receipt on March 15, 1990, of your complaint alleging possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"), by the National Republican Senatorial Committee and James L. Hagen, as treasurer, Conrad Burns/US Senate and the Montana Republican Party. 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 3204. 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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 27, 1990

James L. Hagen, Treasurer
National Republican Senatorial
Committee
425 Second Street, N.E.
Washington, D.C. 20002

RE: MUR 3204

Dear Mr. Hagen:

The Federal Election Commission received a complaint which alleges that the National Republican Senatorial 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 3204. Please refer to this number in all future correspondence.

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

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

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

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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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 27, 1990

Shirley J. Warehime, Treasurer
Montana Republican Party
1425 Helena Avenue
Helena, Montana 59601

RE: MUR 3204

Dear Ms. Warehime:

The Federal Election Commission received a complaint which alleges that the Montana Republican Party 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 3204. Please refer to this number in all future correspondence.

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

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

If you have any questions, please contact Jeff Long, the staff person 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.

9404358296 5

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

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

29043582966

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 27, 1990

Jim Swain, Treasurer
Conrad Burns/US Senate
P.O. Box 3311
Billings, Montana 59103

RE: MUR 3204

Dear Mr. Swain:

The Federal Election Commission received a complaint which alleges that the Conrad Burns/US Senate Party 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 3204. Please refer to this number in all future correspondence.

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

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

If you have any questions, please contact Jeff Long, the staff person 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.

9404358296 7

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner (ak)
Lois G. Lerner
Associate General Counsel

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

cc: Honarable Conrad Burns

29043582968

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RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

WILEY, REIN & FIELDING

91 JAN 14 AM 10:43

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

FACSIMILE
(202) 429-7049
TELEX 248349 WYRN UR

JAN WITOLD BARAN
(202) 429-7330

January 11, 1991

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
91 JAN 14 PM 3:58

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

Attn: Jeffrey Long

Re: MUR 3204 (National Republican Senatorial Committee and James L. Hagen, as Treasurer)

9404358296 9

Dear Mr. Noble:

This office represents the National Republican Senatorial Committee ("NRSC") and James L. Hagen, as Treasurer in Matter Under Review ("MUR") 3204. An executed Statement of Designation of Counsel is attached hereto.

This complaint involves activities which took place in connection with the 1988 election cycle. The employees of the NRSC with knowledge regarding this matter are no longer associated with the NRSC.

A response to this complaint is currently due on January 18, 1991. In order to fully confer with our clients, as well as to locate the individuals with knowledge of the facts of this matter who are no longer employed by the NRSC; to obtain whatever information and documentation which may prove necessary with respect to this matter; and to enable Respondents to fully and fairly respond to this complaint, I respectfully request a sixty day extension to and including March 19, 1991 within which to respond. This request will not prejudice the resolution of this matter in any way.

Your favorable consideration of this request will be appreciated.

Sincerely,

Jan Witold Baran

Enclosure
cc: James Hagen
William C. Canfield, III, Esq.

STATEMENT OF DESIGNATION OF COUNSEL

MUR 3204

NAME OF COUNSEL: Jan Baran, Esq

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

TELEPHONE: (202) 429-7330

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

1/3/91
Date

James L. Hagen
Signature

RESPONDENT'S NAME: James L. Hagen

ADDRESS: National Republican Senatorial Committee
425 2nd Street NW
Washington, D.C. 20002

HOME PHONE:

BUSINESS PHONE: (202) 675-4291

2404358297O

OGC 9878

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

ERDMANN LAW OFFICE
1134 BUTTE AVENUE
HELENA, MONTANA 59604

CHARLES E. ERDMANN II
CATHERINE M. SWIFT

MAILING ADDRESS:
P. O. BOX 5418
HELENA, MONTANA 59604

(406) 442-8813
FAX (406) 442-8839

91 JAN 22 AM 11:04

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
91 JAN 22 PM 3:46

January 18, 1991

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

Re: MUR3204
Common Cause Complaint-Montana State Republican Party

Dear Mr. Noble:

This letter is in response to your December 27, 1990 letter which attached a complaint from Common Cause alleging that the Montana State Republican Party (State Party) violated the Federal Election Campaign Act (Act). For the reasons set forth below, we believe the Commission should find no reason to believe that the State Party violated the Act.

The Common Cause complaint appears to be based entirely upon the "First Amended Complaint" (attached as Exhibit "A") in Cause No. CV-90-6-H-CCL, U.S. District Court, Montana. This action was brought against the Chairman of the Montana Republican Party, Barbara Campbell, the Montana Republican Party, Ann Prestidge, and the National Republican Senatorial Committee by the former Executive Director of the State Party. The complaint initially was limited to a wrongful discharge cause of action but was later amended to include the RICO cause of action all of which is set forth in the "First Amended Complaint". I note that most, if not all, of the allegations contained in the Common Cause complaint are based upon "information and belief" derived from the Merica "First Amended Complaint".

Please find enclosed a copy of an "Opinion and Order" issued by the U.S. District Court in the Merica action on January 9, 1991. The order dismisses the RICO claim, finding that the Mericas did not even have the standing to bring such an action. The order also remanded the wrongful discharge action to state court where we believe the matter will be disposed of on a motion to dismiss.

The Common Cause Complaint raises many of the same issues which were raised in MUR 3087 which was a complaint filed by

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Kelly Addy against the State Party, the National Republican Senatorial Committee, the Burns Campaign, and other entities. Our response to the Addy complaint addresses the issues raised in the Common Cause complaint and is attached to this letter for your reference.

The Common Cause complaint relies upon the unproven allegations of a Federal District Court complaint, the majority of which has now been dismissed by the Federal District Court. They have provided no actual documentation to support their allegations and accordingly the Commission should find no reason to believe that the State Party violated the Act.

Sincerely,

Charles E. Erdmann

/vlm

9404358297 2

STATEMENT OF DESIGNATION OF SEL

MUR 3204

NAME OF COUNSEL: Charles E. Erdmann

ADDRESS: P.O. Box 5418
Helena, MT 59604

TELEPHONE: (406) 442-8813

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.

Jan. 17, 1991
Date

Barbara J. Campbell
Signature

RESPONDENT'S NAME: Barbara Campbell, Chairman

ADDRESS: Montana Republican Party
471 Lake Hill Road
Deer Lodge, MT 59722

HOME PHONE:

BUSINESS PHONE: (406) 442-6469

2404358297 3

COPY

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MONTANA

HELENA DIVISION

FILED

JAN 9 1991

LOU ALKIRE, JR., Clerk
By DIANNE L. MANIZ
Deputy Clerk

****

TERRY MERICA and NEIDA MERICA,

Plaintiffs,

-v-

BARBARA CAMPBELL; THE MONTANA REPUBLICAN PARTY; ANN PRESTIDGE; and THE NATIONAL REPUBLICAN SENATORIAL COMMITTEE,

Defendants.

CV 90-6-H-CCL

OPINION AND ORDER

****

This cause is before the court on Defendants' motion to dismiss Plaintiffs' second amended complaint. The parties have fully briefed the motion. Having carefully considered the briefs and the supporting authority, the court is now prepared to rule.

BACKGROUND

Plaintiffs originally filed this claim in Montana's First Judicial District Court, Lewis and Clark County, alleging that Defendants' conduct in terminating Plaintiffs' employment amounted to wrongful discharge and constructive discharge. Defendants removed the action to this court on January 16, 1990. After reviewing Defendants' initial motion to dismiss, the court ordered the parties to brief the issue of original jurisdiction

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in light of the United States Supreme Court's holding in Merrell Dow Pharmaceuticals, Inc. v. Thompson, 478 U.S. 804 (1986). Before filing their brief as to the jurisdiction issue, Plaintiffs amended their complaint to include counts alleging violations of the Racketeer Influenced and Corrupt Organizations Act (RICO), 18 U.S.C. § 1961 et seq. Defendants then moved to dismiss the amended complaint, alleging (a) that Plaintiffs lack standing to bring the RICO claims, (b) that counts VII, VIII, and IX fail to state a claim upon which relief can be granted, and (c) that the wrongful and constructive discharge claims are barred by the applicable statute of limitations.

DISCUSSION

A. RICO Claims

In their RICO claims, Plaintiffs assert that various campaign funding practices employed by Defendants during the 1988 campaign violated 18 U.S.C. §§ 1962(b), (c), and (d). Defendants assert that Plaintiffs lack standing to bring a claim for either a RICO violation or a conspiracy to commit a RICO violation, because Plaintiffs' alleged injuries resulted from their termination from employment and not from any alleged racketeering activity.

The RICO civil liability provision, 18 U.S.C. § 1964 (c), confers standing to bring a civil RICO action only upon a person

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"injured in his business or property by reason of a violation of section 1962." (emphasis added). A RICO plaintiff asserting injury because of wrongful discharge must demonstrate that the discharge resulted from the section 1962 violation. Reddy v. Litton Industries, Inc., 912 F.2d 291, 294 (9th Cir. 1990).* Although some courts have found that the standing requirement is less stringent in section 1962(d), and interpret a discharge for whistle-blowing as sufficient to sustain standing to allege a conspiracy, see Shearin v. E.F. Hutton Group, Inc., 885 F.2d 1162, 1169 (3d Cir. 1989), the Ninth Circuit Court finds otherwise. Reddy, 912 F.2d at 295. Unless Plaintiffs can demonstrate that their termination was an essential part of the alleged scheme, standing does not exist; an allegation of termination to prevent whistle-blowing is not in and of itself sufficient. Id.

In this case Plaintiffs do not contend that the alleged RICO violations directly harmed their business or property, or that the alleged violations deprived them of the honest services of public officials. Rather, they contend that because Defendants Barbara Campbell and the Montana Republican Party notified

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* Although the Ninth Circuit Court in Reddy addressed the standing issue only as it applied to section 1962(a), (c), and (d), the court's reasoning suggests that it would find a lack of standing under section 1962(b) as well.

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Plaintiff Terry Merica of his termination by mail, the termination was part of a pattern of illegal use of the mail to further a fraudulent scheme. The court finds no merit in this argument. Plaintiffs do not assert that they were harmed by receiving the notice by mail rather than in person. Moreover, they fail to assert that the termination was an essential component of the alleged racketeering scheme. For that reason, the court finds that Plaintiffs lack standing to bring a RICO claim, and thus grants Defendants' motion to dismiss with prejudice as to the RICO claims.

B. Wrongful Discharge

When this action was first removed to this court, the complaint alleged a claim arising out of Montana's Wrongful Discharge Act, Mont. Code Ann. § 39-2-901 et seq. Removal is proper only when this court would have had original jurisdiction to hear the dispute. 28 U.S.C. § 1441(a). Absent diversity of citizenship, federal courts have original jurisdiction to hear state court claims only when the state court claim arises out of a violation of federal law for which a private cause of action is provided. Merrell Dow Pharmaceuticals, 487 U.S. at 817.

In this case, Plaintiffs allege that they were discharged because they refused to go along with practices that violated the Federal Election Campaign Act (FECA). For that reason,

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Plaintiffs contend their discharge violated public policy and amounted to wrongful discharge. To have federal subject matter jurisdiction, however, Plaintiffs would have to demonstrate the existence of a private federal remedy for the FECA violations. See Id. Although FECA provides administrative remedies for election campaign violations, the remedy is administrative rather than private. For that reason, this court lacks subject matter jurisdiction to hear Plaintiffs' wrongful discharge claim.

Plaintiffs have requested leave to brief the applicability of a recent Montana Supreme Court case, Martin v. Special Resource Management, Inc., No. 90-396 (Mont. December 31, 1990). In Martin the court addressed issues similar to those raised by Defendants' statute of limitation defense. Because this court lacks original jurisdiction to hear the wrongful discharge claim, further briefing is unnecessary.

Having found that Plaintiffs lack standing to assert a RICO violation stemming from their discharge from employment,

IT IS HEREBY ORDERED that Plaintiffs' RICO claims are dismissed, with prejudice.

The remainder of Plaintiffs' complaint involves claims over which this court lacks jurisdiction. Accordingly,

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IT IS FURTHER ORDERED that Plaintiff's wrongful discharge action is REMANDED to the First Judicial District Court of Montana.

The clerk is directed forthwith to notify counsel of entry of this order and to make appropriate transmittal of the file.

Done and dated this 9 day of January, 1991.

CHARLES C. LOVELL
United States District Judge

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OGC 9903

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

TRT TELEX: 197780
TELECOPIER: 457-6315

WRITER'S DIRECT DIAL
202/457-6523

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
91 JAN 23 PM 4:04

January 23, 1991

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

Re: MUR 3204

Dear Mr. Noble:

The Conrad Burns/U.S. Senate Committee and Jim Swain, its treasurer, have asked me to reply to your December 27 letter regarding alleged violations of the Federal Election Campaign Act. A statement signed by Mr. Swain designating me as counsel to the committee and Mr. Swain in this MUR is enclosed.

The allegations of election law violations referenced in your December 27 appear in a submission to the Commission by Common Cause; the allegations track those made by Represenative Kelly Addy in MUR 3087. As was the case with Represenative Addy's contentions, those made by Common Cause all appear to stem from charges contained in a complaint for wrongful discharge brought by former employees of the Montana Republican party. And as was the case with Represenative Addy's allegations, none of these allegations involve any conduct by Mr. Swain or the Burns committee. Nor, again as was the case with Represenative Addy, does Common Cause suggest that the Burns committee violated the Federal Election Campaign Act or any of the Commission's regulations.

In a November 21, 1990, letter I explained why the Commission should take no action against the Burns Committee or its treasurer in response to Mr. Addy's allegations. The same reasoning applies here, and I would ask that my November 21 letter, a copy of which is enclosed, be made a part of the record in this MUR. And, for all the reasons set forth in that letter, the Burns committee respectfully requests that the Commission find no reason to believe the Committee or its treasurer violated

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the Act or the Commission's regulations here and that the Commission decline to take any further action against the committee or Mr. Swain.

Sincerely,

Richard E. Messick

REM:crg

Enclosure

cc: Jeff Long, Esquire
Federal Election Commission

Jim Swain, Treasurer
Conrad Burns/U.S. Senate Committee

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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.

1-23-91
Date

Jim Swain
Signature

RESPONDENT'S NAME: Jim Swain, Treasurer

ADDRESS: Conrad Burns/US Senate
P. O. Box 3211
Billings, Montana 59103

HOME PHONE:

BUSINESS PHONE: 406-248-1681

9404358299 82

CHARLES E. ERDMANN II
CATHERINE M. SM...

COPY

ERDMANN LAW OFFICE
CAPITOL 1 CENTER, 208 NORTH MONTANA
SIXTH AVENUE AND NORTH MONTANA
SUITE 206
POST OFFICE BOX 5418
HELENA, MONTANA 59604

TELEPHONE
(406) 442-8813
FAX
(406) 442-8839

November 14, 1990

VIA FEDERAL EXPRESS

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

Re: MUR3087
Addy Complaint - Montana State Republican Party

Dear Mr. Noble:

This letter is in response to your July 20, 1990 letter which attached a complaint from Kelly Addy alleging that the Montana State Republican Party (State Party) violated the Federal Election Campaign Act (Act). The State Party requested and received an extension in responding to this complaint. For the reasons set forth below, we believe the Commission should find no reason to believe that the State Party violated the Act.

The Addy complaint alleges a number of violations, supported entirely by various newspaper clippings and unproven allegations contained in a wrongful discharge action filed by the former Executive Director of the State Party (Terry Merica). A majority of the allegations do not involve the State Party and this letter will only respond to those allegations which are directed at the State Party. It has been, and continues to be difficult to analyze these allegations since the former Executive Director was the individual who was primarily responsible for the receipt and reporting of contributions. Since his termination and the filing of the wrongful discharge action Merica has made a number of unfounded allegations which are difficult for us to respond to from a factual perspective.

The complaint alleges that the National Republican Senatorial Committee (NRSC) transferred funds to the State Party accounts which were improperly utilized for expenditures to James R. Foster & Associates for mailings done on behalf of Senatorial Candidate Conrad Burns. The Act permits unlimited transfers between party committees of the same party. 2 U.S.C. §441(a)(4).

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11 C.F.R. §100.7(b)(15) specifically allows this type of expenditure by a state party. NRSC funds were not used to fund these expenditures. The party had raised and had on hand sufficient funds to meet these expenditures. The State Party started the reporting period commencing October 1, 1988 with a cash balance of $42,309.49. The Party received contributions from individuals during this reporting period of $90,849.49. The Party therefore had on hand $133,158.89 during this period to utilize for 11 C.F.R. §100.7(b)(15) expenditures. It should be noted that during this time period the State Party had an average cash balance on hand of approximately $47,000.00 and ended with a cash balance of $42,309.49.

The state party did mail letters to a number of individuals advocating the election of now Senator Burns. The complaint alleges that "there is no evidence that volunteers were used for [these] mailings . . ." Neither the Act nor the Commission's regulations require an affirmative showing that volunteers were used, and thus the assertion that one is absent is not, by itself, a basis for triggering an investigation. In any event, volunteers were involved in every mailing; depending upon the particular mailing they sorted, sacked, stuffed and performed other work necessary for the letters to be accepted for mailing by the U.S. Post Office.

The complaint also alleges that Bush and Burns mailings made by the State Party contained an inadequate disclaimer. 11 C.F.R. §110.11 requires a disclaimer which provides the reader with adequate notice of the identity of the persons who paid for and who authorized the communication. All of the mailings complained of are clearly identified as originating from the Montana Republican State Central Committee, along with the Committee's address. While the mailings do not contain a direct authorization from the candidates, the State Party is clearly identified and any individual seeking further information had the means with which to make further inquiries. Certainly if the purpose of the disclaimer provision is to provide adequate notice to the public of the identity of the people who paid for the mailing, this purpose was met.

The complaint also alleges that the State Party improperly spent money on the presidential election campaigns of George Bush and Dan Quail. Again, 11 C.F.R. §100.7(b)(15) allows a

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state party to take activities on behalf of a nominee if the mailings were not made from a commercial vender or mailings made from commercial lists; the funds are not from national political committees; and the materials are distributed by volunteers. Again in this situation all of these criteria were met by the State Party. This type of practice is commonly done by the state committees of both political parties.

The material submitted in the Addy complaint is based upon speculation and conjecture. They have provided nothing but mere allegations of improper activity and have not supplied any actual documentation to support these allegations. The Montana State Party acted in accordance with the express provisions of the Act in regard to all of the allegations levied by Mr. Addy. Accordingly, the Commission should find no reason to believe that the Montana State Party violated the Act.

Sincerely,

Charles E. Erdmann

/vlm

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RECEIVED
FEDERAL ELECTION COMMISSION
91 JAN 17 AM 11:12

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 17, 1991

MEMORANDUM

TO: The Commission

FROM: Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

SUBJECT: MUR 3204
Request for Extension of Time

By letter dated January 11, 1991, counsel for the National Republican Senatorial Committee ("NRSC") requested an extension of 60 days in which to respond to the complaint in MUR 3204. See Attachment 1. The letter explains that an extension is necessary because the complaint involves activities from the 1988 election cycle and individuals with knowledge regarding this matter are no longer employed by the NRSC. The NRSC's response to the complaint is currently due by January 18, 1991.

This matter involves a complaint filed by Common Cause concerning the 1988 election of Conrad Burns to the U.S. Senate. The complaint makes several allegations against the NRSC, including excessive coordinated party expenditures, financing the production of a statewide voter list without reporting the costs as in-kind contributions benefiting federal candidates, and providing funds to the Montana Republican Party to finance "volunteer" activity. The complaint relies in part on a wrongful discharge civil suit filed by the former executive director of the Montana Republican Party.

The allegations and parties involved in MUR 3204 are almost identical to those made against the NRSC in MUR 3087. The complaint in that previous MUR was mailed to the respondent on July 20, 1990. This Office notes that the NRSC has retained the same counsel for MUR 3204 as they are using in MUR 3087. In MUR 3087, counsel made two requests for time extensions in order to respond to the complaint. In making those requests, counsel stated that the time extensions were needed in order to locate individuals with knowledge of the facts who were no longer employed by the NRSC, as well as to obtain the necessary information and documents. The Commission granted the two requests, one for 60 days and the other for 42 days. The NRSC finally filed its response in MUR 3087 on November 19, 1990.

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In conversations with this Office, counsel for the respondent maintains that the allegations contained in this complaint are slightly different than those in MUR 3087, and it is now necessary to again locate and contact those individuals with knowledge of this situation. This Office notes that this respondent and its counsel have had notice of these basic allegations since July, 1990. The Commission has granted over 100 days in time extensions to this respondent and its counsel in MUR 3087. The respondent was apparently able to locate sufficient persons and information in order to file its response in MUR 3087 on November 19, 1990. The requested 60 time extension in this case would be in addition to the 15 days authorized by the Act, for a total of 75 days. This Office feels that such a time extension would be excessive and unjustified in this situation since these allegations involving the same respondents have already been addressed in MUR 3087.

This Office has been informed that counsel for the respondent is out of town, and it appears that no response will be received by the NRSC by the January 18 deadline. Therefore, the Office of the General Counsel recommends that the Commission deny the requested time extension of 60 days for the reasons stated above, and instead grant an extension of 30 days, making the response due on February 19, 1991. This 30 day extension would be in addition to the 15 days authorized by the Act in which to respond.

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RECOMMENDATIONS

1. Deny the National Republican Senatorial Committee and James L. Hagen , as treasurer, the requested time extension of 60 days, and instead approve a time extension of 30 days until February 19, 1991.

2. Approve the appropriate letter.

Attachment:
1. Request for Extension

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Request for Extension of Time) MUR 3204

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on January 22, 1991, the Commission decided by a vote of 6-0 to take the following actions in MUR 3204:

1. Deny the National Republican Senatorial Committee and James L. Hagen, as treasurer, the requested time extension of 60 days, and instead approve a time extension of 30 days until February 19, 1991.

2. Approve the appropriate letter, as recommended in the General Counsel's Memorandum dated January 17, 1991.

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

Attest:

Jan. 22, 1991
Date

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

Received in the Secretariat: Thurs., Jan. 17, 1991 11:12 a.m.
Circulated to the Commission: Thurs., Jan. 17, 1991 4:00 p.m.
Deadline for vote: Tues., Jan. 22, 1991 4:00 p.m.

dr

9404358293 8

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 25, 1991

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

RE: MUR 3204
National Republican
Senatorial Committee
and James L. Hagen,
as treasurer

Dear Mr. Baran:

This is in response to your letter dated January 11, 1991, requesting an extension of 60 days until March 19, 1991, to respond to the complaint in MUR 3204.

Considering the Federal Election Commission's responsibilities to act expeditiously in the conduct of investigations, the Commission cannot grant your full request, but can only agree to a 30 day extension. Accordingly, the response is due by close of business on February 19, 1991.

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

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

9404358299

OGC 0098

February 19, 1991

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

Attn: John Canfield

Re: MUR 3204 (National Republican Senatorial Committee and James L. Hagen, as Treasurer)

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
91 FEB 19 PM 5:05

24043582990

Dear Mr. Noble:

This Response, along with the attached Affidavit and materials, is submitted on behalf of the National Republican Senatorial Committee (NRSC) and James L. Hagen, as Treasurer, in response to a Complaint filed by Common Cause and designated Matter Under Review ("MUR") 3204. For the reasons set forth herein, the Federal Election Commission should find no reason to believe that the NRSC has violated the Federal Election Campaign Act of 1971, as amended ("Act").

Introduction

Common Cause, the Complainant in this Matter, admits that its sole "information and belief as to . . . [the] allegations are based on the First Amended Complaint filed by Terry Merica and Neida Merica" in Merica v. Campbell, CV-90-6-H-CCL (D. Mont., filed Jul. 18, 1990), and an article which

appeared in the National Journal.[1] Complaint at 6 fn. 1. Consequently, the Complainant has no independent basis for bringing this Complaint. None of the allegations are substantiated by the personal knowledge of the Complainant, supported by Affidavits, or otherwise given any credibility beyond that which may be drawn from the accusations of a disgruntled former employee of the Montana Republican Party.

In fact, the allegations in the Complaint stem from Terry and Neida Merica's apparent own misinformation and lack of understanding of the FEC's regulations governing national and state party participation in campaigns for the United States Senate. Since many of these allegations are addressed to the Montana Republican Party, the NRSC does not respond to those claims. The NRSC addresses below only those allegations which are applicable to its own activity.

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I. Direct Contributions To and Coordinated Expenditures With Senator Burns' Campaign

The Complaint alleges that the NRSC exceeded its permissible contributions and coordinated expenditures to the Conrad Burns/U.S. Senate Committee. The NRSC was permitted, pursuant to 2 U.S.C. § 441a(d)(3), to make $92,200 in coordinated expenditures with the Republican candidate for

---

[1] A federal District Court has already disposed of most of the allegations in Merica v. Campbell, (CV-90-6-H-CCL decided Jan. 9, 1991). The remaining allegations that are before the State Court are subject to a Motion to Dismiss.

the United States Senate in Montana in 1988. In addition, the "Republican and Democratic Senatorial campaign committees . . . may make contributions of not more than a combined total of $ 17,500 to a candidate for nomination or election during the calendar year of the election for which he or she is a candidate." 11 C.F.R. § 110.2(e). The term contribution is not limited to direct payments, but includes services or other things of value such as an in-kind contributions in the form of a payment for a particular service for which a campaign committee may otherwise have paid. See 11 C.F.R. § 110.7.

Thus, the NRSC was permitted to make a combined total of $109,700 in contributions ($17,500) and coordinated expenditures ($92,200) to Conrad Burns in connection with his 1988 general election campaign. In fact, the NRSC's reports, attached hereto as Exhibit 1, show that the NRSC made $91,494.72[2] in coordinated expenditures and $17,477.54 in direct contributions, both within the respective limits of the Act. Thus, Common Cause's allegation that the NRSC exceeded its permissible contributions and coordinated expenditures with respect to Senator Burns is unsupported.

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[2] This total takes into account a $161.50 refund received by the NRSC which had been treated as a coordinated expenditure on behalf of Senator Burns. See Exhibit 1.

II. Transfers From The NRSC To The State Party

The Complaint's second allegation is that the NRSC transferred over $200,000 to the Montana Republican Party for state party activity on behalf of Senator Burns "after the NRSC had already exhausted its statutory ability [to contribute to] the Burns campaign." Complaint at 6. As is demonstrated in section I, infra, this allegation is based on a factually incorrect premise. The NRSC never exhausted the statutory limits on its direct contributions or its coordinated expenditures on behalf of Senator Burns.

Nor is there merit to this allegation. No question exists that the NRSC did provide substantial support to the Montana Republican Party throughout the 1987-88 election cycle. This support is entirely consistent with that permitted by the Act and the FEC's regulations, which exempt intra-party committee transfers from the expenditure limits:

> The limitations on contributions . . . do not apply to transfers between and among political committees which are national, State, district, or local committees (including any subordinate committees thereof) of the same political party.

2 U.S.C. § 441a(a)(4). Nowhere does the Act itself limit the making, or the timing, of these transfers or the purposes for which these transfers can be made except as discussed below. Rather, a national party is permitted to make unrestricted transfers at any time to a State party for use as the State

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party sees fit. That is precisely what the NRSC did in this case. The amounts of these transfers and the dates they occurred are clearly identified on the NRSC's disclosure reports on file with the FEC.

The Commission's regulations restrict transfers of national party funds designated for use in connection with exempt volunteer activities by the state party. See 11 C.F.R. §§ 100.7(b)(15) and 100.8(b)(16). Likewise, national parties may not designate such transfers to state parties for use in exempt voter registration or get-out-the-vote activities conducted on behalf of a Presidential or Vice-Presidential nominee. See 11 C.F.R. §§ 100.7(b)(17) and 100.8(b)(18). However, the Complaint provides no evidence beyond mere inferences and innuendo that the funds transferred by the NRSC to the State Party were used for these purposes, and no evidence that they were designated for these purposes. Absent such proof, the payments by the Montana Republican Party for exempt volunteer activities or exempt voter registration and get-out-the-vote activities are presumptively legal.

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III. Voter Identification Project

Next, the Complainant alleges that the NRSC spent over $130,000 to conduct a voter identification project in Montana, and that the costs of this project were not properly

reported as coordinated expenditures in support of Senator Burns. Complaint at 8.

This allegation misconstrues the law relating to party-building activities such as developing voter lists. The regulation governing the allocation of expenditures states:

> Expenditures for rent, personnel, overhead, general administrative, fundraising, and other day-to-day costs of political committees need not be attributed to individual candidates, unless these expenditures are made on behalf of a clearly identified candidate and the expenditure can be directly attributed to that candidate.

11 C.F.R. § 106.1(c)(1). In the ordinary course of business, national party committees produce and maintain voter lists for their own use. See Affidavit of Robert J. Bissen before the Federal Election Commission in MUR 3204 (hereinafter "Bissen Aff.") at ¶ 2, attached hereto at Exhibit 2. This type of standard party-building activity has long been sanctioned by the FEC within the exception of 11 C.F.R. § 106.1 (c). See, e.g., Advisory Opinion 1975-87, Fed. Election Camp. Fin. Guide (CCH) ¶ 5178; Advisory Opinion 1978-46, Fed. Election Camp. Fin. Guide (CCH) ¶ 5348. Lists developed and maintained by party committees need not be allocated to any particular candidate or candidate committees.

Such a list was created with regard to the State of Montana. The Montana voter identification project was

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directed by Robert Bissen, Director of Special Projects/Voter Programs for the NRSC. As stated in his Affidavit:

> Because there is no statewide repository of registered voters in Montana, we collected lists of registered voters from each county in Montana. These lists were publicly available lists which did not distinguish between Republican and Democratic voters. There was then an attempt to enhance the list by identifying Republican, Democratic, and Independent voters. The creation of this Montana list, a standard party-building activity, was not allocated to any particular candidate or candidate committees.

Bissen Aff. at ¶ 3. Thus, the costs of merely developing these lists were allocable to the NRSC's federal account and needed only to be reported as standard operating expenditures by the NRSC, and not as contributions to any particular candidate.

The Complaint also alleges that the NRSC "funnelled [the funds for the project] through the Montana Republican Party, which had no control over . . . this project." As evidenced by the Montana State Party's disclosure reports, the Complaint is correct that payments were made to the State Party in connection with the Montana voter identification project. These payments consisted of reimbursements to the state party for the actual costs of purchasing and retrieving the voter registration tapes from various local courthouses around the state. See pages from Montana Republican Party's

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April Quarterly report for 1988, attached hereto as Exhibit 3. As the Montana Republican Party's FEC reports indicate, these expenses were paid to the local courthouses with their purpose identified as "Voter Registration Tape." Id.

Third, the Complaint alleges that the NRSC unfairly "required the Montana Republican Party to purchase the results" while none of the expenses were attributed to Burns. Complaint at 8. Specific federal candidate activity that involved use of this list was paid for by the candidate, or as part of the coordinated expenditures on behalf of that candidate. See Bissen Aff. at ¶ 6. For instance, a phone bank was conducted using the list which asked a question regarding now-Senator Burns. The results of this phone bank were not provided free of charge to Senator Burns. Rather, the Burns campaign paid the vendor that administered the phone bank directly for the share of the phone bank attributable to that question. See Bissen Aff. at ¶ 6 and attached checks. Because the Burns Campaign paid the vendor directly, the costs of this phone bank did not have to be reported by the NRSC either as a in-kind contribution or coordinated expenditure on behalf of Senator Burns. Rather, the Burns campaign itself was responsible for reporting this expenditure. See 2 U.S.C. § 434(b)(4).

Nor is there merit to the Complainant's protestations that the state party was unfairly required to pay for the

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results. Once the voter list was compiled, a list vendor maintained and administered the magnetic computer tapes. Typically, once a list is created, any user, including the NRSC or a state party, must pay the vendor maintaining that list for its use. Bissen Aff. at ¶ 4.

IV. Salaries of NRSC, State Party and Campaign Employees

The Complaint alleges that Tom Hannah, Ken Knudson, and Elwood English were employees of the Montana Republican Party and were actually paid by the NRSC and reported to the NRSC. It further alleges that these payments should have been reported as coordinated expenditures on behalf of the Conrad Burns/U.S. Senate Committee. This allegation references the Montana Republican Party's FEC reports as evidence, but those reports simply do not substantiate this charge. The only record of any payment from the State Party to any of these individuals is entries for "Postage Reimbursement, Travel & Expense" for Elwood English and Ken Knudson. There is no reference to Tom Hannah on the State Party's reports.

Additionally, the Complaint alleges that the salary of Tony Payton, a consultant to the NRSC in 1988, should also have been reported as a coordinated expenditure of the NRSC in support of Senator Burns. Tony Payton, like several other individuals, was hired to be a field representative in numerous states. One of his states was Montana. Political

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parties customarily have field representatives. As "personnel" of the NRSC, their salary is a non-allocable party expense under 11 C.F.R. § 106.1(c)(1). See section III, infra.

The Complaint also alleges that the NRSC paid Corey Lane's salary for what was admittedly a Montana State Party fundraising project. Even the Merica v. Campbell Complaint, upon which this Complaint relies for support, acknowledges that Corey Lane was hired by the Montana Republican Party as a fundraiser for the Party. See Complaint in Merica v. Campbell at ¶ 22 (attached to the Complaint in this Matter). Apparently, his sole duty was to fundraise on behalf of the state party, and he was in fact paid by the State Party. See Exhibit 4. Moreover, even if the Complaint presented any evidence that the NRSC transferred funds for this purpose, which it does not, such transfers for administrative expenses of a state party are entirely permissible under 2 U.S.C. § 441a(a)(4).

V. Reporting of NRSC Contributions to the State Party

Finally, the Complaint alleges that the NRSC and the State Party have misreported their expenditures in violation of 2 U.S.C. § 434(b). This charge is dependent upon the finding of a violation with respect to the substantive allegations of the Complaint. These allegations have already

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been refuted. The NRSC has, in fact, accurately reported all of its contributions and coordinated expenditures in the 1988 election.

Conclusion

For the reasons set forth above, the Commission should find no reason to believe that the NRSC violated the Act in this Matter. We note that Common Cause has alleged that these were knowing and willful violations. There is no evidence to support this claim. Accordingly, this Complaint should be dismissed.

Sincerely,

Carol A. Laham

Carol A. Laham
for: Jan Witold Baran

Steven M. Mister

Steven M. Mister

Counsel for National Republican
Senatorial Committee, and
James L. Hagen, as Treasurer

cc: James L. Hagen
Jeb Hensarling, Esq.

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Contributions

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JULIE WOOD
SUITE 216
DALLAS

(161.00)

$750.00

SCHEDULE B — ITEMIZED DISBURSEMENTS — Page ___ OF 1 — Line Number 21

NAME OF COMMITTEE
NATIONAL REPUBLICAN SENATORIAL COMMITTEE - EXPENDITURES

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

NAME, ADDRESS, CITY, STATE, ZIP	PURPOSE OF DISBURSEMENT	DATE (MONTH, DAY, YEAR)	AMOUNT OF EACH DISBURSEMENT THIS PERIOD
NAME, ADDRESS, CITY, STATE, ZIP HALLOP SENATE DRIVE POST OFFICE BOX 6001 SHERIDAN WY 82801	PURPOSE OF DISBURSEMENT EARMARKED CONTRIBUTION DISBURSEMENT FOR:	07/15/[illegible]	$1000.00
NAME, ADDRESS, CITY, STATE, ZIP DEGREEN FOR US SENATE CMTE 14500 N. 32ND STREET, #201 PHOENIX AZ 85018	PURPOSE OF DISBURSEMENT DIRECT CONTRIBUTION DISBURSEMENT FOR:	07/08/[illegible]	$10000.00
NAME, ADDRESS, CITY, STATE, ZIP PRINTSTEPS PRESS 555 NEW JERSEY AVE. NW WASHINGTON DC 20001	PURPOSE OF DISBURSEMENT [illegible] DISBURSEMENT FOR: [illegible] U.S. SENATE	07/08/[illegible]	$263.83 (159.25) MEMO IN HOUSE MAILING
NAME, ADDRESS, CITY, STATE, ZIP PCPILLAR FOR SENATE 505 S. BROADWAY HICKSVILLE NY 11801	PURPOSE OF DISBURSEMENT DIRECT CONTRIBUTION DISBURSEMENT FOR:	07/15/[illegible]	$15000.00
NAME, ADDRESS, CITY, STATE, ZIP	PURPOSE OF DISBURSEMENT		
NAME, ADDRESS, CITY, STATE, ZIP	PURPOSE OF DISBURSEMENT		
NAME, ADDRESS, CITY, STATE, ZIP	PURPOSE OF DISBURSEMENT		
SUBTOTAL OF DISBURSEMENTS THIS PAGE (optional)			$[illegible]263.83
TOTAL THIS PERIOD (last page this line number only)			$[illegible]263.83

NAME OF COMMITTEE
NATIONAL REPUBLICAN SENATORIAL COMMITTEE - EXPENDITURES

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

NAME, ADDRESS, CITY, STATE, ZIP	PURPOSE OF DISBURSEMENT	DATE (MONTH, DAY, YEAR)	AMOUNT OF EACH DISBURSEMENT THIS PERIOD
ALAN KEYES FOR US SENATE 8115 FENTON STREET #314 SILVER SPRING MD 20910	INKIND-RADIO ACTUALITIES DISBURSEMENT FOR: NRSC - IN HOUSE SERVICE	11/01/88	(144.00) MEMO
MALONE FOR US SENATE 107 SOUTH STREET BOSTON MA 02111	INKIND-RADIO ACTUALITIES DISBURSEMENT FOR: NRSC - IN HOUSE SERVICE	11/01/88	(144.00) MEMO
CONRAD BURNS FOR US SENATE P.O. BOX 3311 BILLINGS MT 59103	INKIND-POSTAGE DISBURSEMENT FOR: USPS	11/01/88	(250.00) MEMO
CONRAD BURNS FOR US SENATE P.O. BOX 3311 BILLINGS MT 59103	INKIND-PHOTOGRAPHY DISBURSEMENT FOR: TWIN LENS	11/01/88	(337.50) MEMO
CONRAD BURNS FOR US SENATE P.O. BOX 3311 BILLINGS MT 59103	INKIND-MEDIA EXPENSE DISBURSEMENT FOR: FRANKENBERRY, LAUGHLIN	11/01/88	(1405.19) MEMO
FRIENDS OF SEN. DAVID KARNES 526 N 109TH STREET OMAHA NE 68154	INKIND-RADIO ACTUALITIES DISBURSEMENT FOR: NRSC - IN HOUSE MAILING	11/01/88	(39.00) MEMO
THE HECHT REELECTION COMMITTEE P.O. BOX 2139 LAS VEGAS NV 89125	INKIND-MEDIA EXPENSE DISBURSEMENT FOR: FRANKENBERRY, LAUGHLIN	11/01/88	(1405.19) MEMO
SUBTOTAL OF DISBURSEMENTS THIS PAGE (optional)			
TOTAL THIS PERIOD (last page this line number only)			

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NAME OF COMMITTEE
NATIONAL REPUBLICAN SENATORIAL COMMITTEE - EXPENDITURES

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

NAME, ADDRESS, CITY, STATE, ZIP	PURPOSE OF DISBURSEMENT	DATE (MONTH, DAY, YEAR)	AMOUNT OF EACH DISBURSEMENT THIS PERIOD
RECMT REELECTION COMMITTEE 9805 KOMOUTER CT. VIENNA VA 22180	EARMARKED CONTRIBUTION DISBURSEMENT FOR: GERALD KESSLER	11/04/89	33.34
RECMT REELECTION COMMITTEE 9805 KOMOUTER CT. VIENNA VA 22180	EARMARKED CONTRIBUTION DISBURSEMENT FOR: JOSEPH CONTOWNIK	11/04/88	250.00
TRENT LOTT FOR MISSISSIPPI P.O. BOX 1744 GULFPORT MS 39502	INKIND-RADIO ACTUALITIES DISBURSEMENT FOR: NRSC - IN HOUSE SERVICES	11/04/88	(20.00) MEMO
CALIFORNIANS FOR PETE WILSON 710 IVY STREET SAN DIEGO CA 92101	EARMARKED CONTRIBUTION DISBURSEMENT FOR: JAMES D. KLINGBEIL	10/25/89	1000.00
PETE DAWKINS FOR U.S. SENATE 121 STATE HIGHWAY 36 WEST LONG BRANC NJ 07764	EARMARKED CONTRIBUTION DISBURSEMENT FOR: JAMES D. KLINGBEIL	10/25/88	1000.00
CMTE TO REELECT JOHN MILLER 540 C NORTH GATEWAY #602 SEATTLE WA 98125	DIRECT CONTRIBUTION DISBURSEMENT FOR:	10/25/89	5000.00
MINUTEMAN PRESS 555 NEW JERSEY AVE. NW WASHINGTON DC 20001	INKIND - PRINTING DISBURSEMENT FOR: CONRAD BURNS/US SENATE	10/25/88	61.77
SUBTOTAL OF DISBURSEMENTS THIS PAGE (optional)			
TOTAL THIS PERIOD (last page this line number only)			

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Coordinated Expenditures

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SCHEDULE B

ITEMIZED COORDINATED EXPENDITURES MADE BY POLITICAL PARTY COMMITTEES OR DESIGNATED AGENTS ON BEHALF OF CANDIDATES FOR FEDERAL OFFICE (2 U.S.C. § 441a(d))

Page 1 of 2

(To be used only by Political Committees in the General Election)

Name of Political Committee (In Full)

NATIONAL REPUBLICAN SENATORIAL COMMITTEE EXPENDITURES

Has your Committee been designated to make coordinated expenditures by a political party committee? ☒ YES ☐ NO
If YES, name the designating committee:

Full Name, Mailing Address and ZIP Code of Subordinate Committee

Full Name, Mailing Address and ZIP Code of Each Payee	Name of Federal Candidate Supported, State, District & Office Sought	Purpose of Expenditure	Date (month, day, year)	Amount
THE NOVEMBER GROUP P.O. BOX 10418 MARINA DEL REY, CA	BILL VALENTINE NEW MEXICO U.S. SENATE	MEDIA BUY	6/16/98	45,000.00
	Aggregate General Election Expenditures for this Candidate ▶			45,000.00
MEDIA MARKETING 2909 S 9 SOUTH WOODSTOCK ARLINGTON, VIRGINIA 22206	CHUCK ROBB VIRGINIA U.S. SENATE	MEDIA BUY MEDIA BUY	6/08/98 6/15/98	15,000.00 2,345.00
	Aggregate General Election Expenditures for this Candidate ▶			17,345.00
INTERVOICE VIDEO SYSTEMS 1333 NW MISSOURIRE AVE. WASHINGTON, D.C. 20036	CHUCK ROBB VIRGINIA U.S. SENATE	MEDIA ADS	6/22/98	100.39
	Aggregate General Election Expenditures for this Candidate ▶			17,345.39
JAMES E. FOSTER 2020 E. TRINITY MILLS CARROLLTON, TEXAS 75006	PHIL GRAMM TEXAS U.S. SENATE	MAILING COSTS	6/23/98 6/01/98 6/30/98	20,010.74 40,000.94 14,450.00
	Aggregate General Election Expenditures for this Candidate ▶			74,461.68
SUBTOTAL of Expenditures This Page (optional)				
TOTAL This Period (last page this line number only)				

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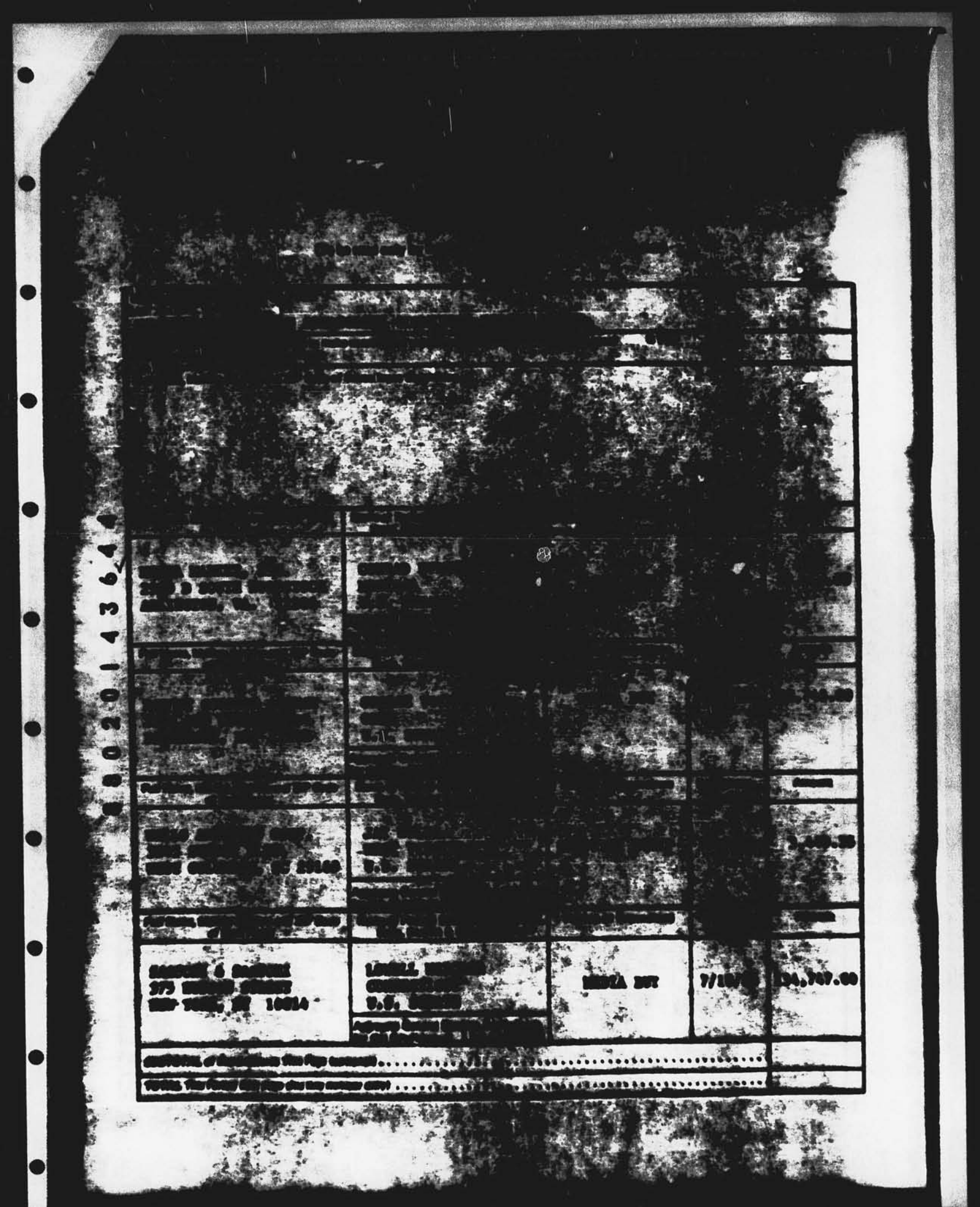

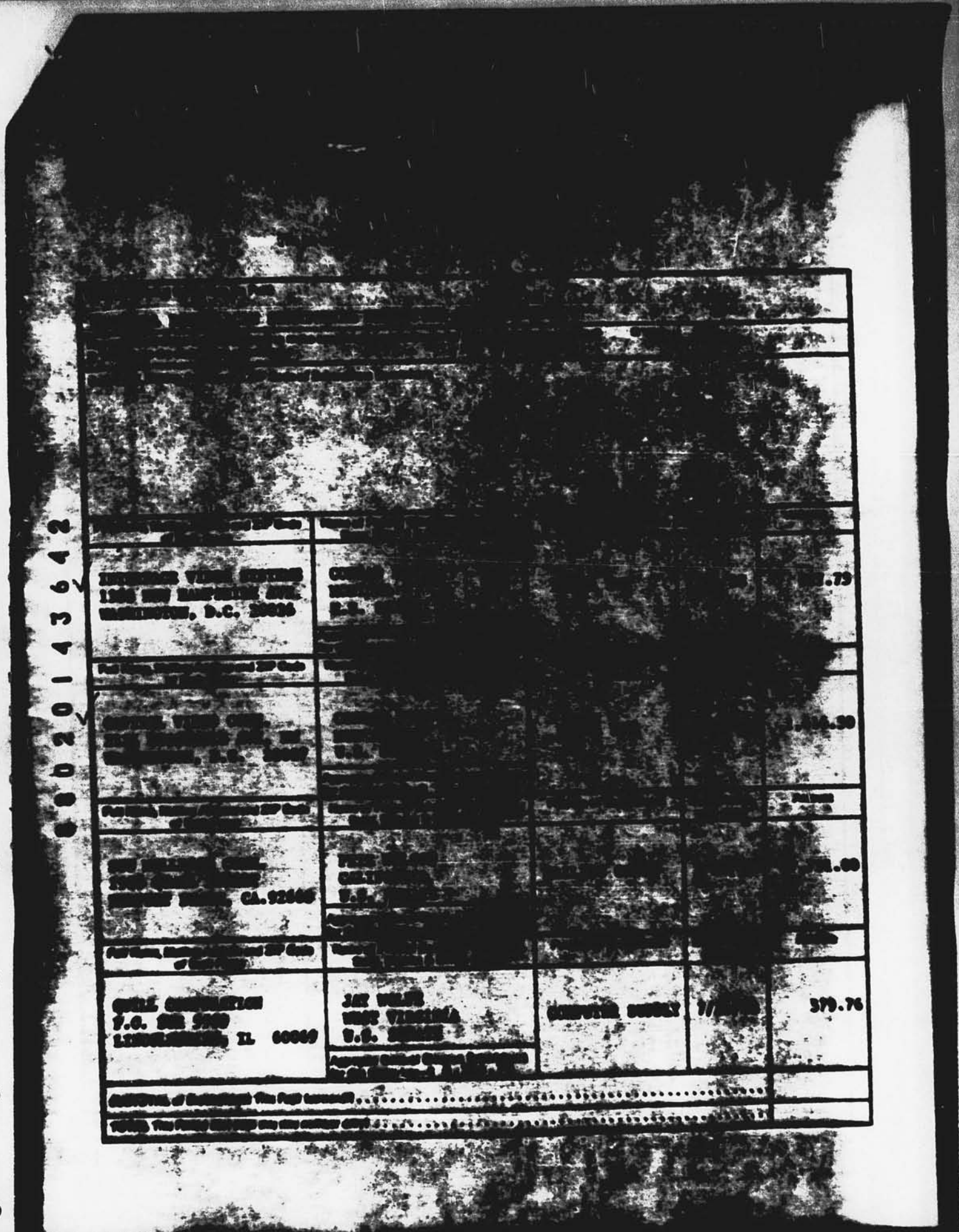

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[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible] MICHIGAN [illegible] 6910 U.S. RT. [illegible] EAST [illegible], OH [illegible]	JAY [illegible] WEST V[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible] U.S.	[illegible]	[illegible]	[illegible]
[illegible]	[illegible] U.S. [illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible] 719 [illegible] STREET, S.E. WASHINGTON, D.C. 20003	CONRAD [illegible] MONTANA U.S. SENATE	MEDIA BUY	7/22/8[illegible]	3,[illegible].15
[illegible]				
[illegible]				[illegible]

SCHEDULE F ITEMIZED COORDINATED EXPENDITURES MADE BY POLITICAL PARTY COMMITTEES OR DESIGNATED AGENT(S) ON BEHALF OF CANDIDATES FOR FEDERAL OFFICE (2 U.S.C. §441a(d))

(To be used by Political Committees in the General Election)

NAME OF COMMITTEE
NATIONAL REPUBLICAN SENATORIAL COMMITTEE - EXPENDITURES

Has your Committee been designated to make coordinated expenditures by a political party committee? If YES, name the designating committee: [ ] [ ] NO

Full Name, Mailing Address and Zip Code of Subordinate Committee

	FULL NAME, MAILING ADDRESS and ZIP of Each Payee	NAME OF FEDERAL CANDIDATE SUPPORTED; STATE, DISTRICT and Office Sought	Date (mm/dd, dy.yy)	Amount
12	CAPITOL VIDEO COMMUNICATIONS 2121 WISCONSIN AVE., NW WASHINGTON DC 20007 PURPOSE OF EXPENDITURE MEDIA	CONRAD BURNS U.S. SENATE MONTANA AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - [illegible]	08/30/88	1431.00
13	INTERSPACE VIDEO SYSTEMS 1333 NEW HAMPSHIRE AV.NW WASHINGTON DC 20036 PURPOSE OF EXPENDITURE MEDIA	CONRAD BURNS U.S. SENATE MONTANA AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - [illegible]	08/30/88	1409.92
14	JAMES R. FOSTER & ASSOCIATES 2020 E. TRINITY MILLS RD CARROLLTON TX 75006 PURPOSE OF EXPENDITURE MAILING EXPENSE	BEAU BOULTER U.S. SENATE TEXAS AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - [illegible]	08/12/88	93969.34
15	JAMES R. FOSTER & ASSOCIATES 2020 E. TRINITY MILLS RD CARROLLTON TX 75006 PURPOSE OF EXPENDITURE MAILING EXPENSE	BEAU BOULTER U.S. SENATE TEXAS AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - [illegible]	08/09/88	3498.08
	SUBTOTAL OF EXPENDITURES THIS PAGE (optional)			100,308.26
	TOTAL THIS PERIOD (last page this line number only)			

SCHEDULE F ITEMIZED COORDINATED EXPENDITURES MADE BY POLITICAL PARTY COMMITTEES OR DESIGNATED AGENT(S) ON BEHALF OF CANDIDATES FOR FEDERAL OFFICE (2 U.S.C. 441a(d))

Page 2 of 4
Line Number 23

(To be used by Political Committees in the General Election)

NAME OF COMMITTEE
NATIONAL REPUBLICAN SENATORIAL COMMITTEE - EXPENDITURES

Has your Committee been designated to make coordinated expenditures by a political party committee? If YES, name the designating committee: [ ] [ ] NO

Full Name, Mailing Address and Zip Code of Subordinate Committee

	FULL NAME, MAILING ADDRESS and ZIP of Each Payee	NAME OF FEDERAL CANDIDATE SUPPORTED, STATE, DISTRICT and Office Sought	Date (mo./day/yr.)	Amount
30	JAMES R. FOSTER & ASSOCIATES 2828 E. TRINITY MILLS RD CARROLLTON TX 75006 PURPOSE OF EXPENDITURE MAILING EXPENSE	BEAU BOULTER U.S. SENATE TEXAS AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - 0494061.77	08/02/88	1814.20
35	NAT'L REPUBLICAN CONGRESSIONAL 320 FIRST STREET, SE WASHINGTON DC 20003 PURPOSE OF EXPENDITURE MEDIA	CONRAD BURNS U.S. SENATE MONTANA AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - 054046.00	08/04/88	1413.78
24	NAT'L REPUBLICAN CONGRESSIONAL 320 FIRST STREET, SE WASHINGTON DC 20003 PURPOSE OF EXPENDITURE MEDIA	CONRAD BURNS U.S. SENATE MONTANA AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - 054046.00	08/30/88	709.00
	CONEY AD AGENCY P.O. BOX 2035 BISMARK ND 58502 PURPOSE OF EXPENDITURE MEDIA	EARL STRINDEN U.S. SENATE NORTH DAKOTA AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - 091998.47	08/09/88	91998.47
	SUBTOTAL OF EXPENDITURES THIS PAGE (optional)			95,935.45
	TOTAL THIS PERIOD (last page this line number only)			

SCHEDULE F [redacted] COORDINATED EXPENDITURES MADE BY POLITICAL PARTY COMMITTEES OR DESIGNATED AGENT(S) ON BEHALF OF CANDIDATES FOR FEDERAL OFFICE (2 U.S.C. 6441a(d))

Page 3 Of 4
Line Number 23

(To be used by Political Committees in the General Election)

NAME OF COMMITTEE
NATIONAL REPUBLICAN SENATORIAL COMMITTEE - EXPENDITURES

Has your Committee been designated to make coordinated expenditures by a political party committee? If YES, name the designating committee: [ ] YES [ ] NO

Full Name, Mailing Address and Zip Code of Subordinate Committee

	PULL NAME, MAILING ADDRESS and ZIP of Each Payee	NAME OF FEDERAL CANDIDATE SUPPORTED, STATE, DISTRICT and Office Sought	Date (month, day, yr)	Amount
a	ROBERT NEIL WEISS 8201 16TH STREET, 01119 SILVER SPRING MD 20910 PURPOSE OF EXPENDITURE MAILING EXPENSE	ALAN KEYES U.S. SENATE MARYLAND AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - $17078.44	08/31/88	7163.50
b	ROBERT NEIL WEISS 8201 16TH STREET, 01119 SILVER SPRING MD 20910 PURPOSE OF EXPENDITURE MAILING EXPENSE	ALAN KEYES U.S. SENATE MARYLAND AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - $17078.44	08/25/88	4571.12
c	ROGER WILLIAMS AD, INC. 482 CONGRESS STREET PORTLAND ME 04101 PURPOSE OF EXPENDITURE MEDIA	JASPER WYMAN U.S. SENATE MAINE AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - $32862.66	08/09/88	32862.66
✓	RSM 719 8TH STREET S.E. WASHINGTON DC 20003 PURPOSE OF EXPENDITURE MEDIA	CONRAD BURNS U.S. SENATE MONTANA AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - $340866.49	08/09/88	15000.00
	SUBTOTAL OF EXPENDITURES THIS PAGE (optional)			59,597.28
	TOTAL THIS PERIOD (last page this line number only)			

SCHEDULE F ITEMIZED COORDINATED EXPENDITURES MADE BY POLITICAL PARTY COMMITTEES OR DESIGNATED AGENT(S) ON BEHALF OF CANDIDATES FOR FEDERAL OFFICE (2 U.S.C. 441a(d))

(To be used by Political Committees in the General Election)

NAME OF COMMITTEE
NATIONAL REPUBLICAN SENATORIAL COMMITTEE - EXPENDITURES

Has your Committee been designated to make coordinated expenditures by a political party committee? If YES, name the designating committee: [ ] [ ] NO

Full Name, Mailing Address and Zip Code of Subordinate Committee

FULL NAME, MAILING ADDRESS and ZIP of Each Payee	NAME OF FEDERAL CANDIDAT SUPPORTED, STATE, DISTRICT and Office sought	Date (month, day, yr)	Amount
AMERICAN EXPRESS POST OFFICE BOX 1270 NEWARK NJ 07101 PURPOSE OF EXPENDITURE MEDIA EXPENSE	CONRAD BURNS U.S. SENATE MONTANA AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - $893665.93	09/13/88	626.75
INTERFACE VIDEO SYSTEMS 1333 NEW HAMPSHIRE AV,NW WASHINGTON DC 20036 PURPOSE OF EXPENDITURE MEDIA EXPENSE	CONRAD BURNS U.S. SENATE MONTANA AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - $893665.93	09/13/88	2655.31
MONTANA TELEVISION NETWORK ST BOX 2557 BILLINGS MT 59103 PURPOSE OF EXPENDITURE MEDIA EXPENSE	CONRAD BURNS U.S. SENATE MONTANA AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - $893665.93	09/13/88	125.00
NAT'L REPUBLICAN CONGRESSIONAL 320 FIRST STREET, SE WASHINGTON DC 20003 PURPOSE OF EXPENDITURE MEDIA EXPENSE	CONRAD BURNS U.S. SENATE MONTANA AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - $893665.93	09/13/88	680.52
SUBTOTAL OF EXPENDITURES THIS PAGE (optional)			4,087.58
TOTAL THIS PERIOD (last page this line number only)			

SCHEDULE F ITEMIZED COORDINATED EXPENDITURES MADE BY POLITICAL PARTY COMMITTEES OR DESIGNATED AGENT(S) ON BEHALF OF CANDIDATES FOR FEDERAL OFFICE (2 U.S.C. 441a(d))

(To be used by Political Committees in the General Election)

NAME OF COMMITTEE
NATIONAL REPUBLICAN SENATORIAL COMMITTEE - EXPENDITURES

Has your Committee been designated to make coordinated expenditures by a political party committee? If YES, name the designating committee: [ ] [ ] NO

Full Name, Mailing Address and Zip Code of Subordinate Committee

FULL NAME, MAILING ADDRESS and ZIP of Each Payee	NAME OF FEDERAL CANDIDAT SUPPORTED,STATE,DISTRICT and Office sought	Date (month, day,yr)	Amount
ALLYN AND COMPANY 8232 MCKINNEY, STE 1280 DALLAS TX 75204	BEAU BOULTER U.S. SENATE TEXAS	09/20/88	1974.72
PURPOSE OF EXPENDITURE MEDIA EXPENSE	AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - 0499916.49		
TAIT RECORDING SERVICE 1347 SOUTH CAPITOL ST.SW WASHINGTON DC 20003	CONRAD BURNS U.S. SENATE MONTANA	09/20/88	313.23
PURPOSE OF EXPENDITURE MEDIA EXPENSE	AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - 0303685.93		
ROBERT NEIL WEISS 9201 16TH STREET, 81119 SILVER SPRING MD 20910	ALAN KEYES U.S. SENATE MARYLAND	09/20/88	4614.00
PURPOSE OF EXPENDITURE MAILING EXPENSE	AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - 0139474.44		
OMNI DIRECT MAIL SERVICES, INC 8330 OLD COURTHOUSE RD VIENNA VA 22180	JAY WOLPE U.S. SENATE WEST VIRGINIA	09/08/88	1600.00
PURPOSE OF EXPENDITURE MAILING EXPENSE	AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - 0186687.94		
SUBTOTAL OF EXPENDITURES THIS PAGE (optional)			8,401.95
TOTAL THIS PERIOD (last page this line number only)			

SCHEDULE F ITEMIZED COORDINATED EXPENDITURES MADE BY POLITICAL PARTY COMMITTEES OR DESIGNATED AGENT(S) ON BEHALF OF CANDIDATES FOR FEDERAL OFFICE (2 U.S.C. 6441a(d))

(To be used by Political Committees in the General Election)

NAME OF COMMITTEE
NATIONAL REPUBLICAN SENATORIAL COMMITTEE - EXPENDITURES

Has your Committee been designated to make coordinated expenditures by a political party committee? If YES, name the designating committee: [ ] [ ] NO

Full Name, Mailing Address and Zip Code of Subordinate Committee

FULL NAME, MAILING ADDRESS and ZIP of Each Payee	NAME OF FEDERAL CANDIDAT SUPPORTED,STATE,DISTRICT and Office sought	Date (month, day,yr)	Amount
TAIT RECORDING SERVICE 1347 SOUTH CAPITOL ST.SW WASHINGTON DC 20003	CONRAD BURNS U.S. SENATE MONTANA	10/04/88	75.26
PURPOSE OF EXPENDITURE MEDIA EXPENSE	AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - 886607.22		
PRODUCTION CONSULTANTS 462 K STREET, NW WASHINGTON DC 20001	CONRAD BURNS U.S. SENATE MONTANA	10/04/88	84.00
PURPOSE OF EXPENDITURE MEDIA EXPENSE	AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - 886607.22		
INTERFACE VIDEO SYSTEMS 1333 NEW HAMPSHIRE AV.NW WASHINGTON DC 20036	CONRAD BURNS U.S. SENATE MONTANA	10/18/88	566.12
PURPOSE OF EXPENDITURE MEDIA EXPENSE	AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - 886607.22		
ATLANTIC VIDEO 150 S. GORDON STREET ALEXANDRIA VA 22304	CONRAD BURNS U.S. SENATE MONTANA	10/04/88	2215.91
PURPOSE OF EXPENDITURE MEDIA EXPENSE	AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - 886607.22		
SUBTOTAL OF EXPENDITURES THIS PAGE (optional)			2,941.29
TOTAL THIS PERIOD (last page this line number only)			

SCHEDULE F ITEMIZED COORDINATED EXPENDITURES MADE BY POLITICAL PARTY COMMITTEES OR DESIGNATED AGENT(S) ON BEHALF OF CANDIDATES FOR FEDERAL OFFICE (2 U.S.C. 6441a(d))

(To be used by Political Committees in the General Election)

NAME OF COMMITTEE
NATIONAL REPUBLICAN SENATORIAL COMMITTEE - EXPENDITURES

Has your Committee been designated to make coordinated expenditures by a political party committee? If YES, name the designating committee: [ ] [ ] NO

Full Name, Mailing Address and Zip Code of Subordinate Committee

FULL NAME, MAILING ADDRESS and ZIP of Each Payee	NAME OF FEDERAL CANDIDAT SUPPORTED,STATE,DISTRICT and Office sought	Date (month, day,yr)	Amount
STU MOLLRICH COMMUNICATIONS 4900 QUAIL STREET NEWPORT BEACH CA 92660 PURPOSE OF EXPENDITURE MEDIA EXPENSE	PETE WILSON U.S. SENATE CALIFORNIA AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - $1650848.40	09/28/88	8797.89
TRICE TALENT PAYMENTS, INC. 4115 CLAYBROOK DRIVE, #1 SILVER SPRING MD 20902 PURPOSE OF EXPENDITURE MEDIA EXPENSE	CONRAD BURNS U.S. SENATE MONTANA AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - $83665.93	09/28/88	1986.00
USPS JACKSON MAIN POST OFFICE JACKSON MS 39201 PURPOSE OF EXPENDITURE POSTAGE	TRENT LOTT U.S. SENATE MISSISSIPPI AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - $150900.00	09/28/88	1000.00
ODELL ROPER & ASSOCIATES 7316 WISCONSIN AVENUE BETHESDA MD 20814 PURPOSE OF EXPENDITURE MAILING EXPENSE	JOHN DANFORTH U.S. SENATE MISSOURI AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - $70266.71	09/29/88	22250.00
SUBTOTAL OF EXPENDITURES THIS PAGE (optional)			34,033.89
TOTAL THIS PERIOD (last page this line number only)			

SCHEDULE F ITEMIZED COORDINATED EXPENDITURES MADE BY POLITICAL PARTY COMMITTEES OR DESIGNATED AGENT(S) ON BEHALF OF CANDIDATES FOR FEDERAL OFFICE (2 U.S.C. 6441a(d))

(To be used by Political Committees in the General Election)

NAME OF COMMITTEE
NATIONAL REPUBLICAN SENATORIAL COMMITTEE - EXPENDITURES

Has your Committee been designated to make coordinated expenditures by a political party committee? If YES, name the designating committee: [ ] [ ] NO

Full Name, Mailing Address and Zip Code of Subordinate Committee

FULL NAME, MAILING ADDRESS and ZIP of Each Payee	NAME OF FEDERAL CANDIDAT SUPPORTED,STATE,DISTRICT and Office sought	Date (month, day,yr)	Amount
INTERFACE VIDEO SYSTEMS 1333 NEW HAMPSHIRE AV,NW WASHINGTON DC 20036	PETE DAWKINS U.S. SENATE NEW JERSEY	09/29/88	704.40
PURPOSE OF EXPENDITURE MEDIA EXPENSE	AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - 8537704.40		
INTERFACE VIDEO SYSTEMS 1333 NEW HAMPSHIRE AV,NW WASHINGTON DC 20036	CONRAD BURNS U.S. SENATE MONTANA	09/29/88	718.53
PURPOSE OF EXPENDITURE MEDIA EXPENSE	AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - 883665.93		
GREENE COUNTY REPUBLICAN PARTY 1339 S. GLENSTONE SPRINGFIELD MO 65804	JOHN DANFORTH U.S. SENATE MISSOURI	09/30/88	1500.00
PURPOSE OF EXPENDITURE MEDIA EXPENSE	AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - 870286.71		
VALTIM INCORPORATED POST OFFICE BOX 114 FOREST VA 24551	DAVID KARNES U.S. SENATE NEBRASKA	09/30/88	1310.25
PURPOSE OF EXPENDITURE COMPUTER SERVICE	AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - 820639.96		
SUBTOTAL OF EXPENDITURES THIS PAGE (optional)			4,233.18
TOTAL THIS PERIOD (last page with a line number only)			

SCHEDULE F ITEMIZED COORDINATED EXPENDITURES MADE BY POLITICAL PARTY COMMITTEES OR DESIGNATED AGENT(S) ON BEHALF OF CANDIDATES FOR FEDERAL OFFICE (2 U.S.C. 441a(d))

Line Number 23

(To be used by Political Committees in the General Election)

NAME OF COMMITTEE
NATIONAL REPUBLICAN SENATORIAL COMMITTEE - EXPENDITURES

Has your Committee been designated to make coordinated expenditures by a political party committee? If YES, name the designating committee: [ ] YES [ ] NO

Full Name, Mailing Address and Zip Code of Subordinate Committee

FULL NAME, MAILING ADDRESS and ZIP of Each Payee	NAME OF FEDERAL CANDIDAT SUPPORTED,STATE,DISTRICT and Office sought	Date (month, day,yr)	Amount
PARRELL MEDIA 211 EAST 43RD STREET NEW YORK NY 10017 PURPOSE OF EXPENDITURE MEDIA EXPENSE	PETE DAWKINS U.S. SENATE NEW JERSEY AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - $537704.40	09/21/88	$37000.00
FASH 1719 8TH STREET S.E. WASHINGTON DC 20003 PURPOSE OF EXPENDITURE MEDIA EXPENSE	CONRAD BURNS U.S. SENATE MONTANA AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - $83669.93	09/20/88	11239.44
THE ROBERT GOODMAN AGENCY 2201 OLD COURT ROAD BALTIMORE MD 21208 PURPOSE OF EXPENDITURE MEDIA EXPENSE	GEORGE VOINOVICH U.S. SENATE OHIO AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - $722107.80	09/20/88	8740.80
AILES COMMUNICATIONS INC 456 WEST 43RD ST NEW YORK NY 10036 PURPOSE OF EXPENDITURE MEDIA EXPENSE	JOHN DANFORTH U.S. SENATE MISSOURI AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - $70266.71	09/20/88	9251.00
SUBTOTAL OF EXPENDITURES THIS PAGE (optional)			966,231.24
TOTAL THIS PERIOD (last page this line number only)			

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SCHEDULE F ITEMIZED COORDINATED EXPENDITURES MADE BY POLITICAL PARTY COMMITTEES OR DESIGNATED AGENT(S) ON BEHALF OF CANDIDATES FOR FEDERAL OFFICE (2 U.S.C. 441a(d))

(To be used by Political Committees in the General Election)

NAME OF COMMITTEE
NATIONAL REPUBLICAN SENATORIAL COMMITTEE - EXPENDITURES

Was your Committee been designated to make coordinated expenditures by a political party committee? If YES, name the designating committee: [ ] [ ] NO

Full Name, Mailing Address and Zip Code of Subordinate Committee

FULL NAME, MAILING ADDRESS and ZIP of Each Payee	NAME OF FEDERAL CANDIDAT SUPPORTED,STATE,DISTRICT and Office sought	Date (month, day,yr)	Amount
THE ROBERT GOODMAN AGENCY 2201 OLD COURT ROAD BALTIMORE MD 21208 PURPOSE OF EXPENDITURE MEDIA EXPENSE	TRENT LOTT U.S. SENATE MISSISSIPPI AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - $150000.00	09/09/88	104400.00
MULTI-MEDIA SERVICES CORP. 1000 DIAGONAL ROAD ALEXANDRIA VA 22314 PURPOSE OF EXPENDITURE MEDIA EXPENSE	CONNIE MACK U.S. SENATE FLORIDA AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - $ [illegible]	09/09/88	237417.75
OUTDOOR POSTERS, INC 2090 VASSAR STREET RENO NV 89502 PURPOSE OF EXPENDITURE YARD SIGNS	JAY DOLPE U.S. SENATE WEST VIRGINIA AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - $10887.84	09/13/88	7500.00
RSN 719 8TH STREET S.E. WASHINGTON DC 20003 PURPOSE OF EXPENDITURE MEDIA EXPENSE	CONRAD BURNS U.S. SENATE MONTANA AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - $83665.93	09/13/88	10636.16
SUBTOTAL OF EXPENDITURES THIS PAGE (optional)			359,953.91
TOTAL THIS PERIOD (last page this line number only)			

SCHEDULE F ITEMIZED COORDINATED EXPENDITURES MADE BY POLITICAL PARTY COMMITTEES OR DESIGNATED AGENT(S) ON BEHALF OF CANDIDATES FOR FEDERAL OFFICE (2 U.S.C. 441a(d))

Page 10 Of 27
Line Number 23

(To be used by Political Committees in the General Election)

NAME OF COMMITTEE
NATIONAL REPUBLICAN SENATORIAL COMMITTEE - EXPENDITURES

Has your Committee been designated to make coordinated expenditures by a political party committee? If YES, name the designating committee: [ ] YES [ ] NO

Full Name, Mailing Address and Zip Code of Subordinate Committee

FULL NAME, MAILING ADDRESS and ZIP of Each Payee	NAME OF FEDERAL CANDIDAT SUPPORTED,STATE,DISTRICT and Office sought	Date (month, day,yr)	Amount
ONE GARY C LAWRENCE COMPANY 1900 EAST FOURTH ST. SANTA ANA CA 92705 PURPOSE OF EXPENDITURE POLLING	CONRAD BURNS U.S. SENATE MONTANA AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - 890657.22	10/21/88	4050.00
USPS MAIN POST OFFICE WASHINGTON DC 20001 PURPOSE OF EXPENDITURE MAILING EXPENSE	DAVID KARNES U.S. SENATE NEBRASKA AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - 8104648.69	11/01/88	250.00
THE ROBERT GOODMAN AGENCY 2201 OLD COURT ROAD BALTIMORE MD 21208 PURPOSE OF EXPENDITURE MEDIA EXPENSE	DAVID KARNES U.S. SENATE NEBRASKA AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - 8104648.69	10/20/88	85302.00
ROBERT H. BORK 5171 PALISADE LANE, NW WASHINGTON DC 20016 PURPOSE OF EXPENDITURE FUNDRAISING EXPENSE	DAVID KARNES U.S. SENATE NEBRASKA AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - 8104648.69	11/10/88	901.01
SUBTOTAL OF EXPENDITURES THIS PAGE (optional)			90,403.01
TOTAL THIS PERIOD (last page this line number only)			

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SCHEDULE B ITEMIZED COORDINATED EXPENDITURES MADE BY POLITICAL PARTY COMMITTEES OR DESIGNATED AGENT(S) ON BEHALF OF CANDIDATES FOR FEDERAL OFFICE (2 U.S.C. 441a(d))

Page 2 Of -
Line Number

(To be used by Political Committees in the General Election)

NAME OF COMMITTEE			
NATIONAL REPUBLICAN SENATORIAL COMMITTEE - EXPENDITURES			
Has your Committee been designated to make coordinated expenditures by a political party committee? If YES, name the designating committee: [ ] [ ] No			
Full Name, Mailing Address and Zip Code of Subordinate Committee			
FULL NAME, MAILING ADDRESS and ZIP of Each Payee	NAME OF FEDERAL CANDIDATE SUPPORTED, STATE, DISTRICT and Office sought	Date (month, day, yr)	Amount
ECELL ROPER & ASSOCIATES 7316 WISCONSIN AVENUE BETHESDA MD 20814	DAVE DURENBERGER U.S. SENATE MINNESOTA	12/05/88	13712.50
PURPOSE OF EXPENDITURE MAILING EXPENSE	AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - $289046.41		
THE BLACKWELL CORPORATION 1255 23RD STREET, NW WASHINGTON DC 20037	CONRAD BURNS U.S. SENATE MONTANA	12/06/88	500.00
PURPOSE OF EXPENDITURE MEDIA EXPENSE	AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - $91157.22		
POSTMASTER MAIN POST OFFICE WASHINGTON DC 20001	PETE DOMENICI U.S. SENATE NEW MEXICO	12/15/88	250.00
PURPOSE OF EXPENDITURE POSTAGE	AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - $537883.68		
THE ROBERT GOODMAN AGENCY 2201 OLD COURT ROAD BALTIMORE MD 21208	GEORGE VOINOVICH U.S. SENATE OHIO	12/01/88	8800.00
PURPOSE OF EXPENDITURE MEDIA EXPENSE	AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - $732648.20		
SUBTOTAL OF EXPENDITURES THIS PAGE (optional)			23,242.50
TOTAL THIS PERIOD (last page this line number only)			

SCHEDULE F ITEMIZED COORDINATED EXPENDITURES MADE BY POLITICAL PARTY COMMITTEES OR DESIGNATED AGENT(S) ON BEHALF OF CANDIDATES FOR FEDERAL OFFICE (2 U.S.C. 441a(d))

Page 1 (1) Line Number 21

(To be used by Political Committees in the General Election)

NAME OF COMMITTEE
NATIONAL REPUBLICAN SENATORIAL COMMITTEE - EXPENDITURES

Has your Committee been designated to make coordinated expenditures by a political party committee? If YES, name the designating committee: [ ] YES [ ] NO

Full Name, Mailing Address and Zip Code of Subordinate Committee

FULL NAME, MAILING ADDRESS and ZIP of Each Payee	NAME OF FEDERAL CANDIDATE SUPPORTED, STATE, DISTRICT and Office sought	Date (month, day, yr)	Amount
PURPOSE OF EXPENDITURE	AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE -		
REPUBLICAN NATIONAL COMMITTEE 310 FIRST STREET NE WASHINGTON DC 20003 PURPOSE OF EXPENDITURE MEDIA EXPENSE	JOE MALONE U.S. SENATE MASSACHUSETTS AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - $414,821.75	05/30/89	456.75
TWIN LENS PHOTOGRAPHY 15221 WATERGATE ROAD SILVER SPRING MD 20904 PURPOSE OF EXPENDITURE PHOTO SERVICE	CONRAD BURNS U.S. SENATE MONTANA AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - $91,494.72	05/30/89	337.50
TWIN LENS PHOTOGRAPHY 15221 WATERGATE ROAD SILVER SPRING MD 20904 PURPOSE OF EXPENDITURE PHOTO SERVICE	EARL STRINDEN U.S. SENATE NORTH DAKOTA AGGREGATE GEN. ELEC. EXPEND. FOR CANDIDATE - $92,000.22	05/30/89	337.50
SUBTOTAL OF EXPENDITURES THIS PAGE (optional)			1,131.75
TOTAL THIS PERIOD (last page this line number only)			1,131.75

FEC FORM 3X (5/86)

SCHEDULE A

ITEMIZED RECEIPTS

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

PAGE 2 | 6

FOR LINE NUMBER: 15

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NAME OF COMMITTEE (In Full)

NATIONAL REPUBLICAN SENATORIAL COMMITTEE - CONTRIBUTIONS

A. Full Name, Mailing Address and ZIP Code ADVANCED LIST MARKETING ASSOCIATES 731-H2 WALKER ROAD GREAT FALLS, VA 22066 Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Name of Employer REIMBURSEMENT MAILING EXPENSE Occupation	Date (month, day, year) 8/23/88	Amount of Each Receipt this Period 7,201.08
	Aggregate Year-to-Date > $		
B. Full Name, Mailing Address and ZIP Code ADVANCED LIST MARKETING ASSOCIATES 731-H2 WALKER ROAD GREAT FALLS, VA 22066 Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Name of Employer REIMBURSEMENT MAILING EXPENSE Occupation	Date (month, day, year) 8/23/88	Amount of Each Receipt this Period 8,430.00
	Aggregate Year-to-Date > $		
C. Full Name, Mailing Address and ZIP Code VEDCRAFT TECHNOLOGIES, INC. RT. 1 AND ADAMS STATION ROAD NORTH BRUNSWICK, NJ 08902 Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Name of Employer REFUND Occupation	Date (month, day, year) 9/13/88	Amount of Each Receipt this Period 10.59
	Aggregate Year-to-Date > $		
D. Full Name, Mailing Address and ZIP Code MEDIA MARKET, INC. 2909D SOUTH WOODSTOCK ST. ARLINGTON, VA 22206 Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Name of Employer REFUND - NY COORDINATED Occupation EXPENDITURE	Date (month, day, year) 9/14/88	Amount of Each Receipt this Period 161.50
	Aggregate Year-to-Date > $		
E. Full Name, Mailing Address and ZIP Code AUTOMATIC DATA PROCESSING 502 COVINA BLVD. SAN DIMAS, CA 91773 Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Name of Employer REFUND Occupation	Date (month, day, year) 9/14/88	Amount of Each Receipt this Period 448.19
	Aggregate Year-to-Date > $		
F. Full Name, Mailing Address and ZIP Code CROWNE PLAZA 333 POYDRAS ST. NEW ORLEANS, LA 70130 Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Name of Employer REFUND Occupation	Date (month, day, year) 9/15/88	Amount of Each Receipt this Period 7.04
	Aggregate Year-to-Date > $		
G. Full Name, Mailing Address and ZIP Code HECHT REELECTION COMMITTEE P.O. BOX 2139 LAS VEGAS, NV 89125 Receipt For: ☐ Primary ☐ General ☐ Other (specify)	Name of Employer REIMBURSEMENT PHOTO EXPENSE Occupation	Date (month, day, year) 9/23/88	Amount of Each Receipt this Period 1,026.30
	Aggregate Year-to-Date > $		

SUBTOTAL of Receipts This Page (optional) .....

TOTAL This Period (last page this line number only) .....

FEC 11/37343

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BEFORE THE FEDERAL ELECTION COMMISSION

County of Ramsey)
) MUR 3204
State of Minnesota)

AFFIDAVIT OF ROBERT J. BISSEN

ROBERT J. BISSEN, first being duly sworn, deposes and says:

1. I am Robert J. Bissen. I served as Special Projects/Voter Programs Director for the National Republican Senatorial Committee (NRSC) from February 1987 to March 1989.

2. As Special Projects/Voter Programs Director, I am familiar with the Voter Identification Project undertaken by the various national party committees and the Montana Republican Party in Montana in 1987-88 as a party-building activity.

3. Because there is no statewide repository of registered voters in Montana, we collected lists of registered voters from each county in Montana. These lists were publicly available lists which did not distinguish between Republican and Democratic voters. There was then an attempt to enhance the list by identifying Republican, Democratic, and Independent voters. The creation of this Montana list, a standard party-building activity, was not allocated to any particular candidate or candidate committees. The normal practice is that this enhanced list,

9043583027

when completed, would be jointly owned by the national party committees and the Montana Republican Party.

4. Typically, once a list is created, any user, including the NRSC or a state party, must pay the vendor maintaining that list for its use.

5. I am also familiar with the separate allegations in the Complaint filed with the Federal Election Commission styled Matter Under Review ("MUR") 3204 that, "Although [Senator] Burns was a major beneficiary of this [voter identification] project, none of the expenses of the project were ever reported as coordinated expenditures by the NRSC or the Montana Republican Party on his behalf, nor were any of these expenses counted against the NRSC's or the Montana Republican Party's coordinated expenditure limits in support of Burns." Complaint at 8, ¶ 20.

6. The premise of this allegation is incorrect. While a "voter preference" phone bank was conducted, each candidate mentioned in the survey paid for his share of the survey. Thus, the Burns Campaign paid the vendor directly for the share of the phone bank attributable to a question relating to Senator Burns. Attached are copies of two checks

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issued by the Burns Campaign to Campaign Telecommunications for its share of this phone bank.

The above information is true and correct to the best of my knowledge, information and belief.

Robert J. Bissen

Signed and sworn to before me
this 14 day of February, 1991.

Paula Biever
Notary Public

My Commission Expires: 4-10-94

PAULA BIEVER
NOTARY PUBLIC - MINNESOTA
RAMSEY COUNTY
My Commission Expires Apr. 10, 1994

9404358300 29

CONRAD BURNS/U.S. SENATE
GENERAL ELECTION FUND
P. O. BOX 3311
BILLINGS, MT 59103

1350

Oct 1 19 88

PAY TO THE ORDER OF Campaign Telecom $ 3784.80

Three thousand seven hundred eighty four + 80/100 DOLLARS

FIRST CITIZENS BANK
MAIN 252-5531
1ST AVENUE NORTH AT BROADWAY
BILLINGS, MONTANA 59101

FOR

⑈001350⑈ ⑆092901191⑆ 149-307⑈

940 5830

9404358303 1

CONRAD BURNS/U.S. SENATE
GENERAL ELECTION FUND
P. O. BOX 3311
BILLINGS, MT 59103

1460

93-119/929

Oct 20 1988

PAY TO THE ORDER OF Campaign Telecommunications $ 965 11

Nine hundred sixty-five ~ 11/100 DOLLARS

FIRST CITIZENS BANK
(406) 252-5531
1ST AVENUE NORTH AT BROADWAY
BILLINGS, MONTANA 59101

FOR

Jim Swain

⑈001460⑈ ⑆092901698⑆ 649-30 7⑈

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SCHEDULE B — ITEMIZED DISBURSEMENTS

Use separate schedule(s) for each category of the Detailed Summary Page — PAGE 3 OF 4 — FORM NUMBER 19

Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes.

NAME OF COMMITTEE (in Full)

Montana Republican State Central Committee

	Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
A	First Bank Helena 1 Last Chance Gulch At 6th Helena, MT 59601	Payroll withholding Disbursement for: [ ] Primary [ ] General [ ] Other (specify)	1/25/88	1,733.30
B	The Printers P. O. Box 489 Helena, MT 59624	Supplies Printing & Office Disbursement for: [ ] Primary [ ] General [ ] Other (specify)	1/25/88 2/14/88 3/16/88	1,744.05 171.71 500.00
C	The Printers P. O. Box 489 Helena, MT 59624	Office Printing and Supplies Disbursement for: [ ] Primary [ ] General [ ] Other (specify)	3/30/88 3/30/88	500.00 125.00
D	Shoe Repair Shop 1421 Helena Ave Helena, MT 59601	Upholster Chair Disbursement for: [ ] Primary [ ] General [ ] Other (specify)	1/27/88	165.00
E	Internal Revenue Service Ogden Utah 84201	Penalty on late withholding Disbursement for: [ ] Primary [ ] General [ ] Other (specify)	1/28/88	175.82
F	Yellowstone Co. Clerk &Rec. Yellowstone Co. Courthouse Billings, MT 59101	Voter Registration Tape Disbursement for: [ ] Primary [ ] General [ ] Other (specify)	2/12/88	500.00
G	Missoula Co. Clerk & Rec. Missoula Co. Courthouse Missoula, MT 59802	Voter Registration Tape Disbursement for: [ ] Primary [ ] General [ ] Other (specify)	2/24/88	225.19
H	Cascade Co. Clerk & Rec. Cascade Co. Courthouse Great Falls, MT 59401	Voter Registration Tape Disbursement for: [ ] Primary [ ] General [ ] Other (specify)	2/24/88	125.00
I	Nelda Merica [illegible] Gold Rush Helena, MT 59601	Salary & Expenses Disbursement for: [ ] Primary [ ] General [ ] Other (specify)	3/28/88 3/15/88 3/30/88	384.16 384.16 384.16
			SUBTOTAL (This Page (optional))	7,117.55
			TOTAL (This column total only)	

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SENSITIVE

FIRST GENERAL COUNSEL'S REPORT

MUR 3087
DATE COMPLAINT RECEIVED
BY OGC: July 13, 1990
DATE OF NOTIFICATION TO
RESPONDENTS: July 20, 1990

MUR 3204
DATE COMPLAINT RECEIVED
BY OGC: December 20, 1990
DATE OF NOTIFICATION TO
RESPONDENTS: December 27, 1990
STAFF MEMBER: John Canfield

MUR 3087
COMPLAINANT: Kelly Addy

RESPONDENTS: National Republican Senatorial Committee and James L. Hagen, as treasurer

Republican National Committee and William J. McManus, as treasurer

Montana Republican State Central Committee and Shirley J. Warehime, as treasurer

Conrad Burns/US Senate and Jim Swain, as treasurer

Bush-Quayle '88 and J. Stanley Huckaby, as treasurer

Friends of Jim Fenlason for Congress

Montanans for Marlenee and Douglas N. Wilson, III, as treasurer

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Colorado Republican Federal Campaign Committee and Douglas L. Jones, as treasurer

Gary Lawrence Company

MUR 3204

COMPLAINANT: Roger M. Witten

RESPONDENTS: National Republican Senatorial Committee and James L. Hagen, as treasurer

Montana Republican State Central Committee and Shirley J. Warehime, as treasurer

Conrad Burns/US Senate and Jim Swain, as treasurer

RELEVANT STATUTES:

2 U.S.C. § 431(8)(A) and (B)
2 U.S.C. § 434(b)
2 U.S.C. § 439(a)
2 U.S.C. § 441a(a)(1)
2 U.S.C. § 441a(a)(2)
2 U.S.C. § 441a(a)(7)
2 U.S.C. § 441a(a)(8)
2 U.S.C. § 441a(d)
2 U.S.C. § 441a(f)
2 U.S.C. § 441a(h)
2 U.S.C. § 441b
2 U.S.C. § 441d
11 C.F.R. § 100.7(a)(1)
11 C.F.R. § 100.7(b)
11 C.F.R. § 102.6(a)
11 C.F.R. § 106.1
11 C.F.R. § 110.6

INTERNAL REPORTS CHECKED: Disclosure Reports

FEDERAL AGENCIES CHECKED: None

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I. GENERATION OF MATTER

A. MUR 3087

This matter was generated by a complaint filed on July 13, 1990, by Kelly Addy, Speaker Pro Tempore of the Montana House of Representatives. The Commission granted several time extensions to various respondents to file their responses. Responses to the complaint were filed by Jim Fenlason for Congress on August 15; by Bush-Quayle '88 on August 20; by Montanans for Marlenee on August 29; by the Republican National Committee (RNC) and the Colorado Republican Federal Campaign Committee on September 5; by the Gary Lawrence Company on September 10; by the Montana Republican State Central Committee (Montana Republican Party) on November 14; by the National Republican Senatorial Committee (NRSC) on November 19; and by the Conrad Burns/US Senate Committee (Burns Committee) on November 21, 1990.

B. MUR 3204

This matter was generated by a complaint filed on December 20, 1990, by Roger M. Witten, counsel for Common Cause. The Commission granted a 30 day extension to respond to the NRSC on January 22, 1991. Responses to the complaint were filed by the Montana Republican Party on January 18; by the Conrad Burns/US Senate Committee on January 23, 1991; and by the NRSC on February 19, 1990.

The allegations made in this complaint are almost identical to several of the allegations made previously in the MUR 3087 complaint, and involve some of the same respondents. For this reason, this Office will refer to both of these matters

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throughout this Report, and recommends that the Commission merge these matters into a single MUR.

II. FACTUAL AND LEGAL ANALYSIS

A. The Act and Regulations

The Federal Election Campaign Act of 1971, as amended ("the Act"), provides that no person shall make contributions to any federal candidate that aggregate in excess of $1,000 per election and that no multicandidate political committee shall make such contributions that aggregate in excess of $5,000 per election. 2 U.S.C. §§ 441a(a)(1)(A) and 441a(a)(2)(A). The Act defines contributions to include any gift of money, services or anything of value made for the purpose of influencing any federal election. 2 U.S.C. § 431(8)(A)(i). Commission regulations explain that "anything of value" includes any in-kind contribution or any gift of goods or services at less than the usual and normal charge for such goods or services. 11 C.F.R. § 100.7(a)(1)(iii).

The Act further provides that any expenditure 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 a contribution to such candidate. 2 U.S.C. § 441a(a)(7)(B)(i). The Act prohibits the making and acceptance of corporate contributions or expenditures. 2 U.S.C. § 441b.

The Act also provides the national party committee and the state party committee with additional authority to make coordinated party expenditures on behalf of the party's nominees

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for the House and Senate. 2 U.S.C. § 441a(d)(3). The national party committee may also make such expenditures on behalf of its presidential nominee. 2 U.S.C. § 441a(d)(2). For 1988, the combined coordinated party expenditure limitation for Montana for the U.S. Senate election was $92,200. The national and state political party committees may authorize another committee, such as the National Republican Senatorial Committee, to make these coordinated party expenditures. DSCC v. FEC, 454 U.S. 27 (1980).

Commission regulations explain that expenditures made on behalf of more than one candidate shall be attributed to each candidate in proportion to the benefit reasonably expected to be derived and shall be so reported. 11 C.F.R. § 106.1(a). The regulations further explain, however, that expenditures for rent, personnel, overhead, general administrative, fundraising, and other day-to-day costs of political committees and for registration and get-out-the-vote (GOTV) drives need not be attributed to individual candidates unless the expenditures are made on behalf of a clearly identified candidate and the expenditure can be directly attributed to that candidate. 11 C.F.R. § 106.1(c).

With regard to the allocation of polling expenses, Commission regulations require that opinion poll results which are purchased by a political committee are to be treated as a contribution in-kind by the purchasing committee and as an expenditure by the candidate or candidate's authorized committee which accepts the poll results. 11 C.F.R. § 106.4(b). In addition, the amount of the contribution attributable to the

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recipient candidate or committee are to be allocated using one of the formulas provided at 11 C.F.R. § 106.4(e).

Commission regulations permit unlimited transfers among committees of the same political party. 11 C.F.R. § 102.6(a)(1). In addition to filing periodic reports with the Commission, the Act also requires a state party committee to file copies of its federal reports with the appropriate state office. 2 U.S.C. § 439(a). Copies of such reports are to be filed at the same time as the reports are due to be filed with the Commission. 11 C.F.R. § 108.5.

The Act also exempts from the definition of contribution or expenditure certain payments by state and local political party committees on behalf of its candidates. These exempt payments include (1) the payments for the preparation and mailing of a printed slate card or sample ballot or other printed listing of three or more candidates; (2) the payments for campaign materials, such as pins, bumper stickers, handbills, brochures, posters, yard signs, and party tabloids used in connection with volunteer activities; and (3) the payments of the costs of voter registration and get-out-the-vote activities on behalf of the party's presidential nominee. 2 U.S.C. §§ 431(8)(B)(v), (x), and (xii).

Payments for these activities in connection with any broadcasting, newspaper, magazine, billboard, or similar type of general public communication or political advertising do not qualify for these exemptions. Furthermore, payments for direct mail do not qualify for the campaign materials and voter

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registration and GOTV exemptions, though payments for direct mail may qualify for the slate card exemption. Moreover, payments for campaign materials and voter registration and GOTV on behalf of the presidential nominee made from transfers from a national party committee will also not qualify for the exemption. Instead, such payments are treated as coordinated party expenditures. See 11 C.F.R. §§ 100.7(b)(15)(vii) and 100.7(b)(17)(vii). Payments for voter registration and GOTV on behalf of the presidential nominee that include references to Senate or House candidates are allocable to such candidates as a contribution or expenditure, unless the reference is incidental to the overall activity. 11 C.F.R. § 106.1(c)(3).

The Act requires contributions that are earmarked to a candidate through any intermediary or conduit to be reported to the recipient candidate and the Commission with the name of the original source and treats them as contributions from the original source. 2 U.S.C. § 441a(a)(8). Commission regulations define earmarking and explain the reporting requirements for earmarked contributions. 11 C.F.R. § 110.6. These regulations further explain that the conduit's or intermediary's contribution limitations are not affected by passing along an earmarked contribution unless the conduit or intermediary has exercised direction or control over the choice of the recipient candidate. If direction or control exists, then the contribution is considered as made by both the original contributor and the conduit or intermediary. 11 C.F.R. § 110.6(d).

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The Act also requires that communications which advocate the election or defeat of a clearly identified candidate and which are distributed through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public political advertising shall include a disclaimer stating who paid for the communication and, where the communication is made by other than an authorized political committee, whether it was authorized by the candidate. 2 U.S.C. § 441d. Communications that qualify for one of the exemptions to the definition of contribution and expenditure, however, may not require a disclaimer. See Advisory Opinion 1988-40.

B. Alleged Violations

The two complaints allege that the NRSC funneled large amounts of money to the Montana Republican Party to be used for direct mail activities, tracking polls, and voter identification projects which benefited Senatorial candidate Conrad Burns, as well as other Republican federal candidates. The complaints allege that these funds were not reported as either contributions, coordinated expenditures, or independent expenditures. The complaints also allege that inaccurate reports were filed with the Commission, reports were not filed in a timely manner, and that the NRSC "bundled" funds to the Burns campaign in an illegal manner.

The Addy complaint in MUR 3087 makes several allegations against a variety of respondents. It bases these allegations on three sources. The first source is a civil suit filed by Terry

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and Neida Merica, former employees of the Montana Republican Party, against the Montana Republican Party, the NRSC, and certain individuals. The complaint by Terry and Neida Merica contains the following factual assertions. At a March 1, 1988, meeting there was a discussion on how to raise $150,000 for a voter identification project. The NRSC agreed to transfer $20,000 in four monthly installments of $5,000 each to hire a fundraiser. In April, Corey Lane was hired as the fundraiser, subject to NRSC approval. Terry Merica, the Executive Director of the Montana Republican Party, claims he questioned the legality of Lane's fundraising methods, especially regarding Montana law on corporate contributions. In a July 11, 1988, letter, Lane wrote to Ann Prestidge, an NRSC field agent, complaining about Terry Merica's interference with Lane's fundraising. Merica alleges that during this period, the NRSC was directing "the movement of substantial sums in and out of" state party accounts. He claims that whenever he questioned Prestidge's instructions, he was told by party chairperson Barbara Campbell to do as Prestidge said. He specifically refers to wire transfers to the James R. Foster and Associates ("Foster and Associates") for "direct mailings" on behalf of Burns, and refers to one $60,000 transfer and a dispute over $24,000 in bills from Foster and Associates. Neida Merica, administrative secretary for the Montana Republican Party, claims that she initially reported certain expenditures by the state party on Schedule F as coordinated party expenditures, but was directed by Prestidge to use Schedule B instead. With regard to the

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preparation of the July Quarterly Report, Neida Merica alleges that Prestidge told her to use "volunteer" on certain transactions. The complaint also quoted from a November 3, 1988, letter from Ward Shanahan, counsel to the state party, to Prestidge questioning her authority to issue directives to Terry Merica and from a November 8, 1988, memorandum to the state party complaining about actions by the national party committees including the NRSC, particularly with regard to incurring expenses in the name of the state party.

The remainder of the complaint relates to the Mericas' wrongful discharge claims. The lawsuit was initially filed in in Montana state court in December, 1989. However, the Mericas amended their complaint in July, 1990, to add federal racketeering (RICO) charges and removed the case to federal court. The RICO claims were dismissed by a federal judge on January 9, 1991, and the remaining wrongful discharge suit was remanded back to Montana state court, where it is currently pending.

The second source of information relied upon by the complaint are news articles that appeared in the Montana press concerning the 1988 election of Conrad Burns to the United States Senate.[1]

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1. The following are excerpts of the factual statements and allegations in the news articles attached to the complaint.
Great Falls Tribune, December 15, 1989: Montana Republican Party reports show total receipts of $514,846 and total disbursements of $497,279 in 1988. They show receipts of $204,429 from the NRSC, $41,986 from the RNC, and $44,000 from the Colorado Republican Party and

(Footnote 1 continued from previous page)
payments of $109,000 to the J.R. Foster Company for printing and close to $70,000 for postage. State Rep. Dennis Rehberg, former Burns campaign manager, is quoted as saying the Burns campaign had editorial control over half a dozen mailings but that the NRSC and the state party produced and distributed these mailings.
National Journal, January 6, 1990: The NRSC's transfers to Montana were the largest of 1988. Others with significant amounts were North Dakota ($87,741) and Wisconsin ($182,675). More than half of the NRSC's transfers were in last 20 days of the campaign. An October 7, 1988, transfer of $6,879 from the NRSC to the Montana Republican Party coincided by date and amount with the payment of $6,879.01 from the Montana Republican Party to the Foster Company. A later transfer of $32,110 was followed two days later with the payment of the same amount to Foster. Review of state party reports casts doubt on claims that it did not use NRSC transfers for the mailings since it apparently did not have sufficient funds from other sources to pay Foster and the postage costs.
Helena Independent Record, March 22, 1990: NRSC did not begin filing reports with Montana officials for 1988 until February 1990.
Livingston Enterprise, March 26, 1990: NRSC reported total coordinated expenditures of $91,495 on behalf of Burns but items add up to $107,319. NRSC reported paying only $4,050 to the Gary Lawrence Company, although it did daily tracking polls. The news article also referred to lack of reporting for $150,000 spent on a state voter identification project.
Great Falls Tribune, no date apparent: The article quotes State Rep. Rehberg to the effect that the Burns campaign got polling data from the NRSC but that the NRSC also withheld some data. Rehberg says the Burns campaign compiled a list of voters from various sources for the mailings but could not recall if the NRSC was a source. He said the Burns campaign had no control over what went on between the NRSC and the Montana Republican Party.
Billings Gazette, April 1, 1990: The NRSC transferred $137,898 to the Montana Republican Party in the last four weeks of the campaign and $10,100 after the election. The NRSC, RNC, and Colorado Republican Party transferred $182,000 in last four weeks. The Burns campaign also received $278,800 in contributions in the last 20 days of the campaign, much of it from PACs and out-of-state individuals.
Helena Independent Record, April 8, 1990: Republican

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The third source of information used by the complainant is copies of mailings by the Montana Republican Party in 1988.

The Common Cause complaint in MUR 3204 also relies on the Merica's civil lawsuit for its basis. The complaint reiterates the allegations in the Addy complaint that the NRSC transferred over $200,000 beyond the 1988 spending limits to the Montana Republican Party for the support of the Burns campaign.

(Footnote 1 continued from previous page)
candidates for statewide office were provided voter survey results to help plan campaign strategies with information compiled through a project conducted by the NRSC. The article quotes Elwood English, a former Burns campaign director, as saying he worked under NRSC supervision to help compile a voter identification list and said he thought it was carried out with national party funding. The article quotes Terry Merica as saying the state party did not pay for the survey. He said the state party gathered source documents and distributed the final product to legislators. The article quotes unnamed Republican campaign workers as saying the voter identification project involved a list of registered voters collected from county courthouses and follow-up telephone surveys to gauge the voters' political persuasions. The candidates were then provided with survey results that showed names, addresses, telephone numbers and scores indicating how inclined a voter might be to cast a Republican ballot. The article says the information was used for targeting mailings, seeking campaign volunteers, and conducting get-out-the-vote activities.
Butte Montana Standard, April 17, 1990: The NRSC transferred more funds to Montana in first three months of 1990 ($25,000) than in first six months of 1988 ($17,284).
Great Falls Tribune, April 18, 1990: National Republican groups funneled $196,729 in "bundled" contributions to Burns in 1988. The article quotes an NRSC spokesperson that 1986 methods were not used in 1988. The article notes reports that indicated the NRSC sent $132,100 in bundled contributions to Burns campaign from October 21 to November 8, 1988, the Midwestern Majority Committee sent $23,556, and the M & N Committee provided $41,072. The latter two committees raised money for Senate candidates and listed the same address as the NRSC.

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Additionally, the complaint alleges that the NRSC directed the Montana Republican Party to incur certain expenses and then report them as being volunteer exempt activity. The NRSC would then transfer funds to the Montana Republican Party to pay for these expenses. Many of the materials purchased in this manner allegedly advocated the election of Conrad Burns for Senate and George Bush and Dan Quayle for President/Vice President.

The Common Cause complaint also alleges that the Montana Republican Party spent over $109,000 for mailings on behalf of the Burns campaign from James R. Foster and Associates, and over $72,000 on postage for such mailings. However, the complaint further states that the Montana Republican Party did not have sufficient funds from non-NRSC sources to pay for these mailings and postage. If NRSC funds were used for all or a portion of these mailings, and since a commercial vendor was used, the volunteer exemption would not be applicable to this situation.

1. Excessive Coordinated Party Expenditures

The Addy complaint alleges that the itemization on the Schedules F of the NRSC's own reports disclose $107,319.00 in coordinated party expenditures on behalf of Conrad Burns, which he alleges is $15,824 over the limit of $92,200. This allegation is apparently based upon figures cited in a newspaper article. Both the Addy complaint and the Common Cause complaint allege that the NRSC exceeded the limits for contributions and coordinated expenditures by failing to report numerous expenditures on behalf of the Burns campaign, many of which the

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NRSC "funneled" through the Montana Republican Party. This Office views these allegations as relating to the NRSC.

In its responses to both complaints, the NRSC states that it spent a total of $91,494.72 in coordinated expenditures on behalf of the Burns campaign. This figure is below the combined coordinated party expenditure limit of $92,200 for the 1988 election. The Montana Republican Party had designated its spending authority to the NRSC. The responses also state that the NRSC made contributions to the Burns Committee totaling $17,477.54. This figure is below the contribution limit of $17,500 for the 1988 election. The NRSC responses go on to claim that the allegations made by the complainants are the result of confusion on their part as to the difference between "contributions" and "coordinated expenditures", all of which the NRSC maintains it properly reported on its reports filed with the Commission.

This Office has reviewed the monthly reports filed by the NRSC for 1988, and has confirmed the figures provided by the NRSC in its responses. The reports filed with the Commission do in fact reflect the claims of the NRSC: that they reported coordinated expenditures of $91,494.72 and contributions of $17,477.54 to the Burns Committee for the 1988 election. However, this conclusion is based solely on the reports which were filed with the Commission. Whether or not the NRSC made excessive contributions or expenditures will depend on the other issues discussed herein which relate to tracking polls, direct

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mailings, volunteer exemptions, voter identification lists, and bundled contributions.

2. Daily Tracking Polls

The Addy complaint alleges that the Burns campaign received daily tracking polls conducted by the Gary Lawrence Company of California. It alleges that the NRSC paid the full cost of these polls but reported only a $4,050 payment to the Gary Lawrence Company. It also disputes any claim that the poll could be "devalued" by holding the results because in his view daily tracking polls are "valuable only at the time the poll is taken." With regard to these polls, it alleges that (1) the Gary Lawrence Company made an excessive or, if incorporated, a prohibited contribution to the NRSC or the Burns campaign by not charging the fair market value for the polls; and (2) that the NRSC has made an excessive contribution or coordinated expenditure regarding the Burns campaign by providing the polling data to them at less than full fair market value.

The NRSC response states that the $4,050 payment it made to the Gary Lawrence Company was for a "Participation in Montana Statewide Study". This study was conducted for the Burns' campaign, and the NRSC reported the sum as a coordinated expenditure on behalf of the Burns Committee. The NRSC response states that the complaint incorrectly "assumes" that this expenditure was for a tracking poll. A review of the NRSC's reports confirms that it reported this amount as a coordinated expenditure on October 21, 1988.

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The Gary Lawrence Company responded that the $4,050 payment from the NRSC to the Gary Lawrence Company cited in the complaint "was for survey research performed by the Gary Lawrence Company independent of the daily tracking discussed above." The Gary Lawrence Company further stated that it "did not undervalue its services; it charged the full fair market value for political polling services rendered to the NRSC between October 15, 1988 and November 6, 1988, and was paid in full for these services." It further adds:

> The Gary Lawrence Company entered into an oral agreement with the National Republican Senatorial Committee (NRSC) and the Republican Governors Association (RGA) to provide polling services for both organizations. Pursuant to the agreement, the Gary Lawrence Company charged $13.50 for the first 5 questions, and $.50 per question per person surveyed thereafter, and sent its invoices, pursuant to instructions from the NRSC and the RGA, to the RGA, which was handling the paperwork. This price structure was the same price the Gary Lawrence Company charged in neighboring North Dakota and in other tracking projects around the nation that year. Approximately two thirds of the questions that were eventually asked in the total project related to Montana Senatorial candidate Conrad Burns and one third related to the Gubernatorial candidate Stan Stephens. How the NRSC and the RGA allocated their respective amounts is beyond the responsibility of the Gary Lawrence Company to know or control.
>
> As shown by the enclosed documents, the Gary Lawrence Company sent out three invoices for the following amounts for its tracking work in Montana: $20,000 on October 24, 1988; $15,000 on November 2, 1988; and $15,100 on November 9, 1988. The $50,100 total was paid in full, most of it from the Republican National Committee (RNC), the party's umbrella organization. The RNC paid $49,650 and the Burns campaign paid $450 (for one shared tracking question). (The $18,600 shown on RNC check #012931 includes $15,000 for invoice #487 for Montana, plus $3,600 for a separate invoice for a separate North Dakota project.)

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Thus, it appears that the Gary Lawrence Company did not undervalue its services or make a prohibited corporate contribution for its polling services. It was paid in full a total of $50,100 for its work, pursuant to an oral agreement with the RNC and the NRSC. The complainant's allegation against the NRSC also appears to be without merit, since it was the RNC which paid for these tracking polls, not the NRSC.

However, the response from the Gary Lawrence Company raises questions as to how the costs of the polls were allocated among candidates and whether or not excessive contributions may have occurred by providing the polling results to the Burns campaign. The Gary Lawrence Company states that two-thirds of the polling questions related to the Burns campaign. Yet the Burns Committee paid only $450 of the total $50,100 owed to the Gary Lawrence Company. The RNC paid the remaining $49,650. It is unknown whether or not the RNC provided this polling information to the Burns Committee. Because the complaint did not identify the RNC as to this allegation, the RNC response did not address this issue of it purchasing almost $50,000 worth of daily tracking polls from the Gary Lawrence Company, and does not state whether it provided the poll results to the Burns Committee. The response from the Burns Committee is silent on whether it ever received the poll results from the RNC or the Gary Lawrence Company.

The Gary Lawrence Company states that it conducted the daily tracking polls on behalf of the NRSC and the RNC, yet it was the RNC which paid for all but $450 of the cost. It is

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unknown whether the Gary Lawrence Company provided the finished polling data to the NRSC, the RNC, or the Burns Committee. Polling data which is purchased by a political committee and then provided to a candidate or a candidate's authorized committee must be reported as an in-kind contribution by the political committee and as an expenditure by the candidate, pursuant to 11 C.F.R § 106.4(b). If the RNC provided the daily poll information to the Burns campaign, it would constitute either an in-kind contribution or a coordinated expenditure to the Burns Committee. Either way, in this case, such a contribution or expenditure would be excessive and result in a violation of § 441a(f). The valuation of such polling data must be determined using one of the formulas provided by 11 C.F.R. § 106.4(e).

Therefore, it appears that there is reason to believe the RNC violated 2 U.S.C. § 441a(f) and § 434(b) by making excessive in-kind contributions or coordinated expenditures, as well as the corresponding reporting violations.[2] Furthermore, it appears that there is no reason to believe that the Gary Lawrence Company, the NRSC or the Burns Committee violated 2 U.S.C. § 441b. More information will be needed during the investigation of this matter as to whether or not the Burns Committee was provided with the results of these daily tracking polls, and if so, why the RNC did not report this as an in-kind contribution or a coordinated party expenditure.

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2. This Office makes no recommendation as to the Burns Committee because candidate committees are not required to report coordinated expenditures made on their behalf.

3. Voter Lists

The Addy complaint alleges that the NRSC expended "substantial sums to produce statewide voter lists" that were given to federal and nonfederal candidates including the races for the Congress and the Senate. It alleges that the "Respondents" failed to report the costs for these lists as in-kind contributions.

The Common Cause complaint alleges that the NRSC expended large sums of money to conduct a "Voter Identification Project", and funneled funds through the Montana Republican Party to pay for the project. It alleges that the NRSC had direct control over the project, and then ultimately required the Montana Republican Party to purchase the results. The complaint also alleges that the NRSC hired Corey Lane to plan and complete the voter identification project, and that the NRSC retained complete control over the project and provided the funds for it. This Office views these allegations as relating to the NRSC, the Burns Campaign, the Fenlason campaign, and the Marlenee campaign.

The NRSC responded in MUR 3087 that it did conduct a "Voter Identification Project" in Montana in 1987-88 as a party building activity. It further states that the costs of this activity were reported as operating expenditures by the NRSC, and not as a contribution to any particular candidate. The NRSC response does not clearly identify to whom payments were made for the costs of this project. Robert Bissen, Special Projects Director for the NRSC, submitted an affidavit in MUR 3087 explaining how and why the Voter Identification Project was conducted:

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> Because there is no statewide repository of registered voters in Montana, we collected lists of registered voters from each county in Montana. These lists were publicly available lists which did not distinguish between Republican and Democratic voters. There was then an attempt to enhance the list by identifying Republican, Democratic, and Independent voters. The creation of this Montana list, a standard party-building activity, was not allocated to any particular candidate or candidate committees. The normal practice is that this enhanced list, when completed, would be jointly owned by the national party committees and the Montana Republican Party.

Bissen Affidavit at ¶ 2, MUR 3087.

The NRSC response goes on to state that the list was not provided free of charge to any candidate. Either the candidate paid for use of the list or else the use of the list was reported as a coordinated expenditure by the NRSC on behalf of that candidate. The Bissen affidavit states that the Burns Committee "paid the vendor" for that portion of the Voter Identification Project which related to a question concerning Senator Burns. Copies of two checks from the Burns Committee to Campaign Telecommunications totaling $4,749.91 were provided in the NRSC response. It is unclear from this response why the voter identification project would be asking specific questions concerning the Burns campaign for which the campaign would pay its portion of the costs.

The NRSC submitted a similar response and affidavit in its response in MUR 3204. In that response, the NRSC states that the costs of merely developing this voter list were reported as operating expenditures by the NRSC. The response goes on to

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state that the payments made by the NRSC to the Montana Republican Party in connection with this list were in fact reimbursements to the Montana Republican Party for the costs of purchasing and retrieving voter registration tapes from the various state courthouses. The NRSC maintains that neither the Burns campaign, nor any other federal campaign, was provided with free use of the voter list. Rather, the NRSC says that each federal candidate paid for its share of the use of the list.

The NRSC response in MUR 3204 also shed new light on how the voter list was used once it was compiled. The response states that a "phone bank" was conducted using the voter list. This phone bank may or may not constitute part of what the NRSC refers to as its "Voter Identification Project". The NRSC claims that the Burns campaign paid the vendor which administered the phone bank for its share of the phone bank which had a question pertaining to the Burns candidacy. It attached to its affidavit copies of two checks from the Burns Committee payable to Campaign Telecommunications in October of 1988, totaling $4,749.91. Campaign Telecommunications is apparently the vendor which maintained the voter list once it was compiled and conducted the phone bank. Because the Burns Committee paid the vendor directly for its share of the costs of the phone bank, the NRSC maintains that it did not have to report the expenditure on its own reports.

A review of the reports filed by the Montana Republican Party shows that the state party paid a total of $19,068.84 to Corey Lane between May 26 and August 31, 1988. This is the

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person alleged in both complaints to have been hired by the NRSC to conduct the voter identification project. Since the NRSC has responded that it paid for the voter identification project and reported the costs as operating expenditures, it is unclear why the Montana Republican Party would pay Mr. Lane almost $20,000 during a three month period. It appears that Lane may also have been hired as a fundraiser for the Montana Republican Party. However, none of the responses make it clear who specifically employed Corey Lane, or what his role was as a fundraiser or in this voter identification project.

James Fenlason responded on behalf of his committee and stated that his campaign paid for its portion of the production of the voter identification list and survey "through our campaign consultant Target Communications of Helena, Montana and our payment to them is included in our regular filing." A review of the reports filed by the Fenlason committee shows that a total of $28,360.71 was paid to Target Communications for "fees" between July and December of 1988. The Fenlason committee has since terminated.

Counsel for the Marlenee committee provided affidavits from the campaign manager, the office manager, and the treasurer. The campaign manager states:

> At no time during the 1988 campaign, or at any other time, did the undersigned see or receive, nor does the undersigned know of his own knowledge of anyone else who saw or received, a copy of a voter registration list allegedly prepared by the National Republican Senatorial Committee, nor was such a list made available or utilized by the campaign, nor has such a list been located in a search of the campaign records.

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He adds that if such a list exists, he has not seen it and to the best of his knowledge the campaign did not use it. His statements are corroborated by the affidavits of the office manager and treasurer. The reports filed by the Marlenee Committee do not indicate any payments made to Campaign Telecommunications.

The Burns committee did not indicate whether or not they received access to such a list and, if so, how its receipt and value was reported. It is unknown to what extent the Burns Committee bought or received any portion of such a voter list for use in the 1988 campaign, other than its $4,749.91 in payments to Campaign Telecommunications. The NRSC has not identified which candidates or committees bought or were provided with this voter list, nor has the NRSC identified what vendor conducted this project or at what cost. This information is necessary to confirm the NRSC's claim that it reported the costs of preparing such a list as operating expenditures.

Therefore, there is reason to believe that the NRSC failed to allocate and report a portion of its expenditures in connection with the compilation of the Montana voter lists and the Voter Identification Project as either contributions to or coordinated expenditures on behalf of the Burns Committee, in violation of 2 U.S.C. § 441a(f) and § 434(b). This Office makes no recommendation at this time as to the Burns Committee, pending the receipt of further information. Furthermore, there is no reason to believe that either Friends of Jim Fenlason for Congress and Montanans for Marlenee violated any provision of the

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Act on the basis of the complaint in MUR 3087. This is the only allegation made in either complaint against the Fenlason and the Marlenee committees.

4. Transfers to State Party and "Volunteer" Mailings

The complainant in MUR 3087 makes several allegations regarding mailings made by the Montana Republican Party on behalf of Conrad Burns and George Bush which it treated as volunteer exempt activity.[3]

First, the complainant alleges that the NRSC spent more than $150,000 for mailings on behalf of the Burns campaign "and then tried to conceal this excessive expenditure in the guise of an exempt State Party-funded project." He alleges that the state party's reports disclose transfers from the NRSC that coincide exactly as to dates and amounts with payments made by the state party to the "professional mailing house" of Foster and Associates of Carrollton, Texas, for these "mass mailings done on behalf of Burns."

He also alleges that the Montana Republican Party received a total of $204,429 from the NRSC, $41,986 from the RNC, and $44,000 from the Colorado Republican Party to make "illegal expenditures on behalf of Burns." He specifically refers to transfers from the NRSC of $6,879.00, $32,110.00, and $4,956.00. He also cites the complaint filed by the Mericas in the wrongful

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3. The complaint had these mailings attached to it: "Bush and Burns"; "Birds of a Feather"; "Friends" 1 (with coffee) and "Friends" 2 (with postcards); "Shame on You John Melcher"; "We Need Conrad Burns"; "Our Children...Our Future"; "One Thing Montanans Agree On"; "The Real Dukakis Story"; and "Best for the West."

discharge civil suit that alleges the NRSC and its agent, Ann Prestidge, controlled the use and disbursement of these NRSC transfers even after they were received by the state party.

He disputes any claim that these transfers were for "party building" activities and only freed up the state party's own funds, and cites the correlation of the transfers to the disbursements for the Burns mailing, the concentration of the transfers in the month prior to the election, and the inability of the state party to make the payments for the mailings without the transfers. He also alleges that "there is no evidence that volunteers were used for the mailings" since a commercial mailing house was used. The complainant disputes the claim that the mailings benefited all Republican candidates because the material itself only supported two candidates, Conrad Burns and George Bush.

The complaint in MUR 3204 makes similar allegations as to transfers of funds from the NRSC to the Montana Republican Party to pay for direct mail and volunteer exempt activity. This Office views these allegations as relating to the Montana Republican Party, the NRSC, the RNC, the Colorado Republican Party, the Burns Committee, and the Bush/Quayle '88 Committee.

A review of the reports filed by the NRSC, the RNC and the Colorado Republican Federal Campaign Committee confirm the alleged transfers to the Montana Republican Party. The NRSC transferred $204,429.19 to the Montana Republican Committee in 1988. Almost three-fourths of these transfers, 72 percent, were made during October and November, 1988. The total amount

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transferred by the NRSC constituted over one-third of the Montana Republican Party's receipts for the entire year. The RNC transferred $53,000 to the Montana Republican Party, all during the month of October, 1988. This figure is actually higher than the amount alleged in the complaint as having been transferred by the RNC. The Colorado Republican Federal Campaign Committee transferred $44,000 to the Montana Republican Party during a four day period from October 31 to November 3, 1988.

Several of the transfers made by the NRSC coincide exactly as to the date and amount with payments made by the Montana Republican Party to Foster and Associates. The complainants have identified this business as a direct mail vendor utilized by the Montana Republican Party on behalf of the Burns Committee. On October 7, 1988, the NRSC transferred $6,879 to the Montana Republican Party. On that same date, the state committee lists an expenditure of $6,879.01 to Foster and Associates. The NRSC transferred $4,956 to the state party committee on October 24, 1988. On the next day, the Montana Republican Party paid the same amount, $4,956 to Foster and Associates. On October 31, 1988, the NRSC transferred $32,110 to the state committee. The next day, November 1, 1988, the Montana Republican Party paid that same amount to Foster and Associates. Looking at the examples above, it appears that the Montana Republican Party was using funds transferred to it from the NRSC to pay for direct mail activities produced by a professional direct mail vendor.

Furthermore, it appears the Montana Republican Party did not have sufficient funds from non-NRSC sources to pay for its

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expenditures to this direct mail vendor and the postage for such items. On October 1, 1988, the Montana Republican Party reported having cash on hand of just over $46,000. During the next two months, the party raised almost $91,000 from sources other than the NRSC. However, during that same time period, the Montana Republican Party paid $109,553.01 to Foster and Associates to prepare its mailings, and spent $72,568.95 on postage to pay for those mailings. The Montana Republican Party spent $182,121.96 for its mailings and postage, yet it only had access to approximately $137,000 in non-NRSC funds. Thus, there is reason to believe that the NRSC transferred funds to the Montana Republican Party to pay for commercially prepared mailings and the accompanying postage. Such commercial mailings are not entitled to the volunteer exemption, and national party funds cannot be used for such activity. Since these mailings were not entitled to the volunteer exemption, they are reportable coordinated expenditures which resulted in excessive coordinated expenditures by the NRSC on behalf of the Burns Committee. It appears that the Montana Republican Party was being used as an agent by the NRSC to pay for at least a portion of the mass mailings in question. Even if the Montana Republican Party had sufficient non-NRSC funds on hand to cover the total costs of the mailings (which it did not), the amounts and dates of the transfers from the NRSC still indicate that these funds were transferred to the state party for the purpose of paying for these mailings. Additionally, the allegations contained in the civil suit filed by the Mericas state that these funds from the

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NRSC, once transferred to the state party, were still in fact controlled and directed by the NRSC agent, Ann Prestidge. This allegation has not been refuted by the NRSC or the Montana Republican Party in their responses.

It is unclear, however, if all of the payments to Foster and Associates during this time period were for the benefit of Conrad Burns and George Bush. The complainant alleges that these expenditures were solely for the benefit of the Burns campaign. Neither the Burns Committee nor the NRSC addressed this specific issue in their responses. It will be necessary to submit interrogatories to Foster and Associates in order to determine what portion of the funds it received from the Montana Republican Party were used to produce mailings for the Burns campaign. It is possible that the state party was also paying for documents or mailings during this time which benefited other candidates.

Furthermore, these expenditures by the Montana Republican Party were not reported as a contribution or expenditure on behalf of the Burns or Bush campaigns. The complainants allege that the state party listed these expenditures as "volunteer exempt" activities. The responses from the Montana Republican Party do not address this allegation. Commission regulations prohibit the use of national party funds for volunteer exempt mailings. Additionally, the volunteer exemption is not available for "direct mail" produced by a commercial vendor. It appears in this case that funds from the NRSC, which were funneled through the state party, were used to pay for at least a portion of the costs of the mailings by Foster and Associates. However, more

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information is needed from both the Montana Republican Party and Foster and Associates in order to determine whether the volunteer exemption would be available in any event for the commercially prepared mailings in this case.

In its responses, the NRSC asserts that it, as a national party committee, is allowed to make unrestricted transfers to a state party for it to use as it sees fit. Its responses did not address the allegations concerning transfers of amounts which matched exactly with amounts paid to a commercial vendor. The NRSC also claims that Commission regulations restrict only those party funds which are specifically designated for use in connection with exempt volunteer activity. The NRSC states that because the complaints have provided no evidence that NRSC funds were designated for such a purpose, any payments by the state party for volunteer activities should be presumptively legal. The NRSC also appears to be claiming that even if the funds it transferred to the state party were in fact used for direct mail activity, this is not a violation of the Act on its part because it did not specifically designate those funds for that purpose. This position would amount to a very narrow reading of the Commission's regulations. Additionally, the allegation that the NRSC continued to control these funds after they were transferred to the state party remains unrebutted.

In its response, the RNC notes that the Act permits unlimited transfers among party committees of the same party and the neither the Act nor the regulations place any limits on when the transfers can be made. The RNC notes that it made four

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transfers to the Montana Republican Party in 1988: $5,000 on October 19; $15,000 on October 26; $25,000 and $8,000 on October 27, 1988 for a total of $53,000. The response further notes that such funds cannot be used for the cost of volunteer campaign materials and adds that "RNC practice is to explicitly state this rule in its cover letters accompanying transfer checks to state parties." It includes a copy of the cover letter for the $25,000 transfer of October 27, 1988. The letter is signed by Frank Fahrenkopf, Jr., chairman of the RNC, and addressed to Barbara Campbell, chairman of the Montana Republican Party. It states:

> This money should not be used to make contributions of [sic] expenditures in support of specific candidates for federal office without the express written approval of the RNC. None of the funds transferred from the RNC shall be used for the cost of volunteer campaign materials used by you on behalf of any candidate for federal office (See 11 C.F.R. 100.7(b)(15)).

On this basis, the RNC contends that it violated no provision of the Act in transferring these funds.

The RNC also responded on behalf of the Colorado Republican Party. It noted that the Act permits unlimited transfers among party committees of the same party. It stated that the Colorado Republican Party made two transfers totaling $44,000: a $30,000 transfer on October 31 and a $14,000 transfer on November 2. It contends that these transfers also did not violate the Act.[4] A

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4. This Office would note that the restriction on the use of national party funds with regard to payments for volunteer campaign materials pursuant to 11 C.F.R. § 100.7(b)(15) does not extend to transfers from other party committees, including other state party committees, unless there was evidence that the national party committee had transferred funds to a state party

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review of the reports filed by the Colorado Republican Party does not disclose any transfers from the RNC during the same time frame as these transfers to the Montana Republican Party.

The response of the Montana Republican Party states that the Act permits unlimited transfers between party committees of the same political party. Its response indicates that the state party believes the mailings which it paid for on behalf of the Burns campaign are entitled to the volunteer exemption from expenditure limits. The state party response goes on to state that it had a cash balance on hand of $42,309.49 on October 1, 1988, and that the party raised $90,849.49 from non-NRSC sources from that time until the election. The Montana Republican Party asserts that it had this entire total, $131,158.89, available to use for volunteer exempt activities. However, as already noted above, this claim does not match with the expenditures reported by the Montana Republican Party on its reports. First of all, the cash on-hand balance actually reported by the Montana Republican Party for October 1, 1988 was $46,012.50. Secondly, while the state party may claim that it had a total of $131,158.89 on hand from non-NRSC sources during this period, the state party actually spent $182,121.96 on the mailings and postage during that same period. It appears that NRSC funds were used for at least a portion of these expenditures. The Montana Republican Party also asserts that volunteers were involved in all aspects of the mailings in question, but fails to explain how

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(Footnote 4 continued from previous page)
committee for further transfer to another state party committee.

the volunteers were utilized in conjunction with the work performed by the commercial vendor which produced this direct mail, Foster and Associates.

The Burns Committee responded that it had no knowledge of any improper contributions or expenditures made on its behalf by the NRSC or the Montana Republican Party.

The current treasurer of Bush/Quayle '88 responded in a letter. He states that the candidates agreed not to accept contributions to defray their qualified campaign expenses and used only one committee to ensure compliance with this certification. He adds that all Bush/Quayle activities in Montana were paid for by the campaign committee and all materials carried the Bush/Quayle '88 disclaimer. He further notes that the regulations permit state parties to pay for campaign materials used in connection with volunteer activities and alludes to the disclaimers on the subject mailings stating they were paid for by the Montana Republican State Central Committee. He states: "Bush/Quayle '88 therefore presumes that these materials were indeed produced and paid for by the Montana Republican State Central Committee and distributed through volunteer-intensive activities of the state party."

Commission regulations prohibit the use of national party funds for volunteer exempt activities. In addition, the regulations disqualify direct mail activity which utilizes a commercial vendor from the volunteer exemption. The state party response asserts that volunteers were involved in every mailing in question. However, neither the NRSC nor the state party has

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provided any proof or evidence that volunteers were involved in any aspect whatsoever of this direct mail process which utilized a commercial vendor. While the NRSC claims that none of the funds it transferred to the Montana Republican Party were specifically designated to pay for volunteer exempt commercial mailings, the factual evidence is sufficient to infer that the amounts were transferred for the specific purpose of paying for all or part of those mailings.

It should be remembered that the Montana Republican Party designated its spending authority to the NRSC for this election. The NRSC reports that it spent $91,494.72 in coordinated expenditures on behalf of the Burns Committee, leaving only $505.28 available for coordinated expenditures. The NRSC also reported making contributions to the Burns Committee totaling $17,477.54, leaving only $22.46 available for contributions. If these mailings are not entitled to the volunteer exemption, then the amounts paid for those mailings will necessarily result in excessive expenditures, regardless of whether they are viewed as contributions or coordinated expenditures.

Therefore, there is reason to believe that the NRSC and the Montana Republican Party each violated 2 U.S.C. § 441a(f) by making excessive coordinated expenditures on behalf of the Burns and Bush campaigns.[5] Additionally, there is reason to believe

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5. Normally, this Office would make this recommendation only against the state party. However, under the facts alleged in this case, we are also making the recommendation against the NRSC because of the correlation between the dates and the amounts transferred, as well as the allegations of control of the situation by Ann Prestidge.

that the NRSC and the Montana Republican Party each violated 2 U.S.C. § 434(b) by misreporting these expenditures.

In addition, there is no reason to believe that the Burns Committee, Bush/Quayle '88, the RNC, and the Colorado Republican Party violated the Act with regard to this allegation.

More information is needed to determine the role of volunteers in each mailing, and what role the volunteers played in connection with the use of the commercial vendor which produced each of these mailings. Information will also be needed from Foster and Associates as to the mailings which it produced, payments it received, and which candidates benefited from such mailings.

This Office recommends that the Commission also authorize the Audit Division to conduct an analysis of the Montana Republican Party's reports to determine if national party funds were used to pay for direct mailings on behalf of either the Burns campaign or the Bush/Quayle campaign. Such an analysis would likely follow the "modified FIFO" model previously approved by the Commission and used in prior MUR's to determine whether or not sufficient non-national party funds were on hand to pay for direct mail activities. See MUR 2270 and MUR 2994.

5. Lack of Disclaimer

The complaint in MUR 3087 alleges that the mailings on behalf of Burns, while indicating they were paid for by the Montana Republican Party, failed to state whether or not they were authorized by the candidate. Copies of the mailings which were provided with the complaint reveal that most of the mailings

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carry the following disclaimer: "Paid for by the Montana State Central Committee." This Office notes that two of the mailings, the "Bush and Burns" mailing and the "Shame on You John Melcher" mailing, do not appear to have any disclaimer at all. This Office views this allegation as relating solely to the Montana Republican Party, since payments for these mailings were apparently made from its accounts, even if the funds originally came from the NRSC, RNC, or the Colorado Republican Party.

The response filed by the Montana Republican Party acknowledges that the mailings did not contain a direct authorization from the candidate. The response states, however, that the mailings are clearly identified as originating from the Montana Republican State Central Committee. The response fails to address the fact that two of the mailings which accompanied the complaint appear to have no disclaimer at all.

The mailings provided with the complaint fail to state whether the document was or was not authorized by the candidate. Two of the mailings appear to contain no disclaimer at all. Since there is reason to believe that these mailings are not entitled to the volunteer exemption, the lack of a proper disclaimer is a violation of the Act.

Therefore, there is reason to believe that the Montana Republican Party violated 2 U.S.C. § 441d by failing to include a disclaimer stating whether the mailings paid for by the state party were authorized by the candidate

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6. Filing Reports with State Official

The complainant in MUR 3087 alleges that the NRSC failed to timely file its monthly reports for 1988 with the appropriate state official as required by the Act. For instance, he states that the NRSC's April 1988 report was not filed until February 1990 and then only after "Montana Political Practices Commissioner Dolores Colburg specifically asked the NRSC to do so." This allegation relates solely to the NRSC.

In telephone conversations with this Office, the office of the Montana Political Practices Commissioner confirmed that the NRSC did not file any of its 1988 reports with that state office until April, 1990. These reports were filed only after a telephone call in January, 1990, from the state Commissioner asking the NRSC to file its 1988 reports as required by law. See 2 U.S.C. § 439(a); 11 C.F.R. § 108.5.

In its response, the NRSC simply states that copies of its reports are now on file with the Montana Office of Political Practices. The response does not state when these documents were filed. The NRSC also replies that copies of its reports were always available to the public through its filings here with the Commission.

While copies of the NRSC's reports are presently on file in Montana, the fact remains that the 1988 reports were not filed until April of 1990, approximately a year and a half after the 1988 general election. Such a filing is not timely under the Commission's regulations, which require that copies of a committee's reports be filed with the appropriate state office at

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the same time as the reports are to be filed with the Commission. See 11 C.F.R. § 108.5.

Therefore, there is reason to believe that the NRSC violated 2 U.S.C. § 439(a) by failing to file copies of its reports with the appropriate state official in a timely manner.

7. Earmarked Contributions

The Addy complaint alleges that the NRSC "bundled" contributions to the 1988 Burns campaign as part of a program identical to that found to result in excessive contributions in Common Cause v. FEC, 729 F.Supp. 148 (D. D.C. 1990). He alleges the Burns campaign received $172,378 in such earmarked contributions. This Office views this allegation as relating to the NRSC and the Burns campaign.

A review of the NRSC's reports discloses that the Burns Committee received several large transfers from the NRSC of earmarked contributions late in the campaign: $50,000 on October 21; $1,000 on October 24; $40,000 on October 25; $500 on November 4; $40,000 on November 4, and $600 on November 5, 1988. These transfers totaled $132,100. It appears that these are the transfers which the complainant is referring to as having been "bundled" in an illegal manner. In addition, the Burns Committee appears to have received a total of $64,628.71 from two joint fundraisers: $41,072.46 from the M & N Committee; and $23,556.25 from the Midwestern Majority Committee. These two committees, both of which were authorized to conduct fundraising on behalf of the Burns Committee as well as other Republican

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candidates, both listed the NRSC's address as their own mailing addresses.[6]

In a copy of a newspaper article which accompanied the complaint, NRSC spokeswoman Wendy DeMocker is quoted as saying she didn't know exactly how the NRSC bundled this money in 1988, but that: "My understanding is that whatever took place in 1986 has never taken place in subsequent years." See "National GOP Groups 'Bundled' To Aid Burns Campaign, Great Falls Tribune, April 18, 1990.

In its response, the NRSC states that the complainant has provided no evidence for his allegation of illegal bundling activity. The NRSC's Finance Director, Albert Mitchler, submitted an affidavit stating that the NRSC did not employ the same techniques in the 1988 Burns campaign which were found to be improper in the Common Cause v. F.E.C. case. However, neither the NRSC's response nor Mr. Mitchler's affidavit state exactly what techniques were in fact used by the NRSC in collecting and transferring earmarked contributions to the Burns campaign in 1988. There is insufficient information contained in these responses to determine whether or not the NRSC exercised "direction and control" over these funds.

A review of the reports filed by the NRSC and the Burns Committee reveals that the "bundled" contributions were initially made by the contributors with checks payable to the NRSC. The

6. These joint fundraising techniques appear to be similar to those techniques which are the subject of MURs 3131 and 3135, which relate to the 1990 election cycle.

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contributions were deposited into NRSC accounts. The NRSC, in turn, then reported what portion of the contribution was attributable to the Burns campaign and issued large dollar amount checks to the Burns Committee. Thus, the NRSC was not merely a "conduit" passing along checks made payable to the Burns Committee. Rather, these funds were contributed in checks made payable to the NRSC and were deposited into NRSC bank accounts. In its response to MUR 3087, the NRSC has simply stated that the method used in this case was different than that which was at issue in Common Cause v. F.E.C., but failed to provide any information or details as to what that difference is. The NRSC has failed to refute the appearance that it exercised direction and control over the funds which it "bundled" to the Burns campaign.

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Therefore, there is reason to believe that the NRSC violated 2 U.S.C. § 441a(h) by making excessive contributions to the Burns Committee, and the Burns Committee violated 2 U.S.C. § 441a(f) by accepting such contributions. Further information

is needed from the NRSC, as well as the Midwestern Majority Committee and the M & N Committee, as to the specific fundraising techniques which were utilized on behalf of the Burns Committee.

8. Employee Salaries

The Common Cause complaint in MUR 3204 alleges that three individuals, Tom Hannah, Ken Knudson, and Elwood English, were employees of the NRSC but were actually paid by the Montana Republican Party. The complaint alleges that these individuals remained under the control and direction of the NRSC even though they were being paid by the state party. Common Cause claims that while these people worked for the election of Conrad Burns, their salaries were not reported as coordinated expenditures by either the NRSC or the Montana Republican Party.

A review of the reports filed by the Montana Republican Party indicates that payments were made to all three of these individuals during October and November of 1988. The state party paid a total of $5,000 each to Tom Hannah and Ken Knudson for "Travel and Entertainment". The state party also paid $5,136.30 to Elwood English for "Postage Reimbursement, Travel and Entertainment". The reports filed by the NRSC do not reveal any payments to these individuals.

The response filed by the NRSC fails to state whether or not it paid any of the salary or expenses for these individuals. The NRSC goes on to state that the only payments made to English and Knudson were made by the state party, and those payments were for reimbursements. The response also states that no payments were made by the state party to Hannah (as noted above, this

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assertion is incorrect). However, the responses of both the NRSC and the Montana Republican Party fail to state who employed these persons. The responses also fail to deny or refute the allegation that these people worked for the Burns campaign and their salaries should have been reported as coordinated expenditures. Since the reports show only "Travel and Entertainment" reimbursements paid to these three individuals, the question arises as to who paid their salaries and how much was each person paid. It is still unknown which entity employed these people.

Therefore, this Office makes no recommendation at this time regarding the payment of these salaries. Interrogatories will be issued to the three individuals in order to determine which organization paid their salaries, and appropriate recommendations will be made when that information is received.

III. SUMMARY

The evidence outlined in this report is sufficient to establish that there is reason to believe that the NRSC violated 2 U.S.C. § 441a(f) by making excessive coordinated party expenditures on behalf of the Burns campaign. These excessive coordinated expenditures consisted of the NRSC paying the costs of the voter list/Voter Identification Project, and the direct mailings on behalf of the Burns and Bush/Quayle campaigns. There is also reason to believe that the NRSC also violated 2 U.S.C. § 441a(h) with regard to the "bundled" contributions it made to the Burns campaign. In addition, there is reason to believe that the NRSC also committed reporting violations in

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connection with these excessive expenditures, in violation of 2 U.S.C. § 434(b). Also, there is reason to believe that the NRSC violated 2 U.S.C. § 439(a) by failing to file copies of its reports with the appropriate state official in a timely manner.

With regard to the Montana Republican Party, there is reason to believe that it also violated 2 U.S.C. § 441a(f). This violation results from the state party using funneled transfers from the NRSC to pay for direct mail activity on behalf of the Burns and Bush/Quayle campaigns, and mailings which do not appear to be entitled to claim the volunteer exemption. There is also reason to believe that the Montana Republican Party violated § 441d by failing to provide disclaimers as to whether or not mailings paid for by the state party were authorized by the candidate. There is also reason to believe that the Montana Republican Party filed inaccurate reports with the Commission, in violation of 2 U.S.C. § 434(b).

There is reason to believe that the Burns Committee violated 2 U.S.C. § 441a(f) by accepting excessive "bundled" contributions from the NRSC. However, there is no reason to believe that the Burns Committee violated 2 U.S.C. § 441b regarding the tracking polls prepared by the Gary Lawrence Company, since the RNC paid the Gary Lawrence Company for the full value of the polls and no corporate contribution to the Burns Committee resulted.

The evidence to date has established that there is reason to believe that the RNC violated 2 U.S.C. § 441a(f) by failing to report the daily tracking poll results it provided to the Burns

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Committee as coordinated expenditures. The RNC also filed inaccurate reports with the Commission, in violation of 2 U.S.C. § 434(b). There is no reason to believe that the RNC violated 2 U.S.C. § 441b, since the evidence shows that the RNC paid the Gary Lawrence Company for the tracking polls and no corporate contribution resulted.

Finally, there is no reason to believe that the following entities violated any provision of the Act on the basis of the allegations contained in the complaint in MUR 3087: The Gary Lawrence Company, Colorado Republican Federal Campaign Committee, Bush/Quayle '88, Friends of Jim Fenlason, and Montanans for Marlenee.

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IV. RECOMMENDATIONS

1. Merge MUR 3087 with MUR 3204.

2. Find reason to believe that the National Republican Senatorial Committee and James L. Hagen, as treasurer violated 2 U.S.C. § 441a(f), § 441a(h), § 434(b), and § 439(a).

3. Find reason to believe that the Montana Republican State Central Committee and Shirley J. Warehime, as treasurer, violated 2 U.S.C. § 441a(f), § 441d, and § 434(b).

4. Find reason to believe that Conrad Burns/U.S. Senate and Jim Swain, as treasurer, violated 2 U.S.C. § 441a(f).

5. Find reason to believe that the Republican National Committee and William J. McManus, as treasurer, violated 2 U.S.C. § 441a(f) and § 434(b).

6. Find no reason to believe that the National Republican Senatorial Committee and James L. Hagen, as treasurer, the Republican National Committee and William J. McManus, as treasurer, and Conrad Burns/U.S. Senate and Jim Swain, as treasurer, violated 2 U.S.C. § 441b.

7. Find no reason to believe the Gary Lawrence Company; the Colorado Republican Federal Campaign Committee and Douglas L. Jones, as treasurer; Bush-Quayle '88 and J. Stanley Huckaby, as treasurer; Friends of Jim Fenlason for Congress; and Montanans for Marlenee and Douglas N. Wilson, III, as treasurer, violated any provision of the Act on the basis of the complaint in MUR 3087, and close the file as it pertains to these respondents.

8. Authorize the Audit Division to conduct an analysis of the Montana Republican State Central Committee in connection with its claim of the volunteer exemption for its direct mailings, as discussed herein.

9. Approve the appropriate letters.

Date 5/6/91

Lawrence M. Noble
General Counsel

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Attachments
1. NRSC response (MUR 3087)
2. NRSC response (MUR 3204)
3. Montana Party response (MUR 3087)
4. Montana Party response (MUR 3204)
5. Burns Committee response (MUR 3087)
6. Burns Committee response (MUR 3204)
7. RNC/Colorado joint response (MUR 3087)
8. Gary Lawrence Company response (MUR 3087)
9. Bush/Quayle response (MUR 3087)
10. Fenlason response (MUR 3087)
11. Marlenee response (MUR 3087)
12. NRSC Factual and Legal Analysis
13. Montana Party Factual and Legal Analysis
14. RNC Factual and Legal Analysis
15. Burns Committee Factual and Legal Analysis

FEDERAL ELECTION COMMISSION
WASHINGTON D C 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/DONNA ROACH DR
COMMISSION SECRETARY

DATE: MAY 10, 1991

SUBJECT: MURs 3087 & 3204 - FIRST GENRAL COUNSEL'S REPORT DATED MAY 6, 1991

The above-captioned document was circulated to the Commission on TUESDAY, MAY 7, 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	XXXX
Commissioner Elliott	XXXX
Commissioner Josefiak	XXXX
Commissioner McDonald	
Commissioner McGarry	
Commissioner Thomas	XXXX

This matter will be placed on the meeting agenda for TUESDAY, MAY 14, 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	)	
	)	MURS 3087
National Republican Senatorial Committee and James L. Hagen, as treasurer; Republican National Committee and William J. McManus, as treasurer; Montana Republican State Central Committee and Shirley J. Warehime, as treasurer; Conrad Burns/US Senate and Jim Swain, as treasurer; Bush-Quayle '88 and J. Stanley Huckaby, as treasurer; Friends of Jim Fenlason for Congress; Montanans for Marlenee and Douglas N. Wilson, III, as treasurer; Colorado Republican Federal Campaign Committee and Douglas L. Jones, as treasurer; Gary Lawrence Company; Roger M. Witten.	)	AND 3204

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CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on May 21, 1991, do hereby certify that the Commission took the following actions with respect to MURS 3087 and 3204:

1. Decided by a vote of 5-0 to

   a. Merge MUR 3087 with MUR 3204.

   b. Find reason to believe that the National Republican Senatorial Committee and James L. Hagen, as treasurer, violated 2 U.S.C. §§ 441a(f), 441a(h), 434(b) and 439(a).

(continued)

c. Find reason to believe that the Montana Republican State Central Committee and Shirley J. Warehime, as treasurer, violated 2 U.S.C. §§ 441a(f), 441d, and 434(b).

d. Find reason to believe that Conrad Burns/U.S. Senate and Jim Swain, as treasurer, violated 2 U.S.C. § 441a(f).

e. Find reason to believe that the Republican National Committee and William J. McManus, as treasurer, violated 2 U.S.C. §§ 441a(f) and 434(b).

f. Find no reason to believe that the National Republican Senatorial Committee and James L. Hagen, as treasurer, the Republican National Committee and William J. McManus, as treasurer, and Conrad Burns/U.S. Senate and Jim Swain, as treasurer, violated 2 U.S.C. § 441b.

g. Find no reason to believe the Gary Lawrence Company; the Colorado Republican Federal Campaign Committee and Douglas L. Jones, as treasurer; Bush-Quayle '88 and J. Stanley Huckaby, as treasurer; Friends of Jim Fenlason for Congress; and Montanans for Marlenee and Douglas N. Wilson, III, as treasurer, violated any provision of the Act on the basis of the complaint in MUR 3087, and close the file as it pertains to these respondents.

(continued)

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h. Authorize the FEC Audit Division to conduct an analysis of the Montana Republican State Central Committee in connection with its claim of the volunteer exemption for its direct mailings, as discussed in the General Counsel's report dated May 6, 1991.

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

2. Decided by a vote of 5-0 to approve the Factual and Legal Analyses attached to the General Counsel's report dated May 6, 1991, subject to amendments to the Analyses for the National Republican Senatorial Committee and the Conrad Burns/US Senate Committee as recommended by Commissioner Josefiak during the meeting discussion of May 21, 1991.

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

(continued)

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3. Decided by a vote of 5-0 to direct the Office of General Counsel to send appropriate letters pursuant to the actions noted above and the meeting discussion of May 21, 1991.

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

Attest:

May 22, 1991
Date

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 31, 1991

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

RE: MUR 3204 (formerly
MUR 3087 and MUR 3204)
National Republican Senatorial
Committee and James L. Hagen,
as treasurer

Dear Mr. Baran:

On July 20, 1990, the Federal Election Commission notified your clients, the National Republican Senatorial Committee and James L. Hagen, as treasurer, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to your clients at that time. This matter was designated MUR 3087.

On December 27, 1990, the Commission notified your clients of another complaint alleging violations of certain sections of the Act. A copy of the complaint was forwarded to your clients at that time. This matter was designated MUR 3204.

Upon further review of the allegations contained in the complaints, and information supplied by your clients, the Commission, on May 21, 1991, found that there is reason to believe the National Republican Senatorial Committee and James L. Hagen, as treasurer, violated 2 U.S.C. § 441a(f), § 441a(h), § 434(b), and § 439(a), all provisions of the Act. The Commission found no reason to believe that your clients violated 2 U.S.C. § 441b. The Factual and Legal Analysis, which formed a basis for the Commission's findings, is attached for your information. The Commission further merged these two matters into one, now designated as MUR 3204.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the National Republican Senatorial Committee and James L. Hagen, as treasurer. You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office, along with answers to the enclosed questions, within 15 days of receipt of this letter. Where appropriate, statements should be submitted under oath.

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In the absence of any additional information demonstrating that no further action should be taken against the National Republican Senatorial Committee and James L. Hagen, as treasurer, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

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

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

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

Sincerely,

Joan D. Aikens

Joan D. Aikens
Vice Chairman

Enclosures
Interrogatories and Request for Documents
Factual & Legal Analysis

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: National Republican Senatorial Committee and James L. Hagen, as treasurer

MUR 3204

This matter was generated by two complaints filed by Kelly Addy, Speaker Pro Tempore of the Montana House of Representatives, and by Roger M. Witten, counsel for Common Cause. The two matters were merged into a single MUR by the Federal Election Commission ("the Commission") on May 21, 1991.

The Federal Election Campaign Act of 1971, as amended ("the Act"), provides that no person shall make contributions to any federal candidate that aggregate in excess of $1,000 per election and that no multicandidate political committee shall make such contributions that aggregate in excess of $5,000 per election. 2 U.S.C. §§ 441a(a)(1)(A) and 441a(a)(2)(A). The Act defines contributions to include any gift of money, services or anything of value made for the purpose of influencing any federal election. 2 U.S.C. § 431(8)(A)(i). Commission regulations explain that "anything of value" includes any in-kind contribution or any gift of goods or services at less than the usual and normal charge for such goods or services. 11 C.F.R. § 100.7(a)(1)(iii).

The Act further provides that any expenditure made by any person in cooperation, consultation, or concert with or at the request or suggestion of a candidate, his authorized political

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committees, or their agents shall be considered a contribution to such candidate. 2 U.S.C. § 441a(a)(7)(B)(i). The Act prohibits the making and acceptance of corporate contributions or expenditures. 2 U.S.C. § 441b.

The Act also provides the national party committee and the state party committee with additional authority to make coordinated party expenditures on behalf of the party's nominees for the House and Senate. 2 U.S.C. § 441a(d)(3). The national party committee may also make such expenditures on behalf of its presidential nominee. 2 U.S.C. § 441a(d)(2). For 1988, the combined coordinated party expenditure limitation for Montana for the U.S. Senate election was $92,200. The national and state political party committees may authorize another committee, such as the National Republican Senatorial Committee, to make these coordinated party expenditures. DSCC v. FEC, 454 U.S. 27 (1980).

Commission regulations explain that expenditures made on behalf of more than one candidate shall be attributed to each candidate in proportion to the benefit reasonably expected to be derived and shall be so reported. 11 C.F.R. § 106.1(a). The regulations further explain, however, that expenditures for rent, personnel, overhead, general administrative, fundraising, and other day-to-day costs of political committees and for registration and get-out-the-vote (GOTV) drives need not be attributed to individual candidates unless the expenditures are made on behalf of a clearly identified candidate and the expenditure can be directly attributed to that candidate. 11 C.F.R. § 106.1(c).

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With regard to the allocation of polling expenses, Commission regulations require that opinion poll results which are purchased by a political committee are to be treated as a contribution in-kind by the purchasing committee and as an expenditure by the candidate or candidate's authorized committee which accepts the poll results. 11 C.F.R. § 106.4(b). In addition, the amount of the contribution attributable to the recipient candidate or committee are to be allocated using one of the formulas provided at 11 C.F.R. § 106.4(e).

Commission regulations permit unlimited transfers among committees of the same political party. 11 C.F.R. § 102.6(a)(1). In addition to filing periodic reports with the Commission, the Act also requires a state party committee to file copies of its federal reports with the appropriate state office. 2 U.S.C. § 439(a). Copies of such reports are to be filed at the same time as the reports are due to be filed with the Commission. 11 C.F.R. § 108.5.

The Act also exempts from the definition of contribution or expenditure certain payments by state and local political party committees on behalf of its candidates. These exempt payments include (1) the payments for the preparation and mailing of a printed slate card or sample ballot or other printed listing of three or more candidates; (2) the payments for campaign materials, such as pins, bumper stickers, handbills, brochures, posters, yard signs, and party tabloids used in connection with volunteer activities; and (3) the payments of the costs of voter registration and get-out-the-vote activities on behalf of the

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party's presidential nominee. 2 U.S.C. §§ 431(8)(B)(v), (x), and (xii).

Payments for these activities in connection with any broadcasting, newspaper, magazine, billboard, or similar type of general public communication or political advertising do not qualify for these exemptions. Furthermore, payments for direct mail do not qualify for the campaign materials and voter registration and GOTV exemptions, though payments for direct mail may qualify for the slate card exemption. Moreover, payments for campaign materials and voter registration and GOTV on behalf of the presidential nominee made from transfers from a national party committee will also not qualify for the exemption. Instead, such payments are treated as coordinated party expenditures. See 11 C.F.R. §§ 100.7(b)(15)(vii) and 100.7(b)(17)(vii). Payments for voter registration and GOTV on behalf of the presidential nominee that include references to Senate or House candidates are allocable to such candidates as a contribution or expenditure, unless the reference is incidental to the overall activity. 11 C.F.R. § 106.1(c)(3).

The Act requires contributions that are earmarked to a candidate through any intermediary or conduit to be reported to the recipient candidate and the Commission with the name of the original source and treats them as contributions from the original source. 2 U.S.C. § 441a(a)(8). Commission regulations define earmarking and explain the reporting requirements for earmarked contributions. 11 C.F.R. § 110.6. These regulations further explain that the conduit's or intermediary's contribution

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limitations are not affected by passing along an earmarked contribution unless the conduit or intermediary has exercised direction or control over the choice of the recipient candidate. If direction or control exists, then the contribution is considered as made by both the original contributor and the conduit or intermediary. 11 C.F.R. § 110.6(d).

The Addy complaint makes several allegations. He has based these allegations on three sources. The first source is a civil suit filed by Terry and Neida Merica, former employees of the Montana Republican Committee, against the Montana Republican Party, the NRSC, and certain individuals. The complaint by Terry and Neida Merica contains the following factual assertions. At a March 1, 1988, meeting there was a discussion on how to raise $150,000 for a voter identification project. The NRSC agreed to transfer $20,000 in four monthly installments of $5,000 each to hire a fundraiser. In April, Corey Lane was hired as the fundraiser, subject to NRSC approval. Terry Merica, the Executive Director of the Montana Republican Party, claims he questioned the legality of Lane's fundraising methods, especially regarding Montana law on corporate contributions. In a July 11, 1988, letter, Lane wrote to Ann Prestidge, an NRSC field agent, complaining about Terry Merica's interference with Lane's fundraising. Merica alleges that during this period, the NRSC was directing "the movement of substantial sums in and out of" state party accounts. He claims that whenever he questioned Prestidge's instructions, he was told by party chairperson Barbara Campbell to do as Prestidge said. He specifically refers

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to wire transfers to the James R. Foster and Associates ("Foster and Associates") for "direct mailings" on behalf of Burns, and refers to one $60,000 transfer and a dispute over $24,000 in bills from Foster and Associates. Neida Merica, administrative secretary for the Montana Republican Party, claims that she initially reported certain expenditures by the state party on Schedule F as coordinated party expenditures, but was directed by Prestidge to use Schedule B instead. With regard to the preparation of the July Quarterly Report, Neida Merica alleges that Prestidge told her to use "volunteer" on certain transactions. The complaint also quoted from a November 3, 1988, letter from Ward Shanahan, counsel to the state party, to Prestidge questioning her authority to issue directives to Terry Merica and from a November 8, 1988, memorandum to the state party complaining about actions by the national party committees including the NRSC, particularly with regard to incurring expenses in the name of the state party.

The second source of information relied upon by the complaint are news articles that appeared in the Montana press concerning the 1988 election of Conrad Burns to the United States Senate.[1]

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1. The following are excerpts of the factual statements and allegations in the news articles attached to the complaint.
Great Falls Tribune, December 15, 1989: Montana Republican Party reports show total receipts of $514,846 and total disbursements of $497,279 in 1988. They show receipts of $204,429 from the NRSC, $41,986 from the RNC, and $44,000 from the Colorado Republican Party and payments of $109,000 to the J.R. Foster Company for printing and close to $70,000 for postage. State Rep.

(Footnote 1 continued from previous page)
Dennis Rehberg, former Burns campaign manager, is quoted as saying the Burns campaign had editorial control over half a dozen mailings but that the NRSC and the state party produced and distributed these mailings.
National Journal, January 6, 1990: The NRSC's transfers to Montana were the largest of 1988. Others with significant amounts were North Dakota ($87,741) and Wisconsin ($182,675). More than half of the NRSC's transfers were in last 20 days of the campaign. An October 7, 1988, transfer of $6,879 from the NRSC to the Montana Republican Party coincided by date and amount with the payment of $6,879.01 from the Montana Republican Party to the Foster Company. A later transfer of $32,110 was followed two days later with the payment of the same amount to Foster. Review of state party reports casts doubt on claims that it did not use NRSC transfers for the mailings since it apparently did not have sufficient funds from other sources to pay Foster and the postage costs.
Helena Independent Record, March 22, 1990: NRSC did not begin filing reports with Montana officials for 1988 until February 1990.
Livingston Enterprise, March 26, 1990: NRSC reported total coordinated expenditures of $91,495 on behalf of Burns but items add up to $107,319. NRSC reported paying only $4,050 to the Gary Lawrence Company, although it did daily tracking polls. The news article also referred to lack of reporting for $150,000 spent on a state voter identification project.
Great Falls Tribune, no date apparent: The article quotes State Rep. Rehberg to the effect that the Burns campaign got polling data from the NRSC but that the NRSC also withheld some data. Rehberg says the Burns campaign compiled a list of voters from various sources for the mailings but could not recall if the NRSC was a source. He said the Burns campaign had no control over what went on between the NRSC and the Montana Republican Party.
Billings Gazette, April 1, 1990: The NRSC transferred $137,898 to the Montana Republican Party in the last four weeks of the campaign and $10,100 after the election. The NRSC, RNC, and Colorado Republican Party transferred $182,000 in last four weeks. The Burns campaign also received $278,800 in contributions in the last 20 days of the campaign, much of it from PACs and out-of-state individuals.
Helena Independent Record, April 8, 1990: Republican candidates for statewide office were provided voter survey results to help plan campaign strategies with

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The third source of information used by the complainant is copies of mailings by the Montana Republican Party in 1988.

The Common Cause complaint also relies on the Merica's civil lawsuit for its basis. The complaint reiterates the allegations in the Addy complaint that the NRSC transferred over $200,000 beyond the 1988 spending limits to the Montana Republican Party for the support of the Burns campaign.

(Footnote 1 continued from previous page)
information compiled through a project conducted by the NRSC. The article quotes Elwood English, a former Burns campaign director, as saying he worked under NRSC supervision to help compile a voter identification list and said he thought it was carried out with national party funding. The article quotes Terry Merica as saying the state party did not pay for the survey. He said the state party gathered source documents and distributed the final product to legislators. The article quotes unnamed Republican campaign workers as saying the voter identification project involved a list of registered voters collected from county courthouses and follow-up telephone surveys to gauge the voters' political persuasions. The candidates were then provided with survey results that showed names, addresses, telephone numbers and scores indicating how inclined a voter might be to cast a Republican ballot. The article says the information was used for targeting mailings, seeking campaign volunteers, and conducting get-out-the-vote activities.
Butte Montana Standard, April 17, 1990: The NRSC transferred more funds to Montana in first three months of 1990 ($25,000) than in first six months of 1988 ($17,284).
Great Falls Tribune, April 18, 1990: National Republican groups funneled $196,729 in "bundled" contributions to Burns in 1988. The article quotes an NRSC spokesperson that 1986 methods were not used in 1988. The article notes reports that indicated the NRSC sent $132,100 in bundled contributions to Burns campaign from October 21 to November 8, 1988, the Midwestern Majority Committee sent $23,556, and the M & N Committee provided $41,072. The latter two committees raised money for Senate candidates and listed the same address as the NRSC.

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Additionally, the complaint alleges that the NRSC directed the Montana Republican Party to incur certain expenses and then report them as being volunteer exempt activity. The NRSC would then transfer funds to the Montana Republican Party to pay for these expenses. Many of the materials purchased in this manner allegedly advocated the election of Conrad Burns for Senate and George Bush and Dan Quayle for President/Vice President.

The Common Cause complaint also alleges that the Montana Republican Party spent over $109,000 for mailings on behalf of the Burns campaign from James R. Foster and Associates, and over $72,000 on postage for such mailings. However, the complaint further states that the Montana Republican Party did not have sufficient funds from non-NRSC sources to pay for these mailings and postage. If NRSC funds were used for all or a portion of these mailings, and since a commercial vendor was used, the volunteer exemption would not be applicable to this situation.

1. Excessive Coordinated Party Expenditures

The Addy complaint alleges that the itemization on the Schedules F of the NRSC's own reports disclose $107,319.00 in coordinated party expenditures on behalf of Conrad Burns, which he alleges is $15,824 over the limit of $92,200. This allegation is apparently based upon figures cited in a newspaper article. Both the Addy complaint and the Common Cause complaint allege that the NRSC exceeded the limits for contributions and coordinated expenditures by failing to report numerous expenditures on behalf of the Burns campaign, many of which the NRSC "funneled" through the Montana Republican Party.

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In its responses to both complaints, the NRSC states that it spent a total of $91,494.72 in coordinated expenditures on behalf of the Burns campaign. This figure is below the combined coordinated party expenditure limit of $92,200 for the 1988 election. The Montana Republican Party had designated its spending authority to the NRSC. The responses also state that the NRSC made contributions to the Burns Committee totaling $17,477.54. This figure is below the contribution limit of $17,500 for the 1988 election. The NRSC responses go on to claim that the allegations made by the complainants are the result of confusion on their part as to the difference between "contributions" and "coordinated expenditures", all of which the NRSC maintains it properly reported on its reports filed with the Commission.

A review of the monthly reports filed by the NRSC for 1988 confirms the figures provided by the NRSC in its responses. The reports filed with the Commission do in fact reflect the claims of the NRSC: that they reported coordinated expenditures of $91,494.72 and contributions of $17,477.54 to the Burns Committee for the 1988 election.

2. Daily Tracking Polls

The Addy complaint alleges that the Burns campaign received daily tracking polls conducted by the Gary Lawrence Company of California. It alleges that the NRSC paid the full cost of these polls but reported only a $4,050 payment to the Gary Lawrence Company. It also disputes any claim that the poll could be "devalued" by holding the results because in his view daily

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tracking polls are "valuable only at the time the poll is taken." With regard to these polls, it alleges that (1) the Gary Lawrence Company made an excessive or, if incorporated, a prohibited contribution to the NRSC or the Burns campaign by not charging the fair market value for the polls; and (2) that the NRSC has made an excessive contribution or coordinated expenditure regarding the Burns campaign by providing the polling data to them at less than full fair market value.

The NRSC response states that the $4,050 payment it made to the Gary Lawrence Company was for a "Participation in Montana Statewide Study". This study was conducted for the Burns' campaign, and the NRSC reported the sum as a coordinated expenditure on behalf of the Burns Committee. The NRSC response states that the complaint incorrectly "assumes" that this expenditure was for a tracking poll. A review of the NRSC's reports confirms that it reported this amount as a coordinated expenditure on October 21, 1988.

The Gary Lawrence Company stated that the $4,050 payment from the NRSC to the Gary Lawrence Company cited in the complaint "was for survey research performed by the Gary Lawrence Company independent of the daily tracking discussed above." The Gary Lawrence Company further stated that it "did not undervalue its services; it charged the full fair market value for political polling services rendered to the NRSC between October 15, 1988 and November 6, 1988, and was paid in full for these services." It further adds:

> The Gary Lawrence Company entered into an oral agreement with the National Republican

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Senatorial Committee (NRSC) and the Republican Governors Association (RGA) to provide polling services for both organizations. Pursuant to the agreement, the Gary Lawrence Company charged $13.50 for the first 5 questions, and $.50 per question per person surveyed thereafter, and sent its invoices, pursuant to instructions from the NRSC and the RGA, to the RGA, which was handling the paperwork. This price structure was the same price the Gary Lawrence Company charged in neighboring North Dakota and in other tracking projects around the nation that year. Approximately two thirds of the questions that were eventually asked in the total project related to Montana Senatorial candidate Conrad Burns and one third related to the Gubernatorial candidate Stan Stephens. How the NRSC and the RGA allocated their respective amounts is beyond the responsibility of the Gary Lawrence Company to know or control.

As shown by the enclosed documents, the Gary Lawrence Company sent out three invoices for the following amounts for its tracking work in Montana: $20,000 on October 24, 1988; $15,000 on November 2, 1988; and $15,100 on November 9, 1988. The $50,100 total was paid in full, most of it from the Republican National Committee (RNC), the party's umbrella organization. The RNC paid $49,650 and the Burns campaign paid $450 (for one shared tracking question). (The $18,600 shown on RNC check #012931 includes $15,000 for invoice #487 for Montana, plus $3,600 for a separate invoice for a separate North Dakota project.)

Thus, it appears that the Gary Lawrence Company did not undervalue its services or make a prohibited corporate contribution for its polling services. It was paid in full a total of $50,100 for its work, pursuant to an oral agreement with the RNC and the NRSC. The complainant's allegation against the NRSC also appears to be without merit, since it was the RNC which paid for these tracking polls, not the NRSC. Therefore, there is no reason to believe that the NRSC violated 2 U.S.C. § 441b by

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accepting a corporate contribution from the Gary Lawrence Company.

3. Voter Lists

The Addy complaint alleges that the NRSC expended "substantial sums to produce statewide voter lists" that were given to federal and nonfederal candidates including the races for the Congress and the Senate. It alleges that the "Respondents" failed to report the costs for these lists as in-kind contributions.

The Common Cause complaint alleges that the NRSC expended large sums of money to conduct a "Voter Identification Project", and funneled funds through the Montana Republican Party to pay for the project. It alleges that the NRSC had direct control over the project, and then ultimately required the Montana Republican Party to purchase the results. The complaint also alleges that the NRSC hired Corey Lane to plan and complete the voter identification project, and that the NRSC retained complete control over the project and provided the funds for it.

The NRSC responded in MUR 3087 that it did conduct a "Voter Identification Project" in Montana in 1987-88 as a party building activity. It further states that the costs of this activity were reported as operating expenditures by the NRSC, and not as a contribution to any particular candidate. The NRSC response does not clearly identify to whom payments were made for the costs of this project. Robert Bissen, Special Projects Director for the

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NRSC, submitted an affidavit in MUR 3087 explaining how and why the Voter Identification Project was conducted:

> Because there is no statewide repository of registered voters in Montana, we collected lists of registered voters from each county in Montana. These lists were publicly available lists which did not distinguish between Republican and Democratic voters. There was then an attempt to enhance the list by identifying Republican, Democratic, and Independent voters. The creation of this Montana list, a standard party-building activity, was not allocated to any particular candidate or candidate committees. The normal practice is that this enhanced list, when completed, would be jointly owned by the national party committees and the Montana Republican Party.

Bissen Affidavit at ¶ 2, MUR 3087.

The NRSC response goes on to state that the list was not provided free of charge to any candidate. Either the candidate paid for use of the list or else the use of the list was reported as a coordinated expenditure by the NRSC on behalf of that candidate. The Bissen affidavit states that the Burns Committee "paid the vendor" for that portion of the Voter Identification Project which related to a question concerning Senator Burns. Copies of two checks from the Burns Committee to Campaign Telecommunications totaling $4,749.91 were provided in the NRSC response. It is unclear from this response why the voter identification project would be asking specific questions concerning the Burns campaign for which the campaign would pay its portion of the costs.

The NRSC submitted a similar response and affidavit in its response in MUR 3204. In that response, the NRSC states that the

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costs of merely developing this voter list were reported as operating expenditures by the NRSC. The response goes on to state that the payments made by the NRSC to the Montana Republican Party in connection with this list were in fact reimbursements to the Montana Republican Party for the costs of purchasing and retrieving voter registration tapes from the various state courthouses. The NRSC maintains that neither the Burns campaign, nor any other federal campaign, was provided with free use of the voter list. Rather, the NRSC says that each federal candidate paid for its share of the use of the list.

The NRSC response in MUR 3204 also shed light on how the voter list was used once it was compiled. The response states that a "phone bank" was conducted using the voter list. This phone bank may or may not constitute part of what the NRSC refers to as its "Voter Identification Project". The NRSC claims that the Burns campaign paid the vendor which administered the phone bank for its share of the phone bank which had a question pertaining to the Burns candidacy. It attached to its affidavit copies of two checks from the Burns Committee payable to Campaign Telecommunications in October of 1988, totaling $4,749.91. Campaign Telecommunications is apparently the vendor which maintained the voter list once it was compiled and conducted the phone bank. Because the Burns Committee paid the vendor directly for its share of the costs of the phone bank, the NRSC maintains that it did not have to report the expenditure on its own reports.

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A review of the reports filed by the Montana Republican Party shows that the state party paid a total of $19,068.84 to Corey Lane between May 26 and August 31, 1988. This is the person alleged in both complaints to have been hired by the NRSC to conduct the voter identification project. Since the NRSC has responded that it paid for the voter identification project and reported the costs as operating expenditures, it is unclear why the Montana Republican Party would pay Mr. Lane almost $20,000 during a three month period. It appears that Lane may also have been hired as a fundraiser for the Montana Republican Party. However, none of the responses make it clear who specifically employed Corey Lane, or what his role was as a fundraiser or in this voter identification project.

The Burns committee did not indicate whether or not they received access to such a list and, if so, how its receipt and value was reported. It is unknown to what extent the Burns Committee bought or received any portion of such a voter list for use in the 1988 campaign, other than its $4,749.91 in payments to Campaign Telecommunications. The NRSC has not identified which candidates or committees bought or were provided with this voter list, nor has the NRSC identified what vendor conducted this project or at what cost. This information is necessary to confirm the NRSC's claim that it reported the costs of preparing such a list as operating expenditures.

Therefore, there is reason to believe that the NRSC failed to allocate and report a portion of its expenditures in connection with the compilation of the Montana voter lists and

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the Voter Identification Project as either contributions to or coordinated expenditures on behalf of the Burns Committee, in violation of 2 U.S.C. § 441a(f) and § 434(b).

4. Transfers to State Party and "Volunteer" Mailings

The complainant in MUR 3087 makes several allegations regarding mailings made by the Montana Republican Party on behalf of Conrad Burns and George Bush which it treated as volunteer exempt activity.[2]

First, the complainant alleges that the NRSC spent more than $150,000 for mailings on behalf of the Burns campaign "and then tried to conceal this excessive expenditure in the guise of an exempt State Party-funded project." He alleges that the state party's reports disclose transfers from the NRSC that coincide exactly as to dates and amounts with payments made by the state party to the "professional mailing house" of Foster and Associates of Carrollton, Texas, for these "mass mailings done on behalf of Burns."

He also alleges that the Montana Republican Party received a total of $204,429 from the NRSC to make "illegal expenditures on behalf of Burns." He specifically refers to transfers from the NRSC of $6,879.00, $32,110.00, and $4,956.00. He also cites the complaint filed by the Mericas in the wrongful discharge civil suit that alleges the NRSC and its agent, Ann Prestidge,

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2. The complaint had these mailings attached to it: "Bush and Burns"; "Birds of a Feather"; "Friends" 1 (with coffee) and "Friends" 2 (with postcards); "Shame on You John Melcher"; "We Need Conrad Burns"; "Our Children...Our Future"; "One Thing Montanans Agree On"; "The Real Dukakis Story"; and "Best for the West."

controlled the use and disbursement of these NRSC transfers even after they were received by the state party.

He disputes any claim that these transfers were for "party building" activities and only freed up the state party's own funds, and cites the correlation of the transfers to the disbursements for the Burns mailing, the concentration of the transfers in the month prior to the election, and the inability of the state party to make the payments for the mailings without the transfers. He also alleges that "there is no evidence that volunteers were used for the mailings" since a commercial mailing house was used. The complainant disputes the claim that the mailings benefited all Republican candidates because the material itself only supported two candidates, Conrad Burns and George Bush.

The Common Cause complaint makes similar allegations as to transfers of funds from the NRSC to the Montana Republican Party to pay for direct mail and volunteer exempt activity.

A review of the reports filed by the NRSC confirm the alleged transfers to the Montana Republican Party. The NRSC transferred $204,429.19 to the Montana Republican Committee in 1988. Almost three-fourths of these transfers, 72 percent, were made during October and November, 1988. The total amount transferred by the NRSC constituted over one-third of the Montana Republican Party's receipts for the entire year.

Several of the transfers made by the NRSC coincide exactly as to the date and amount with payments made by the Montana Republican Party to Foster and Associates. The complainants have

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identified this business as a direct mail vendor utilized by the Montana Republican Party on behalf of the Burns Committee. On October 7, 1988, the NRSC transferred $6,879 to the Montana Republican Party. On that same date, the state committee lists an expenditure of $6,879.01 to Foster and Associates. The NRSC transferred $4,956 to the state party committee on October 24, 1988. On the next day, the Montana Republican Party paid the same amount, $4,956 to Foster and Associates. On October 31, 1988, the NRSC transferred $32,110 to the state committee. The next day, November 1, 1988, the Montana Republican Party paid that same amount to Foster and Associates. Looking at the examples above, it appears that the Montana Republican Party was using funds transferred to it from the NRSC to pay for direct mail activities produced by a professional direct mail vendor.

Furthermore, it appears the Montana Republican Party did not have sufficient funds from non-NRSC sources to pay for its expenditures to this direct mail vendor and the postage for such items. On October 1, 1988, the Montana Republican Party reported having cash on hand of just over $46,000. During the next two months, the party raised almost $91,000 from sources other than the NRSC. However, during that same time period, the Montana Republican Party paid $109,553.01 to Foster and Associates to prepare its mailings, and spent $72,568.95 on postage to pay for those mailings. The Montana Republican Party spent $182,121.96 for its mailings and postage, yet it only had access to approximately $137,000 in non-NRSC funds. Thus, there is reason to believe that the NRSC transferred funds to the Montana

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Republican Party to pay for commercially prepared mailings and the accompanying postage. Such commercial mailings are not entitled to the volunteer exemption, and national party funds cannot be used for such activity. Since these mailings were not entitled to the volunteer exemption, they are reportable coordinated expenditures which resulted in excessive coordinated expenditures by the NRSC on behalf of the Burns Committee. It appears that the Montana Republican Party was being used as an agent by the NRSC to pay for at least a portion of the mass mailings in question. Even if the Montana Republican Party had sufficient non-NRSC funds on hand to cover the total costs of the mailings (which it did not), the amounts and dates of the transfers from the NRSC still indicate that these funds were transferred to the state party for the purpose of paying for these mailings. Additionally, the allegations contained in the civil suit filed by the Mericas state that these funds from the NRSC, once transferred to the state party, were still in fact controlled and directed by the NRSC agent, Ann Prestidge. This allegation has not been refuted by the NRSC or the Montana Republican Party in their responses.

Furthermore, these expenditures by the Montana Republican Party were not reported as a contribution or expenditure on behalf of the Burns or Bush campaigns. The complainants allege that the state party listed these expenditures as "volunteer exempt" activities. Commission regulations prohibit the use of national party funds for volunteer exempt mailings. Additionally, the volunteer exemption is not available for

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"direct mail" produced by a commercial vendor. It appears in this case that funds from the NRSC, which were funneled through the state party, were used to pay for at least a portion of the costs of the mailings by Foster and Associates.

In its responses, the NRSC asserts that it, as a national party committee, is allowed to make unrestricted transfers to a state party for it to use as it sees fit. Its responses did not address the allegations concerning transfers of amounts which matched exactly with amounts paid to a commercial vendor. The NRSC also claims that Commission regulations restrict only those party funds which are specifically designated for use in connection with exempt volunteer activity. The NRSC states that because the complaints have provided no evidence that NRSC funds were designated for such a purpose, any payments by the state party for volunteer activities should be presumptively legal. The NRSC also appears to be claiming that even if the funds it transferred to the state party were in fact used for direct mail activity, this is not a violation of the Act on its part because it did not specifically designate those funds for that purpose.

The Montana Republican Party states that the Act permits unlimited transfers between party committees of the same political party. It indicates that the state party believes the mailings which it paid for on behalf of the Burns campaign are entitled to the volunteer exemption from expenditure limits. The state party goes on to state that it had a cash balance on hand of $42,309.49 on October 1, 1988, and that the party raised $90,849.49 from non-NRSC sources from that time until the

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election. The Montana Republican Party asserts that it had this entire total, $131,158.89, available to use for volunteer exempt activities. However, as already noted above, this claim does not match with the expenditures reported by the Montana Republican Party on its reports. First of all, the cash on-hand balance actually reported by the Montana Republican Party for October 1, 1988 was $46,012.50. Secondly, while the state party may claim that it had a total of $131,158.89 on hand from non-NRSC sources during this period, the state party actually spent $182,121.96 on the mailings and postage during that same period. It appears that NRSC funds were used for at least a portion of these expenditures. The Montana Republican Party also asserts that volunteers were involved in all aspects of the mailings in question, but fails to explain how the volunteers were utilized in conjunction with the work performed by the commercial vendor which produced this direct mail, Foster and Associates.

Commission regulations prohibit the use of national party funds for volunteer exempt activities. In addition, the regulations disqualify direct mail activity which utilizes a commercial vendor from the volunteer exemption. The state party asserts that volunteers were involved in every mailing in question. However, neither the NRSC nor the state party has provided any proof or evidence that volunteers were involved in any aspect whatsoever of this direct mail process which utilized a commercial vendor. While the NRSC claims that none of the funds it transferred to the Montana Republican Party were specifically designated to pay for volunteer exempt commercial

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mailings, the factual evidence is sufficient to infer that the amounts were transferred for the specific purpose of paying for all or part of those mailings.

It should be remembered that the Montana Republican Party designated its spending authority to the NRSC for this election. The NRSC reports that it spent $91,494.72 in coordinated expenditures on behalf of the Burns Committee, leaving only $505.28 available for coordinated expenditures. The NRSC also reported making contributions to the Burns Committee totaling $17,477.54, leaving only $22.46 available for contributions. If these mailings are not entitled to the volunteer exemption, then the amounts paid for those mailings will necessarily result in excessive expenditures, regardless of whether they are viewed as contributions or coordinated expenditures.

Therefore, there is reason to believe that the NRSC violated 2 U.S.C. § 441a(f) by making excessive coordinated expenditures on behalf of the Burns and Bush campaigns. Additionally, there is reason to believe that the NRSC violated 2 U.S.C. § 434(b) by misreporting these expenditures.

5. Filing Reports with State Official

The complainant in MUR 3087 alleges that the NRSC failed to timely file its monthly reports for 1988 with the appropriate state official as required by the Act. For instance, he states that the NRSC's April 1988 report was not filed until February 1990 and then only after "Montana Political Practices Commissioner Dolores Colburg specifically asked the NRSC to do so." This allegation relates solely to the NRSC.

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The office of the Montana Political Practices Commissioner has confirmed that the NRSC did not file any of its 1988 reports with that state office until April, 1990. These reports were filed only after a telephone call in January, 1990, from the state Commissioner asking the NRSC to file its 1988 reports as required by law. See 2 U.S.C. § 439(a); 11 C.F.R. § 108.5.

In its response, the NRSC simply states that copies of its reports are now on file with the Montana Office of Political Practices. The response does not state when these documents were filed. The NRSC also replies that copies of its reports were always available to the public through its filings here with the Commission.

While copies of the NRSC's reports are presently on file in Montana, the fact remains that the 1988 reports were not filed until April of 1990, approximately a year and a half after the 1988 general election. Such a filing is not timely under the Commission's regulations, which require that copies of a committee's reports be filed with the appropriate state office at the same time as the reports are to be filed with the Commission. See 11 C.F.R. § 108.5.

Therefore, there is reason to believe that the NRSC violated 2 U.S.C. § 439(a) by failing to file copies of its reports with the appropriate state official in a timely manner.

6. Earmarked Contributions

The Addy complaint alleges that the NRSC "bundled" contributions to the 1988 Burns campaign as part of a program identical to that found to result in excessive contributions in

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Common Cause v. FEC, 729 F.Supp. 148 (D. D.C. 1990). He alleges the Burns campaign received $172,378 in such earmarked contributions.

A review of the NRSC's reports discloses that the Burns Committee received several large transfers from the NRSC of earmarked contributions late in the campaign: $50,000 on October 21; $1,000 on October 24; $40,000 on October 25; $500 on November 4; $40,000 on November 4, and $600 on November 5, 1988. These transfers totaled $132,100. It appears that these are the transfers which the complainant is referring to as having been "bundled" in an illegal manner. In addition, the Burns Committee appears to have received a total of $64,628.71 from two joint fundraisers: $41,072.46 from the M & N Committee; and $23,556.25 from the Midwestern Majority Committee. These two committees, both of which were authorized to conduct fundraising on behalf of the Burns Committee as well as other Republican candidates, both listed the NRSC's address as their own mailing addresses.

In a copy of a newspaper article which accompanied the complaint, NRSC spokeswoman Wendy DeMocker is quoted as saying she didn't know exactly how the NRSC bundled this money in 1988, but that: "My understanding is that whatever took place in 1986 has never taken place in subsequent years." See "National GOP Groups 'Bundled' To Aid Burns Campaign, Great Falls Tribune, April 18, 1990.

In its response, the NRSC states that the complainant has provided no evidence for his allegation of illegal bundling

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activity. The NRSC's Finance Director, Albert Mitchler, submitted an affidavit stating that the NRSC did not employ the same techniques in the 1988 Burns campaign which were found to be improper in the Common Cause v. F.E.C. case. However, neither the NRSC's response nor Mr. Mitchler's affidavit state exactly what techniques were in fact used by the NRSC in collecting and transferring earmarked contributions to the Burns campaign in 1988. There is insufficient information contained in these responses to determine whether or not the NRSC exercised "direction and control" over these funds.

A review of reports filed by the NRSC and the Burns Committee indicates that the "bundled" contributions to which the complaint refers were contribution checks, assertedly earmarked for the Burns Committee, that were made payable to the NRSC and deposited into NRSC accounts. The NRSC, as conduit for these contributions, then reported that portion attributable to the Burns campaign and issued large dollar amount checks to the Burns Committee.

In its response to MUR 3087, the NRSC has stated that the fundraising methods used in these circumstances were different than those which were at issue in Common Cause v. F.E.C., but has not provided any information or details about the methods by which these earmarked contributions were solicited or transferred. Therefore, the NRSC has not directly refuted the allegation that it exercised direction or control over the funds which it transferred to the Burns Committee.

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Additionally, the NRSC's payment for the costs of soliciting the earmarked contributions would constitute an in-kind contribution to the Burns Committee, and should have been properly reported. However, neither the NRSC or the Burns Committee reported such in-kind contributions, not did the Burns Committee report paying its share of such costs to the NRSC.

Therefore, there is reason to believe that the NRSC violated 2 U.S.C. § 441a(h) by making excessive contributions to the Burns Committee.

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 3204

INTERROGATORIES AND REQUEST
FOR PRODUCTION OF DOCUMENTS

TO: National Republican Senatorial Committee and
James L. Hagen, as treasurer
c/o Jan Witold Baran, Esquire
Wiley, Rein & Fielding
1776 K Street, N.W.
Washington, D.C. 20006

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

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INSTRUCTIONS

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

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

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

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

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

Unless otherwise indicated, the discovery request shall refer to the time period from January 1, 1988 to December 31, 1989.

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

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DEFINITIONS

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

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

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

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INTERROGATORIES AND REQUEST FOR DOCUMENTS

1. Describe and fully explain the fundraising practices and techniques used by the National Republican Senatorial Committee (NRSC) during 1988 which resulted in earmarked and/or "bundled" contributions being made by the NRSC to the Conrad Burns/U.S. Senate Committee. Produce any and all documents which relate to the making of such earmarked and/or "bundled" contributions to the 1988 Burns campaign. Produce copies of any and all NRSC solicitations which sought contributions on behalf of the 1988 Burns campaign. Identify and explain all costs incurred by the NRSC in connection with solicitations on behalf of the 1988 Burns campaign, and describe how such costs were reported by the NRSC.

2. Describe and fully explain how the fundraising practices and techniques used by the NRSC which resulted in earmarked and/or "bundled" contributions being made to the 1988 Burns campaign differed from the 1986 NRSC "Direct To" program which was the subject of Common Cause v. FEC, 729 F. Supp. 148 (D.D.C. 1990).

3. State whether or not the NRSC had any agreement, written or oral, with the M&N Committee and/or the Midwestern Majority Committee for fundraising activity in 1988. Produce any such written agreements. Describe and explain any and all fundraising activity conducted by these two committees on behalf of the 1988 Burns campaign.

4. State whether or not the NRSC had any agreement, written or oral, with the Gary Lawrence Company of Santa Ana, California, to conduct and/or produce daily tracking polls for the 1988 Montana General Election. Describe and fully explain any such agreement or arrangement. Produce any such written agreement.

5. State whether or not the NRSC had any agreement, written or oral, with the Republican Governors Association (RGA) of Washington, D.C., regarding daily tracking polls for the 1988 Montana General Election conducted by the Gary Lawrence Company. Describe and fully explain any such agreement or arrangement. Produce any such written agreement.

6. State whether or not the results of the tracking polls conducted and produced by the Gary Lawrence Company were provided to the NRSC. Further state whether these results were in turn provided by the NRSC to any federal or state candidates or candidate committees during the 1988 Montana General Election campaign. Identify which candidates and/or committees, if any, were provided with these results, and describe what payments were made for these results and how such payments were reported to the Commission. Produce any and all documents relating to these polling results and the reporting of any related payments.

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7. Describe and explain the "Voter Identification Project" conducted in Montana for the 1988 election, and the NRSC's role in this project. State whether the NRSC paid for all or any portion of this project. Identify any and all vendors to whom the NRSC paid in connection with this project, and list all amounts expended by the NRSC for this project. Identify and explain how such sums were reported by the NRSC on its reports to the Commission.

8. State whether or not the NRSC made any payments to Campaign Telecommunications of New York, New York, in connection with the 1988 Senate campaign in Montana. If so, identify all such payments as to date and amount, and explain the purpose of each such payment. **Produce** all records pertaining to such payments.

9. Identify all federal candidates who were provided with all or portions of a Montana voter list which was produced as a result of the "Voter Identification Project". Further identify which candidates paid for this information, and for which candidates this was reported as a coordinated expenditure, as well as the applicable amounts for each. **Produce** any and all documents relating to the NRSC's providing this voter list information to federal candidates.

10. Several monetary transfers made by the NRSC to the Montana Republican State Central Committee (Montana Republican Party) coincide as to amount and date with payments made by the Montana Republican Party to James R. Foster and Associates, a direct mail vendor located in Carrollton, Texas (i.e. $6,879 on October 7, 1988; $4,956 on October 24, 1988; $32,110 on October 31, 1988). State why the NRSC made transfers in these specific dollar amounts to the Montana Republican Party on these particular dates. State whether or not any employee or agent of the Montana Republican Party had requested the NRSC to make these transfers. State whether any employee or agent of the NRSC was aware that amounts identical to these transfers were being paid by the Montana Republican Party to James R. Foster and Associates. State for what purpose the NRSC believed these funds were being used by the Montana Republican Party. State whether or not any employee or agent of the NRSC was aware that these transfers were being used by the Montana Republican Party to pay for direct mail activity. **Produce** all documents pertaining to all monetary transfers by the NRSC to the Montana Republican Party during 1988, including copies of all transmittal letters.

11. Identify the date(s) when copies of the NRSC's 1988 disclosure reports were filed with the Montana Office of Political Practices.

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12. State whether or not the following persons were employees or agents of the NRSC in 1988: Elwood English, Ken Knudson, and Tom Hannah. If so, please identify each person, their position or title with the NRSC, dates of employment with the NRSC, and how and where salary payments made to each person were reported by the NRSC. State whether or not the NRSC had any agreement, written or oral, with the Montana Republican Party (or employee or agent thereof) by which the Montana Republican Party would pay all or a portion of the salary and/or expenses of the above-listed persons. Produce the last known business and home addresses for English, Knudson, and Hannah, including telephone numbers.

13. Produce the current business and home addresses of Ann Prestidge, including telephone numbers. If not known, then produce the last known business and homes addresses of Ann Prestidge, including telephone numbers. State whether Ann Prestidge was employed by the NRSC during 1988, and if so, identify her title, position, and dates of employment. Describe her employment duties during 1988, and identify her immediate supervisor. Explain Prestidge's role or involvement with the 1988 Senate campaign in Montana.

14. State whether Corey Lane was employed by the NRSC during 1988 and, if so, identify his title, position, dates of employment, and immediate supervisor. State his employment duties during 1988. Explain his role or involvement in the 1988 Senate campaign in Montana. Produce Corey Lane's last known business and home addresses, including telephone numbers.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 31, 1991

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

RE: MUR 3204 (formerly
MUR 3087 and MUR 3204)
Republican National Committee
and William J. McManus,
as treasurer

Dear Mr. Ginsberg:

On July 20, 1990, the Federal Election Commission notified your clients, the Republican National Committee and William J. McManus, as treasurer, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to your clients at that time. This matter was designated MUR 3087.

On December 27, 1990, the Commission notified your clients of another complaint alleging violations of certain sections of the Act. A copy of the complaint was forwarded to your clients at that time. This matter was designated MUR 3204.

Upon further review of the allegations contained in the complaints, and information supplied by your clients, the Commission, on May 21, 1991, found that there is reason to believe the Republican National Committee and William J. McManus, as treasurer, violated 2 U.S.C. § 441a(f) and § 434(b), provisions of the Act. The Commission also found no reason to believe that your clients violated 2 U.S.C. § 441b. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information. The Commission further merged these two matters into one, now designated as MUR 3204.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the Republican National Committee and William J. McManus, as treasurer. You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office, along with answers to the enclosed questions, within 15 days of receipt of this letter. Where appropriate, statements should be submitted under oath.

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In the absence of any additional information demonstrating that no further action should be taken against the Republican National Committee and William J. McManus, as treasurer, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

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

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

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

Sincerely,

Joan D. Aikens

Joan D. Aikens
Vice Chairman

Enclosures
Interrogatories and Request for Documents
Factual & Legal Analysis

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Republican National Committee and William J. McManus, as treasurer

MUR 3204

This matter was generated by a complaint filed by Kelly Addy, Speaker Pro Tempore of the Montana House of Representatives. The matter has been redesignated as MUR 3204. The finding relating to the Republican National Committee ("RNC") and William J. McManus, as treasurer, was based on information ascertained by the Commission in the normal course of carrying out its supervisory responsibilities pursuant to 2 U.S.C. § 437g(a)(2)

The Federal Election Campaign Act of 1971, as amended ("the Act"), provides that no person shall make contributions to any federal candidate that aggregate in excess of $1,000 per election and that no multicandidate political committee shall make such contributions that aggregate in excess of $5,000 per election. 2 U.S.C. §§ 441a(a)(1)(A) and 441a(a)(2)(A). The Act defines contributions to include any gift of money, services or anything of value made for the purpose of influencing any federal election. 2 U.S.C. § 431(8)(A)(i). Commission regulations explain that "anything of value" includes any in-kind contribution or any gift of goods or services at less than the usual and normal charge for such goods or services. 11 C.F.R. § 100.7(a)(1)(iii).

The Act further provides that any expenditure 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 a contribution to such candidate. 2 U.S.C. § 441a(a)(7)(B)(i). The Act prohibits the making and acceptance of corporate contributions or expenditures. 2 U.S.C. § 441b.

The Act also provides the national party committee and the state party committee with additional authority to make coordinated party expenditures on behalf of the party's nominees for the House and Senate. 2 U.S.C. § 441a(d)(3). The national party committee may also make such expenditures on behalf of its presidential nominee. 2 U.S.C. § 441a(d)(2). For 1988, the combined coordinated party expenditure limitation for Montana for the U.S. Senate election was $92,200. The national and state political party committees may authorize another committee, such as the National Republican Senatorial Committee, to make these coordinated party expenditures. DSCC v. FEC, 454 U.S. 27 (1980).

Commission regulations explain that expenditures made on behalf of more than one candidate shall be attributed to each candidate in proportion to the benefit reasonably expected to be derived and shall be so reported. 11 C.F.R. § 106.1(a). The regulations further explain, however, that expenditures for rent, personnel, overhead, general administrative, fundraising, and other day-to-day costs of political committees and for registration and get-out-the-vote (GOTV) drives need not be attributed to individual candidates unless the expenditures are

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made on behalf of a clearly identified candidate and the expenditure can be directly attributed to that candidate. 11 C.F.R. § 106.1(c).

With regard to the allocation of polling expenses, Commission regulations require that opinion poll results which are purchased by a political committee are to be treated as a contribution in-kind by the purchasing committee and as an expenditure by the candidate or candidate's authorized committee which accepts the poll results. 11 C.F.R. § 106.4(b). In addition, the amount of the contribution attributable to the recipient candidate or committee are to be allocated using one of the formulas provided at 11 C.F.R. § 106.4(e).

Commission regulations permit unlimited transfers among committees of the same political party. 11 C.F.R. § 102.6(a)(1). In addition to filing periodic reports with the Commission, the Act also requires a state party committee to file copies of its federal reports with the appropriate state office. 2 U.S.C. § 439(a). Copies of such reports are to be filed at the same time as the reports are due to be filed with the Commission. 11 C.F.R. § 108.5.

The Addy complaint makes several allegations. He has based these allegations on three sources. The first source is a civil suit filed by Terry and Neida Merica, former employees of the Montana Republican State Central Committee ("Montana Republican Party"), against the Montana Republican Party, the National Republican Senatorial Committee ("NRSC"), and certain individuals.

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The second source of information relied upon by the complaint are news articles that appeared in the Montana press concerning the 1988 election of Conrad Burns to the United States Senate.[1]

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1. The following are excerpts of the factual statements and allegations in the news articles attached to the complaint.
Great Falls Tribune, December 15, 1989: Montana Republican Party reports show total receipts of $514,846 and total disbursements of $497,279 in 1988. They show receipts of $204,429 from the NRSC, $41,986 from the RNC, and $44,000 from the Colorado Republican Party and payments of $109,000 to the J.R. Foster Company for printing and close to $70,000 for postage. State Rep. Dennis Rehberg, former Burns campaign manager, is quoted as saying the Burns campaign had editorial control over half a dozen mailings but that the NRSC and the state party produced and distributed these mailings.
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Butte Montana Standard, April 17, 1990: The NRSC transferred more funds to Montana in first three months of 1990 ($25,000) than in first six months of 1988 ($17,284).

Great Falls Tribune, April 18, 1990: National Republican groups funneled $196,729 in "bundled" contributions to Burns in 1988. The article quotes an NRSC spokesperson that 1986 methods were not used in 1988. The article notes reports that indicated the NRSC sent $132,100 in bundled contributions to Burns campaign from October 21 to November 8, 1988, the Midwestern Majority Committee sent $23,556, and the M & N Committee provided $41,072. The latter two committees raised money for Senate candidates and listed the same address

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The third source of information used by the complainant is copies of mailings by the Montana Republican Party in 1988.

The Addy complaint alleges that Conrad Burns' campaign committee ("Burns Committee") received daily tracking polls conducted by the Gary Lawrence Company of California. It alleges that the NRSC paid the full cost of these polls but reported only a $4,050 payment to the Gary Lawrence Company. It also disputes any claim that the poll could be "devalued" by holding the results because in his view daily tracking polls are "valuable only at the time the poll is taken." With regard to these polls, it alleges that (1) the Gary Lawrence Company made an excessive or, if incorporated, a prohibited contribution to the NRSC or the Burns campaign by not charging the fair market value for the polls; and (2) that the NRSC has made an excessive contribution or coordinated expenditure regarding the Burns campaign by providing the polling data to them at less than full fair market value.

The NRSC states that the $4,050 payment it made to the Gary Lawrence Company was for a "Participation in Montana Statewide Study". This study was conducted for the Burns' campaign, and the NRSC reported the sum as a coordinated expenditure on behalf of the Burns Committee. The NRSC response states that the complaint incorrectly "assumes" that this expenditure was for a tracking poll. A review of the NRSC's reports confirms that it

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as the NRSC.

reported this amount as a coordinated expenditure on October 21, 1988.

The Gary Lawrence Company stated that the $4,050 payment from the NRSC to the Gary Lawrence Company cited in the complaint "was for survey research performed by the Gary Lawrence Company independent of the daily tracking discussed above." The Gary Lawrence Company further stated that it "did not undervalue its services; it charged the full fair market value for political polling services rendered to the NRSC between October 15, 1988 and November 6, 1988, and was paid in full for these services." It further adds:

> The Gary Lawrence Company entered into an oral agreement with the National Republican Senatorial Committee (NRSC) and the Republican Governors Association (RGA) to provide polling services for both organizations. Pursuant to the agreement, the Gary Lawrence Company charged $13.50 for the first 5 questions, and $.50 per question per person surveyed thereafter, and sent its invoices, pursuant to instructions from the NRSC and the RGA, to the RGA, which was handling the paperwork. This price structure was the same price the Gary Lawrence Company charged in neighboring North Dakota and in other tracking projects around the nation that year. Approximately two thirds of the questions that were eventually asked in the total project related to Montana Senatorial candidate Conrad Burns and one third related to the Gubernatorial candidate Stan Stephens. How the NRSC and the RGA allocated their respective amounts is beyond the responsibility of the Gary Lawrence Company to know or control.
>
> As shown by the enclosed documents, the Gary Lawrence Company sent out three invoices for the following amounts for its tracking work in Montana: $20,000 on October 24, 1988; $15,000 on November 2, 1988; and $15,100 on November 9, 1988. The $50,100 total was paid in full, most of it from the Republican National Committee (RNC), the party's umbrella organization. The

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RNC paid $49,650 and the Burns campaign paid $450 (for one shared tracking question). (The $18,600 shown on RNC check #012931 includes $15,000 for invoice #487 for Montana, plus $3,600 for a separate invoice for a separate North Dakota project.)

Thus, it appears that the Gary Lawrence Company did not undervalue its services or make a prohibited corporate contribution for its polling services. It was paid in full a total of $50,100 for its work, pursuant to an oral agreement with the RNC and the NRSC.

The Gary Lawrence Company states that two-thirds of the polling questions related to the Burns campaign. Yet the Burns Committee paid only $450 of the total $50,100 owed to the Gary Lawrence Company. The RNC paid the remaining $49,650. The RNC has not addressed the issue of it purchasing almost $50,000 worth of daily tracking polls in which two-thirds of the questions related to the Burns campaign.

Therefore, there is reason to believe that the Republican National Committee violated 2 U.S.C. § 441a(f) and § 434(b) by failing to report the daily tracking poll which it paid for as either an in-kind contribution or a coordinated expenditure to the Burns Committee. There is no reason to believe that the Republican National Committee violated 2 U.S.C. § 441b, since the available evidence indicates that the RNC paid the Gary Lawrence Company for the tracking polls and no corporate contribution resulted.

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 3204

INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS

TO: Republican National Committee and
William J. McManus, as treasurer
c/o Benjamin L. Ginsberg, Esquire
310 First Street, S.E.
Washington, D.C. 20003

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

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INSTRUCTIONS

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

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

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

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

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

Unless otherwise indicated, the discovery request shall refer to the time period from January 1, 1988 to December 31, 1989.

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

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DEFINITIONS

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

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

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

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INTERROGATORIES AND REQUEST FOR DOCUMENTS

1. Identify and fully describe any and all agreements, both written and oral, which the Republican National Committee had with the Gary Lawrence Company of Santa Ana, California to conduct tracking polls in Montana during the 1988 general election campaign. **Produce** any such written agreement. Identify all payments by date and amount made by the RNC to the Gary Lawrence Company for such polls.

2. Identify and fully describe any and all agreements, both written and oral, which the Republican Governors Association had with the Gary Lawrence Company to conduct tracking polls in Montana during the 1988 general election campaign. **Produce** any such written agreement. Identify by date and amount all payments made by the RGA to the Gary Lawrence Company for such polls.

3. Identify and fully describe any and all agreements, both written and oral, between the Republican National Committee, the Republican Governors Association, and the National Republican Senatorial Committee regarding these tracking polls, including conducting the polls themselves and providing the results to various candidates and/or committees. **Produce** any such written agreements.

4. Identify all candidates which were included in the questions or scripts used for such tracking polls. State what percentage of questions in the tracking polls pertained to the candidacy of Conrad Burns for the U.S. Senate.

5. Identify what persons, committees, and/or organizations were provided with the results of the above-described tracking polls. Identify and explain how payments for these poll results were reported to the Federal Election Commission.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 31, 1991

Charles E. Erdmann, Esquire
Erdmann Law Office
P.O. Box 5418
Helena, Montana 59604

RE: MUR 3204 (formerly MUR 3087 and MUR 3204)
Montana Republican State Central Committee and Shirley J. Warehime, as treasurer

Dear Mr. Erdmann:

On July 20, 1990, the Federal Election Commission notified your clients, the Montana Republican State Central Committee and Shirley J. Warehime, as treasurer, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to your clients at that time. This matter was designated MUR 3087.

On December 27, 1990, the Commission notified your clients of another complaint alleging violations of certain sections of the Act. A copy of the complaint was forwarded to your clients at that time. This matter was designated MUR 3204.

Upon further review of the allegations contained in the complaints, and information supplied by your clients, the Commission, on May 21, 1991, found that there is reason to believe the Montana Republican State Central Committee and Shirley J. Warehime, as treasurer, violated 2 U.S.C. § 441a(f), § 441d, and § 434(b), all provisions of the Act. The Factual and Legal Analysis, which formed a basis for the Commission's findings, is attached for your information. The Commission further merged these two matters into one, now designated as MUR 3204.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the Montana Republican State Central Committee and Shirley J. Warehime, as treasurer. You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office, along with answers to the enclosed questions, within 15 days of receipt of this letter. Where appropriate, statements should be submitted under oath.

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In the absence of any additional information demonstrating that no further action should be taken against the Montana Republican State Central Committee and Shirley J. Warehime, as treasurer, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

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

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

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

Sincerely,

Joan D. Aikens

Joan D. Aikens
Vice Chairman

Enclosures
Interrogatories and Request for Documents
Factual & Legal Analysis

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Montana Republican State Central Committee and Shirley J. Warehime, as treasurer

MUR 3204

This matter was generated by two complaints filed by Kelly Addy, Speaker Pro Tempore of the Montana House of Representatives and by Roger M. Witten, counsel for Common Cause. The two matters were merged into a single MUR by the Federal Election Commission ("the Commission") on May 21, 1991.

The Federal Election Campaign Act of 1971, as amended ("the Act"), provides that no person shall make contributions to any federal candidate that aggregate in excess of $1,000 per election and that no multicandidate political committee shall make such contributions that aggregate in excess of $5,000 per election. 2 U.S.C. §§ 441a(a)(1)(A) and 441a(a)(2)(A). The Act defines contributions to include any gift of money, services or anything of value made for the purpose of influencing any federal election. 2 U.S.C. § 431(8)(A)(i). Commission regulations explain that "anything of value" includes any in-kind contribution or any gift of goods or services at less than the usual and normal charge for such goods or services. 11 C.F.R. § 100.7(a)(1)(iii).

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The Act further provides that any expenditure 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 a contribution to such candidate. 2 U.S.C. § 441a(a)(7)(B)(i). The Act prohibits the making and acceptance of corporate contributions or expenditures. 2 U.S.C. § 441b.

The Act also provides the national party committee and the state party committee with additional authority to make coordinated party expenditures on behalf of the party's nominees for the House and Senate. 2 U.S.C. § 441a(d)(3). The national party committee may also make such expenditures on behalf of its presidential nominee. 2 U.S.C. § 441a(d)(2). For 1988, the combined coordinated party expenditure limitation for Montana for the U.S. Senate election was $92,200. The national and state political party committees may authorize another committee, such as the National Republican Senatorial Committee, to make these coordinated party expenditures. DSCC v. FEC, 454 U.S. 27 (1980).

Commission regulations explain that expenditures made on behalf of more than one candidate shall be attributed to each candidate in proportion to the benefit reasonably expected to be derived and shall be so reported. 11 C.F.R. § 106.1(a). The regulations further explain, however, that expenditures for rent, personnel, overhead, general administrative, fundraising, and other day-to-day costs of political committees and for registration and get-out-the-vote (GOTV) drives need not be attributed to individual candidates unless the expenditures are

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made on behalf of a clearly identified candidate and the expenditure can be directly attributed to that candidate. 11 C.F.R. § 106.1(c).

Commission regulations permit unlimited transfers among committees of the same political party. 11 C.F.R. § 102.6(a)(1). In addition to filing periodic reports with the Commission, the Act also requires a state party committee to file copies of its federal reports with the appropriate state office. 2 U.S.C. § 439(a). Copies of such reports are to be filed at the same time as the reports are due to be filed with the Commission. 11 C.F.R. § 108.5.

The Act also exempts from the definition of contribution or expenditure certain payments by state and local political party committees on behalf of its candidates. These exempt payments include (1) the payments for the preparation and mailing of a printed slate card or sample ballot or other printed listing of three or more candidates; (2) the payments for campaign materials, such as pins, bumper stickers, handbills, brochures, posters, yard signs, and party tabloids used in connection with volunteer activities; and (3) the payments of the costs of voter registration and get-out-the-vote activities on behalf of the party's presidential nominee. 2 U.S.C. §§ 431(8)(B)(v), (x), and (xii).

Payments for these activities in connection with any broadcasting, newspaper, magazine, billboard, or similar type of general public communication or political advertising do not qualify for these exemptions. Furthermore, payments for direct

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mail do not qualify for the campaign materials and voter registration and GOTV exemptions, though payments for direct mail may qualify for the slate card exemption. Moreover, payments for campaign materials and voter registration and GOTV on behalf of the presidential nominee made from transfers from a national party committee will also not qualify for the exemption. Instead, such payments are treated as coordinated party expenditures. See 11 C.F.R. §§ 100.7(b)(15)(vii) and 100.7(b)(17)(vii). Payments for voter registration and GOTV on behalf of the presidential nominee that include references to Senate or House candidates are allocable to such candidates as a contribution or expenditure, unless the reference is incidental to the overall activity. 11 C.F.R. § 106.1(c)(3).

The Act also requires that communications that advocate the election or defeat of a clearly identified candidate and that are distributed through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public political advertising shall include a disclaimer stating who paid for the communication and, where the communication is made by other than an authorized political committee, whether it was authorized by the candidate. 2 U.S.C. § 441d. Communications that qualify for one of the exemptions to the definition of contribution and expenditure, however, may not require a disclaimer. See Advisory Opinion 1988-40.

The Addy complaint makes several allegations. It bases these allegations on three sources. The first source is a civil suit filed by Terry and Neida Merica, former employees of the

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Montana Republican Committee, against the Montana Republican Party, the NRSC, and certain individuals. The complaint by Terry and Neida Merica contains the following factual assertions. At a March 1, 1988, meeting there was a discussion on how to raise $150,000 for a voter identification project. The NRSC agreed to transfer $20,000 in four monthly installments of $5,000 each to hire a fundraiser. In April, Corey Lane was hired as the fundraiser, subject to NRSC approval. Terry Merica, the Executive Director of the Montana Republican Party, claims he questioned the legality of Lane's fundraising methods, especially regarding Montana law on corporate contributions. In a July 11, 1988, letter, Lane wrote to Ann Prestidge, an NRSC field agent, complaining about Terry Merica's interference with Lane's fundraising. Merica alleges that during this period, the NRSC was directing "the movement of substantial sums in and out of" state party accounts. He claims that whenever he questioned Prestidge's instructions, he was told by party chairperson Barbara Campbell to do as Prestidge said. He specifically refers to wire transfers to the James R. Foster and Associates ("Foster and Associates") for "direct mailings" on behalf of Burns, and refers to one $60,000 transfer and a dispute over $24,000 in bills from Foster and Associates. Neida Merica, administrative secretary for the Montana Republican Party, claims that she initially reported certain expenditures by the state party on Schedule F as coordinated party expenditures, but was directed by Prestidge to use Schedule B instead. With regard to the preparation of the July Quarterly Report, Neida Merica alleges

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that Prestidge told her to use "volunteer" on certain transactions. The complaint also quoted from a November 3, 1988, letter from Ward Shanahan, counsel to the state party, to Prestidge questioning her authority to issue directives to Terry Merica and from a November 8, 1988, memorandum to the state party complaining about actions by the national party committees including the NRSC, particularly with regard to incurring expenses in the name of the state party.

The second source of information relied upon by the complaint are news articles that appeared in the Montana press concerning the 1988 election of Conrad Burns to the United States Senate.[1]

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1. The following are excerpts of the factual statements and allegations in the news articles attached to the complaint.
Great Falls Tribune, December 15, 1989: Montana Republican Party reports show total receipts of $514,846 and total disbursements of $497,279 in 1988. They show receipts of $204,429 from the NRSC, $41,986 from the RNC, and $44,000 from the Colorado Republican Party and payments of $109,000 to the J.R. Foster Company for printing and close to $70,000 for postage. State Rep. Dennis Rehberg, former Burns campaign manager, is quoted as saying the Burns campaign had editorial control over half a dozen mailings but that the NRSC and the state party produced and distributed these mailings.
National Journal, January 6, 1990: The NRSC's transfers to Montana were the largest of 1988. Others with significant amounts were North Dakota ($87,741) and Wisconsin ($182,675). More than half of the NRSC's transfers were in last 20 days of the campaign. An October 7, 1988, transfer of $6,879 from the NRSC to the Montana Republican Party coincided by date and amount with the payment of $6,879.01 from the Montana Republican Party to the Foster Company. A later transfer of $32,110 was followed two days later with the payment of the same amount to Foster. Review of state party reports casts doubt on claims that it did not use NRSC transfers for the mailings since it apparently did not have sufficient funds from other sources to pay

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Foster and the postage costs.
Helena Independent Record, March 22, 1990: NRSC did not begin filing reports with Montana officials for 1988 until February 1990.
Livingston Enterprise, March 26, 1990: NRSC reported total coordinated expenditures of $91,495 on behalf of Burns but items add up to $107,319. NRSC reported paying only $4,050 to the Gary Lawrence Company, although it did daily tracking polls. The news article also referred to lack of reporting for $150,000 spent on a state voter identification project.
Great Falls Tribune, no date apparent: The article quotes State Rep. Rehberg to the effect that the Burns campaign got polling data from the NRSC but that the NRSC also withheld some data. Rehberg says the Burns campaign compiled a list of voters from various sources for the mailings but could not recall if the NRSC was a source. He said the Burns campaign had no control over what went on between the NRSC and the Montana Republican Party.
Billings Gazette, April 1, 1990: The NRSC transferred $137,898 to the Montana Republican Party in the last four weeks of the campaign and $10,100 after the election. The NRSC, RNC, and Colorado Republican Party transferred $182,000 in last four weeks. The Burns campaign also received $278,800 in contributions in the last 20 days of the campaign, much of it from PACs and out-of-state individuals.
Helena Independent Record, April 8, 1990: Republican candidates for statewide office were provided voter survey results to help plan campaign strategies with information compiled through a project conducted by the NRSC. The article quotes Elwood English, a former Burns campaign director, as saying he worked under NRSC supervision to help compile a voter identification list and said he thought it was carried out with national party funding. The article quotes Terry Merica as saying the state party did not pay for the survey. He said the state party gathered source documents and distributed the final product to legislators. The article quotes unnamed Republican campaign workers as saying the voter identification project involved a list of registered voters collected from county courthouses and follow-up telephone surveys to gauge the voters' political persuasions. The candidates were then provided with survey results that showed names, addresses, telephone numbers and scores indicating how inclined a voter might be to cast a Republican ballot. The article says the information was used for targeting

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The third source of information used by the complainant is copies of mailings by the Montana Republican Party in 1988.

The Common Cause complaint also relies on the Merica's civil lawsuit for its basis. The complaint reiterates the allegations in the Addy complaint that the NRSC transferred over $200,000 beyond the 1988 spending limits to the Montana Republican Party for the support of the Burns campaign. Additionally, the complaint alleges that the NRSC directed the Montana Republican Party to incur certain expenses and then report them as being volunteer exempt activity. The NRSC would then transfer funds to the Montana Republican Party to pay for these expenses. Many of the materials purchased in this manner allegedly advocated the election of Conrad Burns for Senate and George Bush and Dan Quayle for President/Vice President.

The Common Cause complaint also alleges that the Montana Republican Party spent over $109,000 for mailings on behalf of the Burns campaign from James R. Foster and Associates, and over

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mailings, seeking campaign volunteers, and conducting get-out-the-vote activities.
Butte Montana Standard, April 17, 1990: The NRSC transferred more funds to Montana in first three months of 1990 ($25,000) than in first six months of 1988 ($17,284).
Great Falls Tribune, April 18, 1990: National Republican groups funneled $196,729 in "bundled" contributions to Burns in 1988. The article quotes an NRSC spokesperson that 1986 methods were not used in 1988. The article notes reports that indicated the NRSC sent $132,100 in bundled contributions to Burns campaign from October 21 to November 8, 1988, the Midwestern Majority Committee sent $23,556, and the M & N Committee provided $41,072. The latter two committees raised money for Senate candidates and listed the same address as the NRSC.

$72,000 on postage for such mailings. However, the complaint further states that the Montana Republican Party did not have sufficient funds from non-NRSC sources to pay for these mailings and postage. If NRSC funds were used for all or a portion of these mailings, and since a commercial vendor was used, the volunteer exemption would not be applicable to this situation.

1. Transfers to State Party and "Volunteer" Mailings

The Addy complaint makes several allegations regarding mailings made by the Montana Republican Party on behalf of Conrad Burns and George Bush which it treated as volunteer exempt activity.[2]

First, the complainant alleges that the NRSC spent more than $150,000 for mailings on behalf of the Burns campaign "and then tried to conceal this excessive expenditure in the guise of an exempt State Party-funded project." He alleges that the state party's reports disclose transfers from the NRSC that coincide exactly as to dates and amounts with payments made by the state party to the "professional mailing house" of Foster and Associates of Carrollton, Texas, for these "mass mailings done on behalf of Burns."

He also alleges that the Montana Republican Party received a total of $204,429 from the NRSC, $41,986 from the RNC, and $44,000 from the Colorado Republican Party to make "illegal

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2. The complaint had these mailings attached to it: "Bush and Burns"; "Birds of a Feather"; "Friends" 1 (with coffee) and "Friends" 2 (with postcards); "Shame on You John Melcher"; "We Need Conrad Burns"; "Our Children...Our Future"; "One Thing Montanans Agree On"; "The Real Dukakis Story"; and "Best for the West."

expenditures on behalf of Burns." He specifically refers to transfers from the NRSC of $6,879.00, $32,110.00, and $4,956.00. He also cites the complaint filed by the Mericas in the wrongful discharge civil suit that alleges the NRSC and its agent, Ann Prestidge, controlled the use and disbursement of these NRSC transfers even after they were received by the state party.

He disputes any claim that these transfers were for "party building" activities and only freed up the state party's own funds, and cites the correlation of the transfers to the disbursements for the Burns mailing, the concentration of the transfers in the month prior to the election, and the inability of the state party to make the payments for the mailings without the transfers. He also alleges that "there is no evidence that volunteers were used for the mailings" since a commercial mailing house was used. The complainant disputes the claim that the mailings benefited all Republican candidates because the material itself only supported two candidates, Conrad Burns and George Bush.

The Common Cause complaint makes similar allegations as to transfers of funds from the NRSC to the Montana Republican Party to pay for direct mail and volunteer exempt activity.

A review of the reports filed by the NRSC, the RNC and the Colorado Republican Federal Campaign Committee confirm the alleged transfers to the Montana Republican Party. The NRSC transferred $204,429.19 to the Montana Republican Committee in 1988. Almost three-fourths of these transfers, 72 percent, were made during October and November, 1988. The total amount

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transferred by the NRSC constituted over one-third of the Montana Republican Party's receipts for the entire year. The RNC transferred $53,000 to the Montana Republican Party, all during the month of October, 1988. This figure is actually higher than the amount alleged in the complaint as having been transferred by the RNC. The Colorado Republican Federal Campaign Committee transferred $44,000 to the Montana Republican Party during a four day period from October 31 to November 3, 1988.

Several of the transfers made by the NRSC coincide exactly as to the date and amount with payments made by the Montana Republican Party to Foster and Associates. The complainants have identified this business as a direct mail vendor utilized by the Montana Republican Party on behalf of the Burns Committee. On October 7, 1988, the NRSC transferred $6,879 to the Montana Republican Party. On that same date, the state committee lists an expenditure of $6,879.01 to Foster and Associates. The NRSC transferred $4,956 to the state party committee on October 24, 1988. On the next day, the Montana Republican Party paid the same amount, $4,956 to Foster and Associates. On October 31, 1988, the NRSC transferred $32,110 to the state committee. The next day, November 1, 1988, the Montana Republican Party paid that same amount to Foster and Associates. Looking at the examples above, it appears that the Montana Republican Party was using funds transferred to it from the NRSC to pay for direct mail activities produced by a professional direct mail vendor.

Furthermore, it appears the Montana Republican Party did not have sufficient funds from non-NRSC sources to pay for its

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expenditures to this direct mail vendor and the postage for such items. On October 1, 1988, the Montana Republican Party reported having cash on hand of just over $46,000. During the next two months, the party raised almost $91,000 from sources other than the NRSC. However, during that same time period, the Montana Republican Party paid $109,553.01 to Foster and Associates to prepare its mailings, and spent $72,568.95 on postage to pay for those mailings. The Montana Republican Party spent $182,121.96 for its mailings and postage, yet it only had access to approximately $137,000 in non-NRSC funds. Thus, there is reason to believe that the NRSC transferred funds to the Montana Republican Party to pay for commercially prepared mailings and the accompanying postage. Such commercial mailings are not entitled to the volunteer exemption, and national party funds cannot be used for such activity. Since these mailings were not entitled to the volunteer exemption, they are reportable coordinated expenditures which resulted in excessive coordinated expenditures by the NRSC on behalf of the Burns Committee. It appears that the Montana Republican Party was being used as an agent by the NRSC to pay for at least a portion of the mass mailings in question. Even if the Montana Republican Party had sufficient non-NRSC funds on hand to cover the total costs of the mailings (which it did not), the amounts and dates of the transfers from the NRSC still indicate that these funds were transferred to the state party for the purpose of paying for these mailings. Additionally, the allegations contained in the civil suit filed by the Mericas state that these funds from the

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NRSC, once transferred to the state party, were still in fact controlled and directed by the NRSC agent, Ann Prestidge. This allegation has not been refuted by the Montana Republican Party in its response.

These expenditures by the Montana Republican Party were not reported as contributions or expenditures on behalf of the Burns or Bush campaigns. The complainants allege that the state party listed these expenditures as "volunteer exempt" activities. The Montana Republican Party has not addressed this allegation. Commission regulations prohibit the use of national party funds for volunteer exempt mailings. Additionally, the volunteer exemption is not available for "direct mail" produced by a commercial vendor. It appears in this case that funds from the NRSC, which were funneled through the state party, were used to pay for at least a portion of the costs of the mailings by Foster and Associates.

The NRSC asserts that it, as a national party committee, is allowed to make unrestricted transfers to a state party for it to use as it sees fit. It did not address the allegations concerning transfers of amounts which matched exactly with amounts paid to a commercial vendor. The NRSC also claims that Commission regulations restrict only those party funds which are specifically designated for use in connection with exempt volunteer activity. The NRSC states that because the complaints have provided no evidence that NRSC funds were designated for such a purpose, any payments by the state party for volunteer activities should be presumptively legal. The NRSC also appears

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to be claiming that even if the funds it transferred to the state party were in fact used for direct mail activity, this is not a violation of the Act on its part because it did not specifically designate those funds for that purpose.

The Montana Republican Party states that the Act permits unlimited transfers between party committees of the same political party. It indicates that the state party believes the mailings which it paid for on behalf of the Burns campaign are entitled to the volunteer exemption from expenditure limits. The state party goes on to state that it had a cash balance on hand of $42,309.49 on October 1, 1988, and that the party raised $90,849.49 from non-NRSC sources from that time until the election. The Montana Republican Party asserts that it had this entire total, $131,158.89, available to use for volunteer exempt activities. However, as already noted above, this claim does not match with the expenditures reported by the Montana Republican Party on its reports. First of all, the cash on-hand balance actually reported by the Montana Republican Party for October 1, 1988 was $46,012.50. Secondly, while the state party may claim that it had a total of $131,158.89 on hand from non-NRSC sources during this period, the state party actually spent $182,121.96 on the mailings and postage during that same period. It appears that NRSC funds were used for at least a portion of these expenditures. The Montana Republican Party also asserts that volunteers were involved in all aspects of the mailings in question, but fails to explain how the volunteers were utilized in conjunction with the work performed by the commercial vendor

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which produced this direct mail, Foster and Associates.

Commission regulations prohibit the use of national party funds for volunteer exempt activities. In addition, the regulations disqualify direct mail activity which utilizes a commercial vendor from the volunteer exemption. The state party asserts that volunteers were involved in every mailing in question. However, the state party has not provided any proof or evidence that volunteers were involved in any aspect whatsoever of this direct mail process which utilized a commercial vendor. While the NRSC claims that none of the funds it transferred to the Montana Republican Party were specifically designated to pay for volunteer exempt commercial mailings, the factual evidence is sufficient to infer that the amounts were transferred for the specific purpose of paying for all or part of those mailings.

It should be remembered that the Montana Republican Party designated its spending authority to the NRSC for this election. The NRSC reports that it spent $91,494.72 in coordinated expenditures on behalf of the Burns Committee, leaving only $505.28 available for coordinated expenditures. The NRSC also reported making contributions to the Burns Committee totaling $17,477.54, leaving only $22.46 available for contributions. If these mailings are not entitled to the volunteer exemption, then the amounts paid for those mailings will necessarily result in excessive expenditures, regardless of whether they are viewed as contributions or coordinated expenditures.

Therefore, there is reason to believe that the Montana Republican Party violated 2 U.S.C. § 441a(f) by making excessive

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coordinated expenditures on behalf of the Burns and Bush campaigns. Additionally, there is reason to believe that the Montana Republican Party violated 2 U.S.C. § 434(b) by misreporting these expenditures.

2. Lack of Disclaimer

The Addy complaint alleges that the mailings on behalf of Burns, while indicating they were paid for by the Montana Republican Party, failed to state whether or not they were authorized by the candidate. Copies of the mailings which were provided with the complaint reveal that most of the mailings carry the following disclaimer: "Paid for by the Montana State Central Committee." Two of the mailings, the "Bush and Burns" mailing and the "Shame on You John Melcher" mailing, do not appear to have any disclaimer at all.

The Montana Republican Party acknowledges that the mailings did not contain a direct authorization from the candidate. The party states, however, that the mailings are clearly identified as originating from the Montana Republican State Central Committee. The state party fails to address the fact that two of the mailings which accompanied the complaint appear to have no disclaimer at all.

The mailings provided with the complaint fail to state whether the document was or was not authorized by the candidate. Two of the mailings appear to contain no disclaimer at all. Since there is reason to believe that these mailings are not entitled to the volunteer exemption, the lack of a proper disclaimer is a violation of the Act.

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Therefore, there is reason to believe that the Montana Republican Party violated 2 U.S.C. § 441d by failing to include a disclaimer stating whether the mailings paid for by the state party were authorized by the candidate

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 3204

INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS

TO: Montana Republican State Central Committee
Shirley J. Warehime, as treasurer
c/o Charles E. Erdmann, Esquire
Erdmann Law Office
P.O. Box 5418
Helena, Montana 59604

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

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INSTRUCTIONS

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

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

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

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

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

Unless otherwise indicated, the discovery request shall refer to the time period from January 1, 1988 to December 31, 1989.

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

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DEFINITIONS

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

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

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

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INTERROGATORIES AND REQUEST FOR DOCUMENTS

1. Explain in detail all volunteer involvement in the mailings on behalf of Conrad Burns' 1988 campaign for the U.S. Senate for which the Montana Republican State Central Committee (Montana Republican Party) paid. Identify all such volunteers by name, the number of volunteers involved in each task, and describe exactly their involvement in preparing and sending these mailings for the Burns campaign. Explain how the activities of the volunteers were coordinated with the work performed by James R. Foster and Associates, or any other commercial vendor, in preparing and sending such mailings. Produce any and all documents which reflect such volunteer involvement in the mailings.

2. State whether or not funds from the Montana Republican Party were the sole source of payment for the direct mailings by James R. Foster and Associates.

3. State whether or not funds obtained by the Montana Republican Party from the National Republican Senatorial Committee (NRSC) were used to pay for all or any portion of the direct mailings by James R. Foster and Associates for the Burns campaign. Explain the basis for your assertion that NRSC funds were not used for all or a portion of the payments made by the Montana Republican Party for the Burns mailings. Produce any and all documents which support your contention.

4. Several monetary transfers made by the NRSC to the Montana Republican Party coincide as to amount and date with payments made by the Montana Republican Party to James R. Foster and Associates (i.e. $6,879 on October 7, 1988; $4,956 on October 24, 1988; $32,110 on October 31, 1988). State why the NRSC made transfers in these specific dollar amounts to the Montana Republican Party on these particular dates. State whether or not any employee or agent of the Montana Republican Party had requested the NRSC to make these transfers. State whether any employee or agent of the NRSC was aware that amounts identical to these transfers were being paid by the Montana Republican Party to James R. Foster and Associates. State whether or not any employee or agent of the NRSC was aware that these transfers were being used by the Montana Republican Party to pay for direct mail activity.

5. Describe in detail the Voter Identification Project conducted by the Montana Republican Party for the 1988 election. Identify the source of all funds used in conducting this project. Explain the role of Corey Lane in conducting this project, including Lane's status as an employee of the Montana Republican Party and the source of funds used to pay his salary and expenses.

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6. Explain whether or not the Voter Identification Project was the same project as the Montana Republican Party's compiling and then enhancing a Montana voter list, as discussed in the affidavits of Robert Bissen. If not, explain the differences between the two projects. Explain the role of outside vendors in conducting both of these projects, identifying such vendors and the amounts paid to such vendors. **Produce** all documents which pertain to the role of outside vendors in these two projects.

7. State whether the Montana Republican Party made any payments to Campaign Telecommunications of New York, New York, during 1988. If so, identify the dates and amounts of all such payments, and explain the purpose of each such payment. **Produce** all documents relating to such payments.

8. State whether or not the Montana Republican Party paid any outside vendors for the use of the voter lists and/or Voter Identification Project during 1988. If so, identify the vendors paid, and the amounts and dates such payments were made. **Produce** all documents which show such payments.

9. State whether or not the following persons were employees of the Montana Republican Party during 1988: Elwood English, Ken Knudson, and Tom Hannah. If so, state each person's position, dates of employment, and salary paid to him. Identify the source of funds used to pay the salaries of above-referenced persons.

10. Explain the role and involvement of Ann Prestidge with the Montana Republican Party during the 1988 primary and general elections. Identify her position, and describe her activities as they related to the Montana Republican Party and/or the Burns campaign. State whether any employees of the Montana Republican Party reported to or were supervised by Prestidge during 1988 and, if so, identify all such employees by name and current address.

11. Describe Terry Merica's duties while employed as the Executive Director of the Montana Republican Party, including his role in working with the NRSC and the Burns Committee during the 1988 elections. Identify Terry Merica's immediate supervisor, providing current address and telephone number. Describe Neida Merica's duties while employed by the Montana Republican Party. Identify Neida Merica's immediate supervisor, providing current address and telephone number.

12. State whether the Montana Republican Party maintains seperate accounts for its federal and non-federal activities and, if so, identify each such account and explain how the seperate accounts were maintained and utilized by the Montana Republican Party during the 1988 elections.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 31, 1991

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

RE: MUR 3204 (formerly
MUR 3087 and MUR 3204)
Conrad Burns/US Senate and
Jim Swain, as treasurer

Dear Mr. Messick:

On July 20, 1990, the Federal Election Commission notified your clients, Conrad Burns/US Senate and Jim Swain, as treasurer, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to your clients at that time. This matter was designated MUR 3087.

On December 27, 1990, the Commission notified your clients of another complaint alleging violations of certain sections of the Act. A copy of the complaint was forwarded to your clients at that time. This matter was designated MUR 3204.

Upon further review of the allegations contained in the complaints, and information supplied by your clients, the Commission, on May 21, 1991, found that there is reason to believe Conrad Burns/US Senate and Jim Swain, as treasurer, violated 2 U.S.C. § 441a(f), a provision of the Act. The Commission also found no reason to believe that your clients violated 2 U.S.C. § 441b. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information. The Commission further merged these two matters into one, now designated as MUR 3204.

Under the Act, you have an opportunity to demonstrate that no action should be taken against Conrad Burns/US Senate and Jim Swain, as treasurer. You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office, along with answers to the enclosed questions, within 15 days of receipt of this letter. Where appropriate, statements should be submitted under oath.

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In the absence of any additional information demonstrating that no further action should be taken against Conrad Burns/US Senate and Jim Swain, as treasurer, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

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

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

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

Sincerely,

Joan D. Aikens

Joan D. Aikens
Vice Chairman

Enclosures
Interrogatories and Request for Documents
Factual & Legal Analysis

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Conrad Burns/US Senate and Jim Swain, as treasurer

MUR 3204

This matter was generated by two complaints filed by Kelly Addy, Speaker Pro Tempore of the Montana House of Representatives, and by Roger M. Witten, counsel for Common Cause. The two matters were merged into a single MUR by the Federal Election Commission ("the Commission") on May 21, 1991.

The Federal Election Campaign Act of 1971, as amended ("the Act"), provides that no person shall make contributions to any federal candidate that aggregate in excess of $1,000 per election and that no multicandidate political committee shall make such contributions that aggregate in excess of $5,000 per election. 2 U.S.C. §§ 441a(a)(1)(A) and 441a(a)(2)(A). The Act defines contributions to include any gift of money, services or anything of value made for the purpose of influencing any federal election. 2 U.S.C. § 431(8)(A)(i). Commission regulations explain that "anything of value" includes any in-kind contribution or any gift of goods or services at less than the usual and normal charge for such goods or services. 11 C.F.R. § 100.7(a)(1)(iii).

The Act further provides that any expenditure made by any person in cooperation, consultation, or concert with or at the request or suggestion of a candidate, his authorized political

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committees, or their agents shall be considered a contribution to such candidate. 2 U.S.C. § 441a(a)(7)(B)(i). The Act prohibits the making and acceptance of corporate contributions or expenditures. 2 U.S.C. § 441b.

The Act also provides the national party committee and the state party committee with additional authority to make coordinated party expenditures on behalf of the party's nominees for the House and Senate. 2 U.S.C. § 441a(d)(3). The national party committee may also make such expenditures on behalf of its presidential nominee. 2 U.S.C. § 441a(d)(2). For 1988, the combined coordinated party expenditure limitation for Montana for the U.S. Senate election was $92,200. The national and state political party committees may authorize another committee, such as the National Republican Senatorial Committee, to make these coordinated party expenditures. DSCC v. FEC, 454 U.S. 27 (1980).

Commission regulations explain that expenditures made on behalf of more than one candidate shall be attributed to each candidate in proportion to the benefit reasonably expected to be derived and shall be so reported. 11 C.F.R. § 106.1(a). The regulations further explain, however, that expenditures for rent, personnel, overhead, general administrative, fundraising, and other day-to-day costs of political committees and for registration and get-out-the-vote (GOTV) drives need not be attributed to individual candidates unless the expenditures are made on behalf of a clearly identified candidate and the expenditure can be directly attributed to that candidate. 11 C.F.R. § 106.1(c).

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With regard to the allocation of polling expenses, Commission regulations require that opinion poll results which are purchased by a political committee are to be treated as a contribution in-kind by the purchasing committee and as an expenditure by the candidate or candidate's authorized committee which accepts the poll results. 11 C.F.R. § 106.4(b). In addition, the amount of the contribution attributable to the recipient candidate or committee are to be allocated using one of the formulas provided at 11 C.F.R. § 106.4(e).

The Act requires contributions that are earmarked to a candidate through any intermediary or conduit to be reported to the recipient candidate and the Commission with the name of the original source and treats them as contributions from the original source. 2 U.S.C. § 441a(a)(8). Commission regulations define earmarking and explain the reporting requirements for earmarked contributions. 11 C.F.R. § 110.6. These regulations further explain that the conduit's or intermediary's contribution limitations are not affected by passing along an earmarked contribution unless the conduit or intermediary has exercised direction or control over the choice of the recipient candidate. If direction or control exists, then the contribution is considered as made by both the original contributor and the conduit or intermediary. 11 C.F.R. § 110.6(d).

The Addy complaint makes several allegations. He has based these allegations on three sources. The first source is a civil suit filed by Terry and Neida Merica, former employees of the Montana Republican State Central Committee ("Montana Republican

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Party"), against the Montana Republican Party, the NRSC, and certain individuals.

The second source of information relied upon by the complaint are news articles that appeared in the Montana press concerning the 1988 election of Conrad Burns to the United States Senate.[1]

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1. The following are excerpts of the factual statements and allegations in the news articles attached to the complaint.
Great Falls Tribune, December 15, 1989: Montana Republican Party reports show total receipts of $514,846 and total disbursements of $497,279 in 1988. They show receipts of $204,429 from the NRSC, $41,986 from the RNC, and $44,000 from the Colorado Republican Party and payments of $109,000 to the J.R. Foster Company for printing and close to $70,000 for postage. State Rep. Dennis Rehberg, former Burns campaign manager, is quoted as saying the Burns campaign had editorial control over half a dozen mailings but that the NRSC and the state party produced and distributed these mailings.
National Journal, January 6, 1990: The NRSC's transfers to Montana were the largest of 1988. Others with significant amounts were North Dakota ($87,741) and Wisconsin ($182,675). More than half of the NRSC's transfers were in last 20 days of the campaign. An October 7, 1988, transfer of $6,879 from the NRSC to the Montana Republican Party coincided by date and amount with the payment of $6,879.01 from the Montana Republican Party to the Foster Company. A later transfer of $32,110 was followed two days later with the payment of the same amount to Foster. Review of state party reports casts doubt on claims that it did not use NRSC transfers for the mailings since it apparently did not have sufficient funds from other sources to pay Foster and the postage costs.
Helena Independent Record, March 22, 1990: NRSC did not begin filing reports with Montana officials for 1988 until February 1990.
Livingston Enterprise, March 26, 1990: NRSC reported total coordinated expenditures of $91,495 on behalf of Burns but items add up to $107,319. NRSC reported paying only $4,050 to the Gary Lawrence Company, although it did daily tracking polls. The news article also referred to lack of reporting for $150,000 spent on a state voter identification project.
Great Falls Tribune, no date apparent: The article

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(Footnote 1 continued from previous page)
quotes State Rep. Rehberg to the effect that the Burns campaign got polling data from the NRSC but that the NRSC also withheld some data. Rehberg says the Burns campaign compiled a list of voters from various sources for the mailings but could not recall if the NRSC was a source. He said the Burns campaign had no control over what went on between the NRSC and the Montana Republican Party.

Billings Gazette, April 1, 1990: The NRSC transferred $137,898 to the Montana Republican Party in the last four weeks of the campaign and $10,100 after the election. The NRSC, RNC, and Colorado Republican Party transferred $182,000 in last four weeks. The Burns campaign also received $278,800 in contributions in the last 20 days of the campaign, much of it from PACs and out-of-state individuals.

Helena Independent Record, April 8, 1990: Republican candidates for statewide office were provided voter survey results to help plan campaign strategies with information compiled through a project conducted by the NRSC. The article quotes Elwood English, a former Burns campaign director, as saying he worked under NRSC supervision to help compile a voter identification list and said he thought it was carried out with national party funding. The article quotes Terry Merica as saying the state party did not pay for the survey. He said the state party gathered source documents and distributed the final product to legislators. The article quotes unnamed Republican campaign workers as saying the voter identification project involved a list of registered voters collected from county courthouses and follow-up telephone surveys to gauge the voters' political persuasions. The candidates were then provided with survey results that showed names, addresses, telephone numbers and scores indicating how inclined a voter might be to cast a Republican ballot. The article says the information was used for targeting mailings, seeking campaign volunteers, and conducting get-out-the-vote activities.

Butte Montana Standard, April 17, 1990: The NRSC transferred more funds to Montana in first three months of 1990 ($25,000) than in first six months of 1988 ($17,284).

Great Falls Tribune, April 18, 1990: National Republican groups funneled $196,729 in "bundled" contributions to Burns in 1988. The article quotes an NRSC spokesperson that 1986 methods were not used in 1988. The article notes reports that indicated the NRSC sent $132,100 in bundled contributions to Burns campaign

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The third source of information used by the complainant is copies of mailings by the Montana Republican Party in 1988.

The Common Cause complaint also relies on the Merica's civil lawsuit for its basis. The complaint reiterates the allegations in the Addy complaint that the NRSC transferred over $200,000 beyond the 1988 spending limits to the Montana Republican Party for the support of the Burns campaign. Additionally, the complaint alleges that the NRSC directed the Montana Republican Party to incur certain expenses and then report them as being volunteer exempt activity. The NRSC would then transfer funds to the Montana Republican Party to pay for these expenses. Many of the materials purchased in this manner allegedly advocated the election of Conrad Burns for Senate and George Bush and Dan Quayle for President/Vice President.

The Common Cause complaint also alleges that the Montana Republican Party spent over $109,000 for mailings on behalf of the Burns campaign from James R. Foster and Associates, and over $72,000 on postage for such mailings. However, the complaint further states that the Montana Republican Party did not have sufficient funds from non-NRSC sources to pay for these mailings and postage. If NRSC funds were used for all or a portion of

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(Footnote 1 continued from previous page)
from October 21 to November 8, 1988, the Midwestern Majority Committee sent $23,556, and the M & N Committee provided $41,072. The latter two committees raised money for Senate candidates and listed the same address as the NRSC.

these mailings, and since a commercial vendor was used, the volunteer exemption would not be applicable to this situation.

1. Daily Tracking Polls

The Addy complaint alleges that the Burns campaign received daily tracking polls conducted by the Gary Lawrence Company of California. It alleges that the NRSC paid the full cost of these polls but reported only a $4,050 payment to the Gary Lawrence Company. It also disputes any claim that the poll could be "devalued" by holding the results because in his view daily tracking polls are "valuable only at the time the poll is taken." With regard to these polls, it alleges that (1) the Gary Lawrence Company made an excessive or, if incorporated, a prohibited contribution to the NRSC or the Burns campaign by not charging the fair market value for the polls; and (2) that the NRSC has made an excessive contribution or coordinated expenditure regarding the Burns campaign by providing the polling data to them at less than full fair market value.

The NRSC states that the $4,050 payment it made to the Gary Lawrence Company was for a "Participation in Montana Statewide Study". This study was conducted for the Burns' campaign, and the NRSC reported the sum as a coordinated expenditure on behalf of the Burns Committee. The NRSC response states that the complaint incorrectly "assumes" that this expenditure was for a tracking poll. A review of the NRSC's reports confirms that it reported this amount as a coordinated expenditure on October 21, 1988.

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The Gary Lawrence Company stated that the $4,050 payment from the NRSC to the Gary Lawrence Company cited in the complaint "was for survey research performed by the Gary Lawrence Company independent of the daily tracking discussed above." The Gary Lawrence Company further stated that it "did not undervalue its services; it charged the full fair market value for political polling services rendered to the NRSC between October 15, 1988 and November 6, 1988, and was paid in full for these services." It further adds:

> The Gary Lawrence Company entered into an oral agreement with the National Republican Senatorial Committee (NRSC) and the Republican Governors Association (RGA) to provide polling services for both organizations. Pursuant to the agreement, the Gary Lawrence Company charged $13.50 for the first 5 questions, and $.50 per question per person surveyed thereafter, and sent its invoices, pursuant to instructions from the NRSC and the RGA, to the RGA, which was handling the paperwork. This price structure was the same price the Gary Lawrence Company charged in neighboring North Dakota and in other tracking projects around the nation that year. Approximately two thirds of the questions that were eventually asked in the total project related to Montana Senatorial candidate Conrad Burns and one third related to the Gubernatorial candidate Stan Stephens. How the NRSC and the RGA allocated their respective amounts is beyond the responsibility of the Gary Lawrence Company to know or control.
>
> As shown by the enclosed documents, the Gary Lawrence Company sent out three invoices for the following amounts for its tracking work in Montana: $20,000 on October 24, 1988; $15,000 on November 2, 1988; and $15,100 on November 9, 1988. The $50,100 total was paid in full, most of it from the Republican National Committee (RNC), the party's umbrella organization. The RNC paid $49,650 and the Burns campaign paid $450 (for one shared tracking question). (The $18,600 shown on RNC check #012931 includes $15,000 for invoice #487 for Montana, plus $3,600 for a separate invoice for a separate North Dakota project.)

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Thus, it appears that the Gary Lawrence Company did not undervalue its services or make a prohibited corporate contribution for its polling services. It was paid in full a total of $50,100 for its work, pursuant to an oral agreement with the RNC and the NRSC.

The Gary Lawrence Company further states that two-thirds of the polling questions related to the Burns campaign. However, the Burns campaign paid only $450 of the total $50,100 owed to the Gary Lawrence Company. The RNC paid the remaining $49,650.

Therefore, there is no reason to believe that the Burns Committee violated 2 U.S.C. § 441b by accepting a corporate contribution from the Gary Lawrence Company.

2. Earmarked Contributions

The Addy complaint alleges that the NRSC "bundled" contributions to the 1988 Burns campaign as part of a program identical to that found to result in excessive contributions in Common Cause v. FEC, 729 F.Supp. 148 (D. D.C. 1990). He alleges the Burns campaign received $172,378 in such earmarked contributions.

A review of the NRSC's reports discloses that the Burns Committee received several large transfers from the NRSC of earmarked contributions late in the campaign: $50,000 on October 21; $1,000 on October 24; $40,000 on October 25; $500 on November 4; $40,000 on November 4, and $600 on November 5, 1988. These transfers totaled $132,100. It appears that these are the transfers which the complainant is referring to as having been

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"bundled" in an illegal manner. In addition, the Burns Committee appears to have received a total of $64,628.71 from two joint fundraisers: $41,072.46 from the M & N Committee; and $23,556.25 from the Midwestern Majority Committee. These two committees, both of which were authorized to conduct fundraising on behalf of the Burns Committee as well as other Republican candidates, both listed the NRSC's address as their own mailing addresses.

In a copy of a newspaper article which accompanied the complaint, NRSC spokeswoman Wendy DeMocker is quoted as saying she didn't know exactly how the NRSC bundled this money in 1988, but that: "My understanding is that whatever took place in 1986 has never taken place in subsequent years." See "National GOP Groups 'Bundled' To Aid Burns Campaign, Great Falls Tribune, April 18, 1990.

The NRSC states that the complainant has provided no evidence for his allegation of illegal bundling activity. The NRSC's Finance Director, Albert Mitchler, submitted an affidavit stating that the NRSC did not employ the same techniques in the 1988 Burns campaign which were found to be improper in the Common Cause v. F.E.C. case. However, neither the NRSC nor Mr. Mitchler's affidavit state exactly what techniques were in fact used by the NRSC in collecting and transferring earmarked contributions to the Burns campaign in 1988.

A review of reports filed by the NRSC and the Burns Committee indicates that the "bundled" contributions to which the complaint refers were contribution checks, assertedly earmarked

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for the Burns Committee, that were made payable to the NRSC and deposited into NRSC accounts. The NRSC, as conduit for these contributions, then reported that portion attributable to the Burns campaign and issued large dollar amount checks to the Burns Committee.

In its response to MUR 3087, the NRSC has stated that the fundraising methods used in these circumstances were different than those which were at issue in Common Cause v. F.E.C., but has not provided any information or details about the methods by which these earmarked contributions were solicited or transferred. Therefore, the NRSC has not directly refuted the allegation that it exercised direction or control over the funds which it transferred to the Burns Committee.

Additionally, the NRSC's payment for the costs of soliciting the earmarked contributions would constitute an in-kind contribution to the Burns Committee, and should have been properly reported. However, neither the NRSC or the Burns Committee reported such in-kind contributions, not did the Burns Committee report paying its share of such costs to the NRSC.

Therefore, there is reason to believe that the Burns Committee violated 2 U.S.C. § 441a(f) by accepting excessive contributions from the NRSC.

2043583168

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 3204

INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS

TO: Conrad Burns/US Senate and
Jim Swain, as treasurer
c/o Richard E. Messick, Esquire
Patton, Boggs & Blow
2550 M Street, N.W.
Washington, D.C. 20037

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

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INSTRUCTIONS

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

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

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

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

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

Unless otherwise indicated, the discovery request shall refer to the time period from January 1, 1988 to December 31, 1989.

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

2404358170

DEFINITIONS

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

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

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

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INTERROGATORIES AND REQUEST FOR DOCUMENTS

1. State whether or not the Burns Committee had any agreement, written or oral, to obtain daily tracking poll results from the Gary Lawrence Company of Santa Ana, California, during the 1988 general election campaign. State whether the Burns campaign received any tracking poll results from the Gary Lawrence Company during the 1988 general election. If so, identify what materials were received and how payment for such materials was made.

2. State whether the Burns Committee paid the Gary Lawrence Company for daily tracking poll results during the 1988 general election. If so, state the amount and date of such payments, and describe how such payments were reported to the Commission.

3. State whether the Burns Committee had an agreement, either written or oral, with the Republican Governors' Association (RGA) regarding daily tracking polls conducted by the Gary Lawrence Company during the 1988 general election. **Produce** any such written agreement. Describe and explain any such agreement in detail. Identify the employee(s) or agent(s) of the RGA with whom such agreement was arranged. State whether any payments were made by the RGA to the Gary Lawrence Company on behalf of the Burns Committee for daily tracking polls during the 1988 general election.

4. Identify what percentage of questions contained in the daily tracking polls conducted by the Gary Lawrence Company during the 1988 general election pertained to the Burns campaign. **Produce** a copy of the questions or the script used in conducting such tracking polls.

5. State whether the Burns Committee received any daily tracking poll results from any source during the 1988 general election. If so, identify the source of all such results by name and address, and list the dates such results were received. List all payments made by the Burns Committee for daily tracking polls, identifying the appropriate payee or vendor, date and amount of each such payment.

6. State whether the Burns Committee had any agreement, either written or oral, with the National Republican Senatorial Committee (NRSC) by which the NRSC solicited and forwarded contributions earmarked for the 1988 Burns Senate campaign. If so, explain the details of how such agreement operated, and how the costs of such solicitations attributable to the Burns

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Committee were paid and reported by the Burns Committee. **Produce** all such agreements and all documents which relate to such agreements and payments. **Produce** copies of all NRSC solicitations which sought contributions on behalf of the Burns Committee.

7. State whether the Burns Committee had any agreement, either written or oral, with the M&N Committee and/or the Midwestern Majority Committee by which these organizations solicited and forwarded contributions earmarked for the 1988 Burns Senate campaign. If so, explain the details of how each such agreement operated, and how the costs of such solicitations attributable to the Burns Committee were paid and reported by the Burns Committee. **Produce** all such agreements and all documents relating to such agreements and payments. **Produce** copies of all solicitations by these organizations which sought contributions on behalf of the Burns Committee.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 31, 1991

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Elwood English
540 Avenue B, #1
Helena, Montana 59601

RE: MUR 3204

Dear Mr. English:

The Federal Election Commission has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended, and Chapters 95 and 96 of Title 26, United States Code. The attached Interrogatories and Request for Production of Documents are being issued to you in connection with an investigation the Commission is conducting. The Commission does not consider you a respondent in this matter, but rather a witness only.

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

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

9404358174

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

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosure
Interrogatories and Request for Documents

9404358317 5

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 3204

INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS

TO: Elwood English
540 Avenue B, #1
Helena, Montana 59602

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

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INSTRUCTIONS

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

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

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

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

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

Unless otherwise indicated, the discovery request shall refer to the time period from January 1, 1988 to December 31, 1989.

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

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DEFINITIONS

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"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.

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"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

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INTERROGATORIES AND REQUEST FOR DOCUMENTS

1. State whether you were employed by the Montana Republican State Central Committee (Montana Republican Party) during 1988. If so, state your title and position, the dates of your employment, and your immediate supervisor. Describe your duties as an employee of the Montana Republican Party. Identify and explain all payments made to you, including salary and expense reimbursements, by the Montana Republican Party during 1988. Produce all records in your possession relating to said employment and payments.

2. State whether you were employed by the National Republican Senatorial Committee (NRSC) during 1988. If so, state your title and position, the dates of employment, and your immediate supervisor. Describe you duties as an employee of the NRSC. Identify and explain all payments made to you, including salary and expense reimbursements, by the NRSC during 1988. Produce all records in your possession relating to said employment and payments.

3. Describe all work you performed for the benefit of the 1988 Conrad Burns/U.S. Senate campaign. Include dates, supervisors, and a description of the nature of the work.

4. Describe the role of Ann Prestidge during 1988 as it related to the Montana Republican Party and/or the Conrad Burns/U.S. Senate campaign. State whether or not you ever received instructions or were otherwise supervised by Ann Prestidge or any other employee or agent of the NRSC during 1988. If so, identify who provided such supervision and describe the project or work involved. State whether any other employees of the Montana Republican Party were supervised or otherwise given instructions by Prestidge during 1988. If so, state the name of the employee, last known address, and a brief description of the nature of the work and instructions they were given.

5. Describe the role of Terry Merica during 1988 as it related to his role as Executive Director of the Montana Republican Party. Describe any supervision you were given by Merica.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 31, 1991

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Tom Hannah
2228 Beliot
Billings, Montana 59102

RE: MUR 3204

Dear Mr. Hannah:

The Federal Election Commission has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended, and Chapters 95 and 96 of Title 26, United States Code. The attached Interrogatories and Request for Production of Documents are being issued to you in connection with an investigation the Commission is conducting. The Commission does not consider you a respondent in this matter, but rather a witness only.

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

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

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

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosure
Interrogatories and Request for Documents

2404358318

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 3204

INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS

TO: Tom Hannah
2228 Beliot
Billings, Montana 59102

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

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INSTRUCTIONS

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

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

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9404358184

INTERROGATORIES AND REQUEST FOR DOCUMENTS

1. State whether you were employed by the Montana Republican State Central Committee (Montana Republican Party) during 1988. If so, state your title and position, the dates of your employment, and your immediate supervisor. Describe your duties as an employee of the Montana Republican Party. Identify and explain all payments made to you, including salary and expense reimbursements, by the Montana Republican Party during 1988. Produce all records in your possession relating to said employment and payments.

2. State whether you were employed by the National Republican Senatorial Committee (NRSC) during 1988. If so, state your title and position, the dates of employment, and your immediate supervisor. Describe you duties as an employee of the NRSC. Identify and explain all payments made to you, including salary and expense reimbursements, by the NRSC during 1988. Produce all records in your possession relating to said employment and payments.

3. Describe all work you performed for the benefit of the 1988 Conrad Burns/U.S. Senate campaign. Include dates, supervisors, and a description of the nature of the work.

4. Describe the role of Ann Prestidge during 1988 as it related to the Montana Republican Party and/or the Conrad Burns/U.S. Senate campaign. State whether or not you ever received instructions or were otherwise supervised by Ann Prestidge or any other employee or agent of the NRSC during 1988. If so, identify who provided such supervision and describe the project or work involved. State whether any other employees of the Montana Republican Party were supervised or otherwise given instructions by Prestidge during 1988. If so, state the name of the employee, last known address, and a brief description of the nature of the work and instructions they were given.

5. Describe the role of Terry Merica during 1988 as it related to his role as Executive Director of the Montana Republican Party. Describe any supervision you were given by Merica.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 31, 1991

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ken Knudson
111-B 5th Street, North
Great Falls, Montana 59403

RE: MUR 3204

Dear Mr. Knudson:

The Federal Election Commission has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended, and Chapters 95 and 96 of Title 26, United States Code. The attached Interrogatories and Request for Production of Documents are being issued to you in connection with an investigation the Commission is conducting. The Commission does not consider you a respondent in this matter, but rather a witness only.

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

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

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

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosure
Interrogatories and Request for Documents

9404358318 7

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 3204

INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS

TO: Ken Knudson
111-B 5th Street, North
Great Falls, Montana 59403

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

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INSTRUCTIONS

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

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

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

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

Unless otherwise indicated, the discovery request shall refer to the time period from January 1, 1988 to December 31, 1989.

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

9404358319

DEFINITIONS

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

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

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

9404358190

INTERROGATORIES AND REQUEST FOR DOCUMENTS

1. State whether you were employed by the Montana Republican State Central Committee (Montana Republican Party) during 1988. If so, state your title and position, the dates of your employment, and your immediate supervisor. Describe your duties as an employee of the Montana Republican Party. Identify and explain all payments made to you, including salary and expense reimbursements, by the Montana Republican Party during 1988. Produce all records in your possession relating to said employment and payments.

2. State whether you were employed by the National Republican Senatorial Committee (NRSC) during 1988. If so, state your title and position, the dates of employment, and your immediate supervisor. Describe you duties as an employee of the NRSC. Identify and explain all payments made to you, including salary and expense reimbursements, by the NRSC during 1988. Produce all records in your possession relating to said employment and payments.

3. Describe all work you performed for the benefit of the 1988 Conrad Burns/U.S. Senate campaign. Include dates, supervisors, and a description of the nature of the work.

4. Describe the role of Ann Prestidge during 1988 as it related to the Montana Republican Party and/or the Conrad Burns/U.S. Senate campaign. State whether or not you ever received instructions or were otherwise supervised by Ann Prestidge or any other employee or agent of the NRSC during 1988. If so, identify who provided such supervision and describe the project or work involved. State whether any other employees of the Montana Republican Party were supervised or otherwise given instructions by Prestidge during 1988. If so, state the name of the employee, last known address, and a brief description of the nature of the work and instructions they were given.

5. Describe the role of Terry Merica during 1988 as it related to his role as Executive Director of the Montana Republican Party. Describe any supervision you were given by Merica.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 31, 1991

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Corey Lane
P.O. Box 5582
Helena, Montana 59601

RE: MUR 3204

Dear Mr. Lane:

The Federal Election Commission has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended, and Chapters 95 and 96 of Title 26, United States Code. The attached Interrogatories and Request for Production of Documents are being issued to you in connection with an investigation the Commission is conducting. The Commission does not consider you a respondent in this matter, but rather a witness only.

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

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

9404358392

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

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosure
Interrogatories and Request for Documents

2404358319 3

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 3204

INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS

TO: Corey Lane
P.O. Box 5582
Helena, Montana 59601

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

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INSTRUCTIONS

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

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

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

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

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

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DEFINITIONS

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"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.

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"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

9404358196

INTERROGATORIES AND REQUEST FOR DOCUMENTS

1. State whether you were employed by the Montana Republican State Central Committee (Montana Republican Party) during 1988. If so, state your title and position, the dates of your employment, and your immediate supervisor. Describe your duties as an employee of the Montana Republican Party.

2. Describe in detail the Voter Identification Project conducted by the Montana Republican Party for the 1988 elections. Identify the source of all funds used in conducting this project. Explain your role in conducting this project, including your status as an employee of the Montana Republican Party and the source of funds used to pay your salary and expenses.

3. Explain whether or not the Voter Identification Project was the same project as the Montana Republican Party's compiling and then enhancing a Montana voter list. If not, explain the differences between the two projects. Explain the role of outside vendors in conducting both of these projects, identifying such vendors and the amounts paid to such vendors. Produce all documents which pertain to the role of outside vendors in these two projects.

4. State whether you were employed by the National Republican Senatorial Committee (NRSC) during 1988. If so, state your title and position, the dates of employment, and your immediate supervisor. Describe you duties as an employee of the NRSC.

5. State whether or not you ever received instructions or were otherwise supervised by Ann Prestidge or any other employee or agent of the NRSC during 1988. If so, identify who provided such supervision and describe the project or work involved.

6. State whether or not the Montana Republican Party paid any outside vendors for the use of the voter lists and/or Voter Identification Project during 1988. If so, identify the vendors paid, and produce all documents in your possession relating to such payments.

7. Describe all work you performed for the benefit of the 1988 Conrad Burns Senate campaign. Identify such activities, the approximate dates they were performed, and who paid your salary and expenses for such work.

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8. Explain the role and involvement of Ann Prestidge with the Montana Republican Party during the 1988 primary and general elections. Identify her position, and describe her activities as they related to the Montana Republican Party and/or the Burns campaign. State whether any employees of the Montana Republican Party reported to or were supervised by Prestidge during 1988 and, if so, identify all such employees by name and current address.

9. Describe Terry Merica's duties while employed as the Executive Director of the Montana Republican Party, including his role in working with the NRSC and the Burns Committee during the 1988 elections.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 31, 1991

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

James Goetz, Esquire
Goetz, Madden and Dunn
35 North Grand
Bozeman, Montana 59715

RE: MUR 3204

Dear Mr. Goetz:

The Federal Election Commission has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended, and Chapters 95 and 96 of Title 26, United States Code. The attached Interrogatories and Request for Production of Documents are being issued to your clients Terry and Neida Merica in connection with an investigation the Commission is conducting. The Commission does not consider your clients to be respondents in this matter, but rather as witnesses only.

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

Your clients are required to submit the information within 15 days of your receipt of this letter. All answers to questions must be submitted in writing and under oath.

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

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosure
Interrogatories and Request for Documents

9404358199

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 3204

INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS

TO: Terry Merica
c/o James Goetz, Esquire
Goetz, Madden and Dunn
35 North Grand
Bozeman, Montana 59715

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

9404358320

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 3204

INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS

TO: Neida Merica
c/o James Goetz, Esquire
Goetz, Madden and Dunn
35 North Grand
Bozeman, Montana 59715

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

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INSTRUCTIONS

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INTERROGATORIES AND REQUEST FOR DOCUMENTS

1. Describe in detail your duties and responsibilities as Executive Director of the Montana Republican State Central Committee (Montana Republican Party) during 1988. Identify your immediate supervisor by name and current address.

2. Describe in detail the Voter Identification Project conducted by the Montana Republican Party for the 1988 elections. Identify the source of all funds used in conducting this project. Explain your role in conducting this project. Explain the role of the National Republican Senatorial Committee (NRSC) in this project. Explain the roles of Ann Prestidge and Corey Lane in this project.

3. Explain whether or not the Voter Identification Project was the same project as the Montana Republican Party's compiling and then enhancing a Montana voter list. If not, explain the differences between the two projects. Explain the role of outside vendors in conducting both of these projects, identifying such vendors and the amounts paid to such vendors. **Produce** all documents which pertain to the role of outside vendors in these two projects.

4. State whether or not you ever received instructions or were otherwise supervised by Ann Prestidge or any other employee or agent of the NRSC during 1988. If so, identify who provided such supervision and describe the projects or work involved. **Produce** all documents related to such supervision or instructions.

5. State whether or not the Montana Republican Party paid any outside vendors for the use of the voter lists and/or Voter Identification Project during 1988. If so, identify the vendors paid, and **produce** all documents in your possession relating to such payments.

6. Describe all work you performed for the benefit of the 1988 Conrad Burns Senate campaign. Identify all such activities and the approximate dates they were performed.

7. Describe the role of Ann Prestidge during 1988 as it related to the Montana Republican Party. Give specific examples where possible of her involvement in state party activities during 1988. State whether you have any knowledge of Prestidge instructing Montana Republican Party employees regarding the completion and filing of reports with the Federal Election Commission and, if so, describe such knowledge, giving names and dates of the persons involved.

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8. State whether or not the following persons were employees of the Montana Republican Party during 1988: Elwood English, Ken Knudson, and Tom Hannah. If so, state the title and position held by each person, dates of employment, immediate supervisor's name, and describe the duties and work performed by each. Explain who paid the salaries and expenses of the above-mentioned persons.

9. State whether you have given any depositions in your civil case styled Terry Merica and Neida Merica v. Barbara Campbell, The Montana Republican Party, Ann Prestidge, and the National Republican Senatorial Committee. If so, please produce copies of all such depositions.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 31, 1991

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Campaign Telecommunications
1556 3rd Avenue, Suite 209
New York, NY 10128

RE: MUR 3204

Dear Sir or Madam:

The Federal Election Commission has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended, and Chapters 95 and 96 of Title 26, United States Code. The attached Interrogatories and Request for Production of Documents are being issued to you in connection with an investigation the Commission is conducting. The Commission does not consider you a respondent in this matter, but rather a witness only.

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

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

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

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosure
Interrogatories and Request for Documents

7404358207

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 3204

INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS

TO: Campaign Telecommunications
1556 3rd Avenue, Suite 209
New York, NY 10128

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

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INSTRUCTIONS

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

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INTERROGATORIES AND REQUEST FOR DOCUMENTS

1. Identify and fully explain all work you performed for the Montana Republican State Central Committee in connection with the 1988 general election in Montana. State the nature of all such work performed, and the total costs which you billed for such work. Identify who paid said bill. Produce copies of all documents which relate to the Montana Republican State Central Committee during the 1988 general election, including the compilation of voter lists and phone banks.

2. Identify and fully explain all work you performed for the election of Conrad Burns to the United States Senate during the 1988 general election. State the nature of all such work performed, and the total costs which you billed for such work. Identify who paid said bill. Produce copies of all documents which relate to the Burns campaign, including the compilation of voter lists and phone banks.

3. Identify and fully explain all work you performed for the election for the National Republican Senatorial Committee (NRSC) in Montana during the 1988 general election. State the nature of all such work performed, and the total costs which you billed for such work. Identify who paid said bill. Produce copies of all documents which relate to the 1988 Montana elections, including the compilation of voter lists and phone banks.

4. Identify all payments you received from the Montana Republican State Central Committee for work performed in connection with the 1988 general election. State the date and amount of each such payment, and identify the particular product or work performed for which each payment was made. Produce all records showing such payments from the Montana Republican State Central Committee.

5. Identify all payments you received from the Conrad Burns Committee for work performed in connection with the 1988 general election. State the date and amount of each such payment, and identify the particular product for which each payment was made. Produce all records showing such payments from the Conrad Burns Committee.

6. Identify all payments you received from the NRSC for work performed in connection with the 1988 general election. State the date and amount of each such payment, and identify the particular product or work performed for which each payment was made. Produce all records showing such payments from the NRSC.

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7. State whether or not your company had any agreement, written or oral, with the NRSC, the Montana Republican State Central Committee, the Conrad Burns/U.S. Senate Committee, or any employee or agent thereof, regarding work to be performed for the 1988 Conrad Burns Senate election in Montana. If so, describe such agreement and produce all documents relating to such agreement.

9. Produce all correspondence you received from the NRSC, the Montana Republican Party, and the Burns Committee relating to the 1988 Conrad Burns Senate campaign.

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FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

May 31, 1991

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

James R. Foster
President, James R. Foster & Associates
2828 East Trinity Mills Road, Suite 318
Carrollton, Texas 75006

RE: MUR 3204

Dear Mr. Foster:

The Federal Election Commission has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended, and Chapters 95 and 96 of Title 26, United States Code. The attached Interrogatories and Request for Production of Documents are being issued to you in connection with an investigation the Commission is conducting. The Commission does not consider you a respondent in this matter, but rather a witness only.

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

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

2043583213

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

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosure
Interrogatories and Request for Documents

9404358321 4

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 3204

INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS

TO: James R. Foster, President
James R. Foster and Associates
2828 East Trinity Mills Road; Suite 318
Carrollton, Texas 75006

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

2043583215

INSTRUCTIONS

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

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

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

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

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

Unless otherwise indicated, the discovery request shall refer to the time period from January 1, 1988 to December 31, 1989.

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

9 4 0 4 3 5 8 3 2 1 6

DEFINITIONS

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

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

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

9404358321 7

INTERROGATORIES AND REQUEST FOR DOCUMENTS

1. Identify and fully explain all work you performed for the Montana Republican State Central Committee in connection with the 1988 general election. State the nature of all such work performed, and the total costs which you billed for such work. Produce copies of all such printed products and/or direct mail pieces which you produced for the Montana Republican State Central Committee during the 1988 general election.

2. Identify and fully explain all work you performed for the election of Conrad Burns to the United States Senate during the 1988 general election. State the nature of all such work performed, and the total costs which you billed for such work. Produce copies of all such printed products and/or direct mail pieces which you produced for Conrad Burns during the 1988 general election.

3. Identify all payments you received from the Montana Republican State Central Committee for work performed in connection with the 1988 general election. State the date and amount of each such payment, and identify the particular product or work performed for which each payment was made. Produce all records showing such payments from the Montana Republican State Central Committee.

4. Identify all payments you received from the Conrad Burns Committee for work performed in connection with the 1988 general election. State the date and amount of each such payment, and identify the particular product for which each payment was made. Produce all records showing such payments from the Conrad Burns Committee.

5. Identify the person or organization which paid your company for the direct mail work you performed for the Conrad Burns campaign in 1988. State the amounts paid for such work, and the dates such payments were made. Produce all records showing such payments.

6. State whether or not your company had any agreement, written or oral, with Ann Prestidge or the National Republican Senatorial Committee (NRSC), or any employee or agent thereof, regarding work to be performed for the 1988 Conrad Burns Senate election in Montana. If so, produce all documents relating to such agreement.

9 4 0 4 3 5 8 3 2 1 8

7. Describe in a step-by-step manner the process by which your company produced and mailed direct mailings on behalf of Conrad Burns in 1988. State which steps in this process were conducted on your company property, and which steps were conducted outside of company property.

8. State whether or not you have any first-hand knowledge of volunteers being involved in the production and mailing of direct mail for the Conrad Burns campaign during the 1988 general election. If so, identify the employee(s) with such knowledge, and describe the particular volunteer involvement.

9. **Produce** all correspondence you received from the NRSC, the Montana Republican Party, and the Burns Committee relating to the 1988 Conrad Burns Senate campaign.

9404358321 9

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 31, 1991

J. Stanley Huckaby
c/o Bush/Quayle '88
228 South Washington Street
Alexandria, Virginia 22314

RE: MUR 3204
(formerly MUR 3087)
Bush/Quayle '88 and
J. Stanley Huckaby,
as treasurer

Dear Mr. Huckaby:

On July 20, 1990, the Federal Election Commission notified Bush/Quayle '88 and you, as treasurer, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act").

On May 21, 1991, the Commission found, on the basis of the information in the complaint, and information provided by you, that there is no reason to believe Bush/Quayle '88 violated any provision of the Act on the basis of the complaint filed in MUR 3087. Accordingly, the Commission closed its file in this matter as it pertains to Bush/Quayle '88 and you, as treasurer.

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

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

9404358322O

you wish to waive confidentiality under 2 U.S.C. § 437g(a)(12)(A), written notice of the waiver must be submitted to the Commission. Receipt of the waiver will be acknowledged in writing by the Commission.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

9404358322 1

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 31, 1991

Gregory R. Schwandt, Esquire
Church, Harris, Johnson & Williams
P.O. Box 1645
Great Falls, Montana 59403

RE: MUR 3204
(formerly MUR 3087)
Montanans for Marlenee and
Douglas N. Wilson, III,
as treasurer

Dear Mr. Schwandt:

On July 20, 1990, the Federal Election Commission notified your clients, Montanans for Marlenee and Douglas N. Wilson, III, as treasurer, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act").

On May 21, 1991, the Commission found, on the basis of the information in the complaint, and information provided by your clients, that there is no reason to believe Montanans for Marlenee and Douglas N. Wilson, III, as treasurer, violated any provision of the Act on the basis of the complaint filed in MUR 3087. Accordingly, the Commission closed its file in this matter as it pertains to Montanans for Marlenee and Douglas N. Wilson, III, as treasurer.

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

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

2043583222

you wish to waive confidentiality under 2 U.S.C. § 437g(a)(12)(A), written notice of the waiver must be submitted to the Commission. Receipt of the waiver will be acknowledged in writing by the Commission.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

2404358322 3

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 31, 1991

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

RE: MUR 3204
(formerly MUR 3087)
Colorado Republican Federal
Campaign Committee and
Douglas L. Jones, as treasurer

Dear Mr. Ginsberg:

On July 20, 1990, the Federal Election Commission notified your clients, the Colorado Republican Federal Campaign Committee and Douglas L. Jones, as treasurer, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act").

On May 21, 1991, the Commission found, on the basis of the information in the complaint, and information provided by your clients, that there is no reason to believe the Colorado Republican Federal Campaign Committee and Douglas L. Jones, as treasurer, violated any provision of the Act on the basis of the complaint filed in MUR 3087. Accordingly, the Commission closed its file in this matter as it pertains to the Colorado Republican Federal Campaign Committee and Douglas L. Jones, as treasurer.

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

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

2043583224

you wish to waive confidentiality under 2 U.S.C. § 437g(a)(12)(A), written notice of the waiver must be submitted to the Commission. Receipt of the waiver will be acknowledged in writing by the Commission.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

9404358322 25

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 31, 1991

James J. Fenlason
104 East Main Street, Suite 408
Bozeman, Montana 59715

RE: MUR 3204
(formerly MUR 3087)
Friends of Jim Fenlason
for Congress

Dear Mr. Fenlason:

On July 20, 1990, the Federal Election Commission notified Friends of Jim Fenlason for Congress of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act").

On May 21, 1991, the Commission found, on the basis of the information in the complaint, and information provided by you, that there is no reason to believe Friends of Jim Fenlason for Congress violated any provision of the Act on the basis of the complaint filed in MUR 3087. Accordingly, the Commission closed its file in this matter as it pertains to Friends of Jim Fenlason for Congress.

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

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

2043583226

you wish to waive confidentiality under 2 U.S.C. § 437g(a)(12)(A), written notice of the waiver must be submitted to the Commission. Receipt of the waiver will be acknowledged in writing by the Commission.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

9404358322 7

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 31, 1991

Cary Davidson, Esquire
Reed & Davidson
888 West Sixth Street, 12th Floor
Los Angeles, California 90017

RE: MUR 3204
(formerly MUR 3087)
Gary Lawrence Company

Dear Mr. Davidson:

On July 20, 1990, the Federal Election Commission notified your client, Gary Lawrence Company, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act").

On May 21, 1991, the Commission found, on the basis of the information in the complaint, and information provided by your client, that there is no reason to believe the Gary Lawrence Company violated any provision of the Act on the basis of the complaint filed in MUR 3087. Accordingly, the Commission closed its file in this matter as it pertains to the Gary Lawrence Company.

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

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

9404358322 8

you wish to waive confidentiality under 2 U.S.C. § 437g(a)(12)(A), written notice of the waiver must be submitted to the Commission. Receipt of the waiver will be acknowledged in writing by the Commission.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

2404358322 9

MBC1486

ERDMANN LAW OFFICE
1134 BUTTE AVENUE
HELENA, MONTANA 59604

(406) 442-8813
FAX (406) 442-8839

CHARLES E. ERDMANN II
CATHERINE M. SWIFT

MAILING ADDRESS
P. O. BOX 5418
HELENA, MONTANA 59604

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
91 JUN 10 PM 3:13

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM
91 JUN 10 AM 11:14

June 6, 1991

Lawrence M. Noble
General Counsel
Federal Election Commission
Attn: John Canfield, Associate
General Counsel
999 E Street N.W.
Washington, D.C. 20463

Re: MUR 3204 (Formerly MUR 3087 and MUR 3204) - Montana Republican State Central Committee and Shirley J. Warehime, as Treasurer

Dear Mr. Noble:

On Wednesday, June 5, 1991, I received a letter from the Federal Election Commission regarding MUR 3087 and MUR 3204, now merged as MUR 3204. That letter states that, upon further review of the allegations contained in the complaints and information supplied by my clients, the Commission found that there is reason to believe that the Montana Republican State Central Committee and Shirley J. Warehime, as treasurer, violated 2 U.S.C. Section 441a(f), Section 441d and Section 434(b), all provisions of the Act.

I am hereby requesting an extension of 30 days in which to respond to this matter on behalf of the Committee and Ms. Warehime. The Montana Republican Party is currently in transition from one General Counsel to another, and after June 7, 1991, I will no longer represent the Party. All materials regarding this matter will be transferred to the new General Counsel in the near future and the 15-day response deadline, under the current circumstances, will not provide sufficient time for the new General Counsel to respond.

Thank you for your consideration of this request.

Sincerely,

Charles E. Erdmann

/vlm

2404358320

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 11, 1991

Charles E. Erdmann, Esquire
Erdmann Law Office
1134 Butte Avenue
Helena, Montana 59604

RE: MUR 3204
Montana Republican State
Central Committee and
Shirley J. Warehime,
as treasurer

Dear Mr. Erdmann:

This is in response to your letter dated June 6, 1991, which we received on June 10, 1991, requesting an extension of 30 days to respond to the Commission's Interrogatories and Request for Documents in the above-referenced matter. After considering the circumstances presented in your letter, I have granted the requested extension. Accordingly, your response is due by the close of business on July 22, 1991.

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

Sincerely,

Lawrence M. Noble
General Counsel

BY: George F. Rishel
Assistant General Counsel

2043583231

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 12, 1991

Bryon Gallik, Esquire
Goetz, Madden and Dunn
35 North Grand
Bozeman, Montana 59715

RE: MUR 3204

Dear Mr. Gallik:

This is in response to your telephone call of June 11, 1991, requesting an extension of 30 days to respond to the Commission's Interrogatories and Request for Documents in the above-referenced matter on behalf of your clients Terry and Neida Merica. After considering the circumstances of your request, I have granted the requested extension. Accordingly, your response is due by the close of business on July 22, 1991.

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

Sincerely,

Lawrence M. Noble
General Counsel

George F. Rishel

BY: George F. Rishel
Assistant General Counsel

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0bc 1522

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

TRT TELEX: 197780
TELECOPIER: 457-6315

WRITER'S DIRECT DIAL
(202) 457-6523

June 13, 1991

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
91 JUN 13 AM 11:16

VIA HAND DELIVERY

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

Re: MUR 3204

Dear Mr. Noble:

This is to request a thirty-day extension to reply to the Commission's May 31, 1991, letter requesting information on the above-captioned matter.

The Burns Committee has already begun compiling the requested information. The problem is that some of the information is in the hands of individuals that are not readily available to the Committee. Some are former employees and some are now travelling. The Committee will do everything it can to expedite the collection of this information and its presentation to the Commission, but given the number of people that have to be contacted, the Committee cannot be sure that it will be able to locate all these individuals and obtain the required information in anything less than 30 days. Of course, should the information be collected sooner, the Committee will file its response sooner.

Thank you for your attention to this request.

Sincerely,

Richard E. Messick

REM:nec
cc: John Canfield, Esq.
Office of the General Counsel
Federal Election Commission

2404358323

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 13, 1991

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

RE: MUR 3204
Conrad Burns/ US Senate
and Jim Swain, as treasurer

Dear Mr. Messick:

This is in response to your letter dated June 13, 1991, requesting an extension of 30 days to respond to the Commission's Interrogatories and Request for Documents in the above-referenced matter. After considering the circumstances presented in your letter, I have granted the requested extension. Accordingly, your response is due by the close of business on July 22, 1991.

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

Sincerely,

Lawrence M. Noble
General Counsel

BY: George F. Rishel
Assistant General Counsel

2404358323 4

06-C1547

Republican
National
Committee

Benjamin L. Ginsberg
Chief Counsel

Michael A. Hess
Janice P. Lacy
Deputy Chief Counsels

June 14, 1991

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
91 JUN 14 PM 3:59

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

Attn: John Canfield

Re: MUR 3204
Republican National Committee
and William J. McManus, as
treasurer

Dear Mr. Noble:

We are requesting an extension of thirty days to submit our response to the interrogatories and request for production of documents in the above-captioned matter, making the new due date July 18, 1991. This extension is necessary due to the travel schedule of legal staff, as well as the time involved in seeking documents from 1988-89 to respond to the documents request.

Thank you for your consideration.

Sincerely,

Benjamin L. Ginsberg

2404358235

Dwight D. Eisenhower Republican Center • 310 First Street Southeast • Washington, D.C. 20003 • (202) 863-8638
Telex: 701144 • FAX: (202) 863-8820

00C1368

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM
91 JUN 17 AM 10:10

WILEY, REIN & FIELDING

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

FACSIMILE
(202) 429-7049
TELEX 248349 WYRN UR

JAN WITOLD BARAN
(202) 429-7330

June 13, 1991

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

ATTN: John Canfield

Re: MUR 3204 (Formerly MUR 3087 and MUR 3204
National Republican Senatorial Committee and
James L. Hagen, as Treasurer

Dear Mr. Noble:

This office represents the National Republican Senatorial Committee ("NRSC") and James L. Hagen, as Treasurer, in Matter Under Review ("MUR") 3204 (formerly MUR 3087 and MUR 3204).

The scheduled date for our client's response to the Commission's reason to believe findings and its discovery requests in MUR 3204 is June 18, 1991. However, because this matter involves allegations dating back to the 1988 election cycle, the responses to the Commission's discovery requests require our office to communicate with various individuals who were employed by the NRSC at that time. Of the individuals who were employed by NRSC in 1988 who may have knowledge of facts relevant to the allegations in this matter, none are currently NRSC employees. Accordingly, it has become necessary to track down these persons through their current residence or place of employment.

Therefore, I respectfully request a 30-day extension to and including July 18, 1991, in which to respond to the Commission's findings and its discovery requests. Because this matter involves allegations relating to the 1988 election cycle, this extension will not prejudice the resolution of this matter in any way.

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
91 JUN 17 PM 3:40

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Your favorable consideration of this request will be appreciated.

Sincerely yours,

Jan Witold Baran

cc: Mr. James L. Hagen
Jay Velasquez, Esq.

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[redacted]

June 17, 1991

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
91 JUN 18 PM 3:20

Mr. John Canfield, Esq.
Federal Election Commission
Washington, DC 20463

Re: MUR 3204

Dear Sir:

In reply to the interrogatories served on this firm, Campaign Communications, Inc. ("Campaign") by [redacted] dated [redacted], Campaign hereby responds as follows:

3. Campaign conducted a political telemarketing survey on behalf of the National Republican Senatorial Committee in connection with the 1988 general election in Montana. Employees of Campaign called individuals whose names and telephone numbers were supplied to Campaign. Employees of Campaign called the individuals and asked them a series of questions concerning their political choice in the 1988 general election. The results of the telemarketing survey are attached hereto. Campaign's fee for the telemarketing survey in connection with the 1988 general election in Montana wa $7,152.73. As far as we know, Campaign's fee was paid by the National Republican Senatorial Committee.

[redacted] Suite 202 [redacted]

5. To its knowledge, Campaign did not receive any payment from the National Republican State Senatorial Committee for work performed in connection with the 1988 general election.

6. Our records reflect that Campaign received two checks from Conrad Burns/U.S. Senate General Election fund: check no. 1460, dated October 20, 1988 in the amount of $965.11, and check no. 1350, dated October 1, 1988 in the amount of $3,784.80, copies of which are attached hereto. Both of these checks were given in payment for the political telemarketing survey conducted by Campaign on behalf of Conrad Burns.

7. Our records reflect that Campaign Telecommunications received $15,131.60 from the National Republican Senatorial Committee. Payment was made on October 25, 1988, check no. 27543. This check was in payment for telemarketing services provided by Campaign in connection with both the Montana and Wyoming general elections. Of the total $15,131.60, $7,132.73 was allocable to the Montana 1988 general elections. Of the total $15,131.60, $7,132.73 was allocable to the Montana 1988 general election. A copy of check no. 27543 is attached hereto.

8. Campaign did not have any written agreements with any [illegible]. Attached hereto is a summary of the total of $2,750 paid/accrued by employees of Campaign.

9. Attached hereto are copies of Steve, Investor, and a summary of telephone calls relating to the 1988 Conrad Burns Senate Campaign.

Very truly yours,

CAMPAIGN TELECOMMUNICATIONS, INC.

By: _____
Steven Goldberg, President

CAMPAIGN TELECOMMUNICATIONS
INCORPORATED

October 18, 1988

MONTANA PROJECT
Attention: Jill Jackson

Re: Phone Program

INVOICE

32,758 Completed Calls $18,999.64

Total Amount Due Upon Receipt.

received Burns
- 2366.00 marlence
- ~~3787.80~~ Burns
- 965.11 Burns
- 4,731.00 RGA
- 7152.73 MT

$ 18,999.64

Please remit to: Campaign Telecommunications Inc.
1556 Third Avenue, Suite 209
New York, New York 10128

Thank You.

[IMP1018]

9404358324O

MONTANA PROJECT

TOTAL C.D. #1 + C.D. #2

Montana

DATE	10/6	10/7	10/8	10/9	10/10	10/11	10/12	CUME
INT REFUSE	39	36	50	31	82	135	241	614
Q.1								
BUSH	813	665	507	584	761	827	1386	5,543
DUKAKIS	673	551	417	489	630	667	1061	4,488
UNDECIDED	624	733	463	705	719	663	992	4,899
REFUSED	515	541	376	568	567	684	1083	4,334
Q.2								
BURNS	541	480	345	423	510	642	1042	3,983
MELCHER	1077	998	727	954	1178	1073	1758	7,765
UNDECIDED	462	429	300	381	408	389	643	3,012
REFUSED	535	542	375	573	542	646	1064	4,277
BAD #'S	89	82	70	93	200	424	876	1,834
NA\BY\CB	2101	2156	1531	2040	2329	3176	5653	18,986
TOT. HRS.	115.25	85.25	67.5	86.75	109.75	127.75	213.25	805.50
TOT. COMP.	2,664	2,526	1,813	2,377	2,759	2,976	4,763	19,878
TOT. DIALS	4,854	4,764	3,414	4,510	5,288	6,576	11,292	40,698
COMP. RATE	23.12	29.63	26.86	27.40	25.14	23.30	22.34	24.68
DIAL RATE	42.12	55.88	50.58	51.99	48.18	51.48	52.95	50.53
% DIS/NIS	3%	3%	4%	4%	7%	13%	16%	8%

DATE	10/13	10/14	10/15					CUME
INT REFUSE	208	156	1	0	0	0	0	979
Q.1								
BUSH	1904	1718	79	0	0	0	0	9,244
DUKAKIS	1392	1281	52	0	0	0	0	7,213
UNDECIDED	1590	1379	32	0	0	0	0	7,900
REFUSED	1685	1378	25	0	0	0	0	7,422
Q.2								
BURNS	1457	1246	51	0	0	0	0	6,737
MELCHER	2339	1471	90	0	0	0	0	11,665
UNDECIDED	1004	895	25	0	0	0	0	4,936
REFUSED	1687	1337	24	0	0	0	0	7,325
BAD #'S	763	685	3	0	0	0	0	3,285
NA\BY\CB	7536	8512	203	0	0	0	0	35,237
TOT. HRS.	278.75	261	8.25	0	0	0	0	1353.50
TOT. COMP.	6,779	5,912	189	0	0	0	0	32,758
TOT. DIALS	15,078	15,109	395	0	0	0	0	71,280
COMP. RATE	24.32	22.65	22.91	DIV 0	DIV 0	DIV 0	DIV 0	24.20
DIAL RATE	54.09	57.89	47.88	DIV 0	DIV 0	DIV 0	DIV 0	52.66
% DIS/NIS	10%	10%	2%	DIV 0	DIV 0	DIV 0	DIV 0	9%

MONTANA PROJECT

C.D. #1

DATE	10/6	10/7	10/8	10/9	10/10	10/11	10/12	CUME
INT REFUSE	23	3	20	10	15	55	118	244
Q.1								
BUSH	441	357	275	261	141	420	640	2,535
DUKAKIS	374	306	234	235	151	327	547	2,174
UNDECIDED	351	372	229	336	124	305	476	2,193
REFUSED	273	249	183	268	137	322	489	1,921
Q.2								
BURNS	285	229	219	192	106	328	520	1,879
MELCHER	586	558	365	445	192	496	787	3,429
UNDECIDED	282	230	170	196	96	204	331	1,509
REFUSED	282	254	189	269	134	287	490	1,905
BAD #'S	37	32	42	45	87	221	374	838
NA\BY\CB	1165	1243	758	965	668	1535	2546	8,880
TOT. HRS.	63.75	41.25	33.5	40	26.75	64	104.5	373.75
TOT. COMP.	1,462	1,287	941	1,110	568	1,429	2,270	9,067
TOT. DIALS	2,664	2,562	1,741	2,120	1,323	3,185	5,190	18,785
COMP. RATE	22.93	31.20	28.09	27.75	21.23	22.33	21.72	24.26
DIAL RATE	41.79	62.11	51.97	53.00	49.46	49.77	49.67	50.26
% DIS/NIS	3%	2%	4%	4%	13%	13%	14%	9%

DATE	10/13	10/14						CUME
INT REFUSE	72	69						385
Q.1								
BUSH	898	826						4,259
DUKAKIS	749	693						3,616
UNDECIDED	817	736						3,746
REFUSED	903	676						3,500
Q.2								
BURNS	728	594						3,201
MELCHER	1129	1112						5,670
UNDECIDED	548	494						2,551
REFUSED	874	671						3,450
BAD #'S	431	417						1,686
NA\BY\CB	3738	3945						16,563
TOT. HRS.	143	128.25						645
TOT. COMP.	3,439	3,000	0	0	0	0	0	15,506
TOT. DIALS	7,608	7,362	0	0	0	0	0	33,755
COMP. RATE	24.05	23.39	DIV 0	DIV 0	DIV 0	DIV 0	DIV 0	24.04
DIAL RATE	53.20	57.40	DIV 0	DIV 0	DIV 0	DIV 0	DIV 0	52.33
% DIS/NIS	11%	12%	DIV 0	DIV 0	DIV 0	DIV 0	DIV 0	10%

MONTANA PROJECT

C.D. #2

DATE	10/6	10/7	10/8	10/9	10/10	10/11	10/12	CUME
INT REFUSE	16	33	30	21	67	80	123	370
Q.1								
BUSH	372	308	232	323	620	407	746	3,008
DUKAKIS	299	245	183	254	479	340	514	2,314
UNDECIDED	273	361	234	369	595	358	516	2,706
REFUSED	242	292	193	300	430	362	594	2,413
Q.2								
BURNS	256	251	126	231	404	314	522	2,104
MELCHER	491	440	362	509	986	577	971	4,336
UNDECIDED	180	199	130	185	312	185	312	1,503
REFUSED	253	288	186	304	408	359	574	2,372
BAD #'S	52	50	28	48	113	203	502	996
NA\BY\CB	936	913	773	1075	1661	1641	3107	10,106
TOT. HRS.	51.5	44	34	46.75	83	63.75	108.75	431.75
TOT. COMP.	1,202	1,239	872	1,267	2,191	1,547	2,493	10,811
TOT. DIALS	2,190	2,202	1,673	2,390	3,965	3,391	6,102	21,913
COMP. RATE	23.34	28.16	25.65	27.10	26.40	24.27	22.92	25.04
DIAL RATE	42.52	50.05	49.21	51.12	47.77	53.19	56.11	50.75
% DIS/NIS	4%	4%	3%	4%	5%	12%	17%	8%

DATE	10/13	10/14	10/15					CUME
INT REFUSE	136	87	1					594
Q.1								
BUSH	1006	892	79					4,985
DUKAKIS	643	588	52					3,597
UNDECIDED	773	643	32					4,154
REFUSED	782	702	25					3,922
Q.2								
BURNS	729	652	51					3,536
MELCHER	1210	359	90					5,995
UNDECIDED	456	401	25					2,385
REFUSED	813	666	24					3,875
BAD #'S	332	268	3					1,599
NA\BY\CB	3798	4567	203					18,674
TOT. HRS.	135.75	132.75	8.25					708.50
TOT. COMP.	3,340	2,912	189	0	0	0	0	17,252
TOT. DIALS	7,470	7,747	395	0	0	0	0	37,525
COMP. RATE	24.60	21.94	22.91	DIV 0	DIV 0	DIV 0	DIV 0	24.35
DIAL RATE	55.03	58.36	47.88	DIV 0	DIV 0	DIV 0	DIV 0	52.96
% DIS/NIS	9%	8%	2%	DIV 0	DIV 0	DIV 0	DIV 0	9%

CONRAD BURNS/U.S. SE [illegible]
GENERAL ELECTION FUND
P.O. BOX 5911
BILLINGS, MT 59103

1350

Oct 19 88

88-118/929

PAY TO THE ORDER OF Campaign Telecom $ 3784.80

Three thousand seven hundred eighty-four and 80/100 DOLLARS

EAST CITIZENS BANK
[illegible]

FOR

⑈001350⑈ ⑆092901191⑆ 649⑈30?⑈

9404358324 4

2404358 3245

CONRAD BURNS/U.S. SENATE
GENERAL ELECTION FUND
P. O. BOX 3311
BILLINGS, MT 59103

1460

83-119/929

Oct 20 1988

PAY TO THE ORDER OF Campaign Telecommunications $ 965.17

Nine hundred sixty-five + 17/100 DOLLARS

FIRST CITIZENS BANK
(406) 252-3551
1ST AVENUE NORTH AT BROADWAY
BILLINGS, MONTANA 59101

FOR

Jon Swain

⑈001460⑈ ⑆092901191⑆ 149⑈307⑈

NATIONAL REPUBLICAN SENATORIAL COMMITTEE

0435832462

27543

OUR REF. NO.	YOUR INVOICE NO.	INVOICE DATE	INVOICE AMOUNT	AMOUNT PAID	DISCOUNT TAKEN	NET CHECK AMOUNT
17687	CR	10/19/88	15,131.60	15,131.60	.00	
LIST DEVELOPMENT:						
01-CAMPAIGNT	1E-027543	10/25/88				15,131.60

NATIONAL REPUBLICAN SENATORIAL COMMITTEE
440 FIRST ST. N.W., SUITE 600
WASHINGTON, DC 20001

01-CAMPAIGNT:

BANK OF VIRGINIA
ARLINGTON, VA
68-408/560

27543

DATE	CONTROL NO.	AMOUNT
10/25/88	027543	****$15,131.60

PAY TO THE ORDER OF *****15,131 DOLLARS AND 60 CENTS

CAMPAIGN TELECOMMUNICATIONS
1556 3RD AVENUE, #208
NEW YORK N.Y. 10128

Gina Manore

⑈000275431⑈ ⑆056004089⑆ 651⑈7172927⑈

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 19, 1991

James R. Foster, President
James R. Foster and Associates
2828 E. Trinity Mills Road; Suite 318
Carrollton, Texas 75006

RE: MUR 3204

Dear Mr. Foster:

This is in response to your letter dated June 17, 1991, requesting an extension of 30 days to respond to the Commission's Interrogatories and Request for Documents in the above-referenced matter. After considering the circumstances presented in your letter, I have granted the requested extension. Accordingly, your response is due by the close of business on July 22, 1991.

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

Sincerely,

Lawrence M. Noble
General Counsel

George F. Rishel

BY: George F. Rishel
Assistant General Counsel

2404358324 7

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 18, 1991

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

Attention: Janice P. Lacy

RE: MUR 3204
Republican National Committee
and William J. McManus,
as treasurer

Dear Mr. Ginsberg:

This is in response to your letter dated June 14, 1991, requesting an extension of 30 days to respond to the Commission's Interrogatories and Request for Documents in the above-referenced matter. After considering the circumstances presented in your letter, I have granted the requested extension. Accordingly, your response is due by the close of business on July 18, 1991.

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

Sincerely,

Lawrence M. Noble
General Counsel

George F. Rishel

BY: George F. Rishel
Assistant General Counsel

9404358324 8

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 18, 1991

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

RE: MUR 3204
National Republican Senatorial
Committee and James L. Hagen,
as treasurer

Dear Mr. Baran:

This is in response to your letter dated June 13, 1991, requesting an extension of 30 days to respond to the Commission's Interrogatories and Request for Documents in the above-referenced matter. After considering the circumstances presented in your letter, I have granted the requested extension. Accordingly, your response is due by the close of business on July 18, 1991.

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

Sincerely,

Lawrence M. Noble
General Counsel

BY: George F. Rishel
Assistant General Counsel

2404358324 9

OBL1590

James R. Foster and Associates
Consultants in Direct Response

RECEIVED
FEDERAL ELECTIONS COMMISSION
SECRETARIAT
91 JUN 18 AM 11:47

Mr. John Canfield
Federal Elections Commission
Washington, D.C. 20463

RE: MUR 3204

Dear Mr. Canfield:

I spoke by telephone today with George Rishle in your office regarding an extension on your request for information regarding the above referenced matter.

Due to the fact I was out of town when your request arrived, I am unable to comply within the 15 day time period. However, if you can grant me an extension to July 22, 1991 I am confident we will be able to pull together the information you have requested.

As all of the information is 2 - 3 years old, it will take us several weeks to pull it together. Your understanding in this matter is greatly appreciated.

Sincerely,

James R. Foster
President

9404358325O

2828 E. Trinity Mills Road, Suite 318 • Carrollton, Texas 75006 • (214) 416-0133

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 19, 1991

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ken Knudson
3651 9th Avenue, South
Great Falls, Montana 59405

RE: MUR 3204

Dear Mr. Knudson:

The Federal Election Commission has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended, and Chapters 95 and 96 of Title 26, United States Code. The attached Interrogatories and Request for Production of Documents are being issued to you in connection with an investigation the Commission is conducting. The Commission does not consider you a respondent in this matter, but rather a witness only.

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

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

9404358325 1

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

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosure
Interrogatories and Request for Documents

2404358252

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 3204

INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS

TO: Ken Knudson
111-B 5th Street, North
Great Falls, Montana 59403

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

2043583253

INSTRUCTIONS

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

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

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

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

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

Unless otherwise indicated, the discovery request shall refer to the time period from January 1, 1988 to December 31, 1989.

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

9404358325 4

DEFINITIONS

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

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

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

9404358325

INTERROGATORIES AND REQUEST FOR DOCUMENTS

1. State whether you were employed by the Montana Republican State Central Committee (Montana Republican Party) during 1988. If so, state your title and position, the dates of your employment, and your immediate supervisor. Describe your duties as an employee of the Montana Republican Party. Identify and explain all payments made to you, including salary and expense reimbursements, by the Montana Republican Party during 1988. Produce all records in your possession relating to said employment and payments.

2. State whether you were employed by the National Republican Senatorial Committee (NRSC) during 1988. If so, state your title and position, the dates of employment, and your immediate supervisor. Describe you duties as an employee of the NRSC. Identify and explain all payments made to you, including salary and expense reimbursements, by the NRSC during 1988. Produce all records in your possession relating to said employment and payments.

3. Describe all work you performed for the benefit of the 1988 Conrad Burns/U.S. Senate campaign. Include dates, supervisors, and a description of the nature of the work.

4. Describe the role of Ann Prestidge during 1988 as it related to the Montana Republican Party and/or the Conrad Burns/U.S. Senate campaign. State whether or not you ever received instructions or were otherwise supervised by Ann Prestidge or any other employee or agent of the NRSC during 1988. If so, identify who provided such supervision and describe the project or work involved. State whether any other employees of the Montana Republican Party were supervised or otherwise given instructions by Prestidge during 1988. If so, state the name of the employee, last known address, and a brief description of the nature of the work and instructions they were given.

5. Describe the role of Terry Merica during 1988 as it related to his role as Executive Director of the Montana Republican Party. Describe any supervision you were given by Merica.

9404358325 6

FEDERAL ELECTION COMMISSION
WASHINGTON DC 20463

June 28, 1991

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Steven Goldberg, President
Campaign Telecommunications, Inc.
1556 3rd Avenue, Suite 209
New York, NY 10128

RE: MUR 3204

Dear Mr. Goldberg:

On June 18, 1991, the Federal Election Commission received your Answers to Interrogatories and Request for Documents submitted in the above-referenced matter. The attached Second Set of Interrogatories and Request for Production of Documents are being issued to you in connection with an investigation the Commission is conducting. The Commission does not consider you a respondent in this matter, but rather a witness only.

The Federal Election Commission has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended, and Chapters 95 and 96 of Title 26, United States Code. Because this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provision of 2 U.S.C. § 437g(a)(12)(A) applies. That section prohibits making public any investigation conducted by the Commission without the express written consent of the person with respect to whom the investigation is made. You are advised that no such consent has been given in this case.

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

9404358257

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

Sincerely,

Lawrence M. Noble
General Counsel

Lois G. Lerner
by LGL

BY: Lois G. Lerner
Associate General Counsel

Enclosure
Interrogatories and Request for Documents
(Second Set)

2404358325 8

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 3204

SECOND SET OF INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS

TO: Steven Goldberg, President
Campaign Telecommunications, Inc.
1556 3rd Avenue, Suite 209
New York, NY 10128

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

2043583259

INSTRUCTIONS

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

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

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

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

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

Unless otherwise indicated, the discovery request shall refer to the time period from January 1, 1988 to December 31, 1989.

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

9404358326O

DEFINITIONS

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

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

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

9404358326 1

SECOND SET OF
INTERROGATORIES AND REQUEST FOR DOCUMENTS

1. Identify all persons or organizations which supplied the names and telephone numbers to Campaign Telecommunications for use in making calls as part of the "telemarketing survey" for Conrad Burns and the National Republican Senatorial Committee in connection with the 1988 Montana general election. State whether these names and telephone numbers were supplied to Campaign Telecommunications in the form of lists and, if so, how such lists were arranged or organized. Identify all persons or organizations which prepared such lists. Identify all persons or organizations which paid for such lists of names and telephone numbers to be prepared or compiled.

2. State whether the "telemarketing survey" was one single event or activity, or whether the survey was divided between the Conrad Burns campaign and the National Republican Senatorial Committee. If the survey was divided, state in detail exactly how the survey activity was split between the Burns Campaign and the National Republican Senatorial Committee, and further describe how the costs and expenses of such survey were allocated. Explain the formula or basis by which such allocation was made.

3. In light of Campaign Telecommunications' prior response that it had an oral agreement with the National Republican Senatorial Committee, explain in detail how and why Campaign Telecommunications included questions concerning the Conrad Burns campaign in its "telemarketing survey", for which the Burns campaign paid $4,749.91. State whether Campaign Telecommunications had an agreement with either the Conrad Burns campaign or the National Republican Senatorial Committee by which the Burns campaign agreed or was committed to pay Campaign Telecommunications for telemarketing surveys. If so, describe the terms of such agreement. State whether Campaign Telecommunications had agreements with any other persons or organizations regarding telemarketing survey questions about the Burns campaign and, if so, identify all such persons and describe all such agreements.

7404358262

4. In its response to the Request for Documents, Campaign Telecommunications submitted an invoice addressed to the "Montana Project", dated October 18, 1988. Identify Jill Jackson, the person referred to on said invoice, and explain her role in the Montana telemarketing survey. Also, distinguish and describe each amount and name handwritten on said invoice, explaining how such figures were calculated. Identify the person or organization referred to as "RGA", and explain why it appears to owe Campaign Telecommunications $4,731. Identify the person or organization referred to as "MT", and explain why it appears to owe Campaign Telecommunications $7,152.73. Describe the formulas used to calculate such figures.

9404358326 3

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE SERVICES BRANCH
91 JUL -8 AM 11:08

July 3, 1991

MUR 3204

Federal Election Commission
Washington, D.C. 20463

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
91 JUL -8 PM 3:33

Dear Sirs:

This letter is sent in response to your letter of June 19, 1991, and is keyed to the Interrogatories and Request for Documents portion of that letter.

1. I was employed by the Montana Republican State Central Committee(Montana Republican Party) during 1988, during the period of approximately 10 August through 6 November 1988. I was recommended by Dennis Rehberg, and asked to perform this function, primarily because of my extensive work with the Ron Marlennee state campaign in 1986, and my work with the local/area Republican party. I was given no formal position title. In effect, I was the Great Falls area coordinator for the election of Conrad Burns to U.S. Senate, and to assist other Republicans toward their election in 1988. I had no immediate supervisor. My duties included, but were not limited to, the following:

a. To open and run an office in Great Falls for the Montana Republican Party and Victory '88 Campaign. This included locating/opening/operating an office in Great Falls with phones, administrative supplies, etc. I also solicited, organized, and managed volunteers to assist with the office/Republican candidates promotional efforts/work.

b. Assisting state and federal Republican candidates; primarily Conrad Burns, with their election campaigns. The local Young Republican group also assisted this office greatly in the fostering of campaigns for all candidates and in the distribution of election handouts/paraphernalia.

c. During this period, I was also Congressional Committeeman for the local Cascade County Republican Central Committee. Our office assisted Joe Briggs, Chairman, Cascade County Republican Central Committee, with volunteer assistance in the "Get Out The Vote Campaign" for all Republican candidates and in sending absentee ballots to personnel from this area. This also included assisting with the Senator Quayle visit on behalf of then candidate for President, George Bush, and other national/state candidates.

d. Pamphlets and mailing lists were received from all Republican Party sources to enable us to contact and solicit funding and other support Conrad Burns and other Republican candidates. Our office used phone and mailing lists extensively in our campaign office actions.

2404358326 4

I was paid $2500 per month for three months, a total of $7500 during my three months period of employment. I have no records of employment as I did not sign a contract. I was paid monthly by the Montana Republican Party by check and there were no pay stubs attached. I did not keep a duplicate copy of the checks and, thusly, have no records in my possession.

I did not keep a daily dairy of records and, just recently moved, and discarded, data that was in my file, with the exception of the enclosed absentee ballot letter.

2. I was not employed by the National Republican Senatorial Committee (NRSC) during 1988.

3. My work performed for the benefit of the Conrad Burns U.S. Senate campaign was extensive during the period. The nature of the work is expressed as delineated in paragraph one above. In addition, during the period, I drove/ accompanied Conrad Burns on two trips of three days duration each through Northwest Montana for meetings/visits to foster his election campaign. I was reimbursed to cover my expenses on these trips out by the Conrad Burns U.S. Senate campaign. I also attended meetings/visits with Conrad Burns during his pre-election trips to this area. My primary supervisor/point of contact with the Conrad Burns/U.S. Senate campaign was Tina Thomson from the Billings area office. Attached is a copy of campaign type mailing for Conrad Burns accomplished out of the Great Falls office. Similar mailings were made for other candidates in cooperation with the local Republican Central Committee.

4. I am not aware of the role of Ann Prestidge during 1988 as it related to the Montana Republican Party and/or the Conrad Burns/U.S. Senate campaign. I did not receive instructions and was not supervised by Ann Prestidge or any other employee or agent of the NRSC, to my knowledge, during 1988. I have no knowledge of any other employees of the Montana Republican Party being supervised or given instructions by Ann Prestidge during 1988.

5. Terry Merica was Executive Director of the Montana Republican Party during this time. He gave me no supervision in my duties.

Sincerely,

Ken Knudson

Ken Knudson
3651 9th Avenue South
Great Falls, MT 59405

2043583265

CONRAD BURNS ON THE ISSUES

WHEN YOU VOTE FOR MONTANA'S NEXT SENATOR, ASK YOURSELF: "WHICH CANDIDATE SHARES MY VIEWS ON IMPORTANT ISSUES?"

ON DRUGS AND CRIME

Which candidate supports the death penalty for drug lords and shares Montanans' view that we need to get tough with the drug traffickers who prey on our children?
ANSWER — CONRAD BURNS

Which candidate voted against the death penalty for drug kingpins and was among only a handful of Senators who voted against the 1986 Drug Bill which strengthened federal law against drug traffickers?
ANSWER — JOHN MELCHER

ON JOBS

Which candidate not only believes we must protect the jobs we have now, but will work to see that Montana also benefits from the economic recovery that has taken place across the country?
ANSWER — CONRAD BURNS. . . A Senator who will fight to create opportunity in Montana so our young people won't have to go elsewhere to find good jobs.

Which candidate has proposed diverting up to $20 million from farm programs which would eliminate jobs at Montana agricultural research centers and hurt our state's farmers.
ANSWER — JOHN MELCHER . . . A man who wants to use those tax dollars to aid agricultural programs in the Middle East

ON NATIONAL SECURITY

Which candidate knows that "peace through strength" is not just a phrase but a commitment to providing our servicemen and women with the equipment and technology they need to keep our nation strong and free?
ANSWER — CONRAD BURNS

Which candidate has opposed the build-up of America's strategic forces which brought the Soviets to the bargaining table and even urged the Philippine government to demand more money to house U.S. military bases?
ANSWER — JOHN MELCHER

ON THE ELDERLY

Which candidate will fight to protect the Social Security system and oppose those who want to balance the federal budget on the backs of our senior citizens?
ANSWER — CONRAD BURNS

Which candidate has voted to freeze the cost-of-living increase that Social Security recipients depend on to make ends meet?
ANSWER — JOHN MELCHER

ON GUN CONTROL

Which candidate believes every law-abiding American has the right to own a gun and will fight against liberal gun control efforts?
ANSWER — CONRAD BURNS

Which candidate has voted in favor of tougher restrictions for owning firearms?
ANSWER — JOHN MELCHER

ON CONTROLLING GOVERNMENT SPENDING

Which candidate not only voted to freeze his own salary as a public servant during a severe financial crisis, but also believes that paying U.S. Senators $89,000 per year is already too much?
ANSWER — CONRAD BURNS

Which candidate voted to increase his Senate salary, only one year after taking office and then opposed his colleagues' efforts to give back a $12,000 pay hike?
ANSWER — JOHN MELCHER

"I want to thank you for making the extra effort to vote by absentee ballot in this important election year.

We need a Senator who does more than talk about helping the people of Montana. We need someone who shares our values and will practice a little Montana common sense in Washington."

Conrad Burns
For effective new leadership in the U.S. Senate

Paid for by CONRAD BURNS/U.S. SENATE, Jim Swain, Treasurer, P.O. Box 3311, Billings, MT 59103

COI OFFICE FRODU TEL NO.400-442-2324 JUL 14,91 8:02 P.01

MUR 3204

1636 Goldrush
Helena, Mt. 59601

July 14, 1991

RECEIVED
FEDERAL ELECTION COMMISSION
SECRETARIAT
91 JUL 15 PM 12:46
91 JUL 15 AM 11:33

Mr. John Canfield
Office of the General Counsel,
Federal Election Commission
Room 659, 999 E Street, N.W.
Washington, D.C. 20463

RE: MUR 3204

Dear Mr. Canfield:

We are currently working on our response to Ms. Lerner's request for interrogatories and production of documents.

Please be advised that our attorney, Mr. James Goetz, is representing us on a contingency basis, and is under no obligation, beyond initial matters, in our case against the Montana Republican Party, Barbara Campbell, Ann Prestidge and the Republican National Senatorial Committee. Mr. Goetz is a reasonable person, who we believe is also interested in cooperating with your office, but at the same time he maintains a very busy practice with other clients to whom he has responsibility.

You should also understand that while we are interested in cooperating fully with your investigation, we are without resources to do so in a manner that you may expect. While we possess some of the information you requested, other files and documents are located in Bozeman, Mt., approximately 115 miles away. Having been unemployed for over two years, our immediate attention is focused on day to day activities of earning a living.

We believe the Montana Commissioner of Political Practices, Dolores Colberg, is about to launch an investigation, that would appear to be identical, or parallel to that of the FEC. The process of answering interrogatories and providing documents would be much easier for us if your efforts were combined. Your investigation would benefit by more in-depth responses.

Sincerely,

Terry & Neida Merica

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00-C 1905

Republican
National
Committee

Benjamin L. Ginsberg
Chief Counsel

Michael A. Hess
Janice P. Lacy
Deputy Chief Counsels

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
91 JUL 16 PM 2:59

July 15, 1991

Anne Weissenborn
Office of the General Counsel
Federal Election Commission
Washington, D.C. 20463

Re: MUR 3204
Republican National Committee
and William J. McManus, as
treasurer

Dear Ms. Weissenborn:

This is to request additional time to file our response to the questions posed to us in the above-captioned Matter, due to the vacation schedules of staff. We therefore request an additional extension, to August 1, to file our answer.

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

Sincerely,

Janice P. Lacy

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DOC 1910

WILEY, REIN & FIELDING

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

FACSIMILE
(202) 429-7049
TELEX 248349 WYRN UR

WRITER'S DIRECT DIAL NUMBER

(202) 429-7301

July 16, 1991

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
91 JUL 17 PM 2:02

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

ATTN: Anne A. Weissenborn, Esq.

Re: MUR 3204 (National Republican Senatorial Committee and James L. Hagen, as Treasurer)

Dear Mr. Noble:

This office represents the National Republican Senatorial Committee ("NRSC") and James L. Hagen, as Treasurer, in Matter Under Review ("MUR") 3204.

A response to the Interrogatories and Requests for Documents issued by the General Counsel's Office is currently due on July 18, 1991. Since receiving these requests, we have been working diligently to ascertain the responses to your interrogatories, as well as to locate various documents that may be responsive to your requests. However, the activities that are the subject of this Complaint occurred two election cycles ago. Many of the materials responsive to the General Counsel's requests were placed in storage sometime ago, requiring retrieval and review at this time. Additionally, the NRSC has moved its headquarters since the 1988 election cycle which further required movement of documents. Finally, in order to obtain the information the Commission seeks we have had to locate former NRSC employees. As a result, this has proved to be an unusually arduous and formidable task which is not yet complete. While we have obtained a number of documents already, more stored materials are currently being located and reviewed on an almost daily basis.

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Accordingly, I respectfully request a two-week extension, to and including August 1, 1991, within which to respond. As the underlying facts in this case occurred over three years ago, this request will not prejudice the resolution of this matter in any way.

Your favorable consideration of this request will be appreciated.

Sincerely yours,

Carol A. Laham

Carol A. Laham
For: Jan Witold Baran

cc: Jay Velasquez, Esq.
Mr. James L. Hagen

24043583270

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 18, 1991

Janice P. Lacy
Republican National Committee
Dwight D. Eisenhower Republican Center
310 First Street Southeast
Washington, D.C. 20003

RE: MUR 3204
National Republican Committee
and William J. McManus, as
treasurer

Dear Ms. Lacy:

This is in response to your letter dated July 15, 1991, which we received on July 16, 1991, requesting an extension until August 1, 1991 to respond to the questions sent to your clients in MUR 3204. After considering the circumstances presented in your letter, I have granted the requested extension. Accordingly, your response is due by the close of business on August 1, 1991.

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

Sincerely,

Lawrence M. Noble
General Counsel

BY: George F. Rishel
Assistant General Counsel

2404358271

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 18, 1991

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

RE: MUR 3204
National Republican
Senatorial Committee and
James L. Hagen, as treasurer

Dear Ms. Laham

This is in response to your letter dated July 16, 1991, which we received on July 17, 1991, requesting an extension until August 1, 1991 to respond to the interrogatories and requests for documents sent to your clients in MUR 3204. After considering the circumstances presented in your letter, I have granted the requested extension. Accordingly, your response is due by the close of business on August 1, 1991.

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

Sincerely,

Lawrence M. Noble
General Counsel

BY: George F. Rishel
Assistant General Counsel

2404358327 2

OGC 1935

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

TRT TELEX: 197780
TELECOPIER: 457-6315

WRITER'S DIRECT DIAL

(202) 457-6523

July 22, 1991

91 JUL 22 PM 12:58
RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

BY MESSENGER

Jeff Long, Esquire
Office of the General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

RE: MUR 3204

Dear Mr. Long:

I had called you earlier today about the answers due from the Burns Committee in MUR 3204. We are having trouble locating the Committee's treasurer. As a result, we may not be able to file until tomorrow.

Should this create a problem, please call. Whether we find our treasurer or not, the answers will be filed no later than close of business Tuesday, July 23.

Sincerely,

Richard E. Messick

REM:crg

2404358323

MUR 1942

CROWLEY, HAUGHEY, HANSON, TOOLE & DIETRICH

ATTORNEYS AT LAW
500 TRANSWESTERN PLAZA II
490 NORTH 31ST STREET
P. O. BOX 2529
BILLINGS, MONTANA 59103-2529
TELEPHONE (406) 252-3441
FAX (406) 256-8526
FAX (406) 259-4159
FAX (406) 256-8277

BRUCE R. TOOLE
JOHN M. DIETRICH
LOUIS R. MOORE
HAROLD F. HIRES
ARTHUR F. LANEY, JR.
WYLIE J. THOMAS
GEORGE C. DALTHORP
DAVID L. JOHNSON
KEVIN WILSON
ROBERT EDD LEE
HERBERT L. PIERCE, III
RONALD R. LOGGERS
CHARLES R. CASHMORE
LAWRENCE S. COZZENS
STEVEN RUFFATTO
ALLAN L. HASELL
JAMES P. SITES
CAROLYN S. OSTBY
STEVEN J. LENNAN
LAURA A. MITCHELL
SHERRY SCHEEL MATTEUCCI
CHRISTOPHER MANGEN, JR.
MICHAEL E. WEBSTER
DANIEL N. McLEAN
ROBERT G. MICHELOTTI, JR.

OF COUNSEL
JAMES M. HAUGHEY
NORMAN HANSON

RETIRED
CALE CROWLEY
STUART W. CONNER

JOHN R. ALEXANDER
DONALD L. HARRIS
WILLIAM D. LEWIN, III
WILLIAM J. MAFFIN
PETER V. HABEIN
MICHAEL S. SOCHERY
MALCOLM H. GOODRICH
MARY DORIN
PATRICIA BELL
JON T. BYRE
DENNIS METTLEMANNS
MICHAEL C. WALLER
SHARON HOWAR
ERIC R. ANDERSON
BRUCE A. FREDRICKSON
JEFF W. HEDGER
JOHN C. BOHYER
RENEE L. MOONEY
JANICE L. REHBERG
JOE C. MAYNARD, JR.
MICHAEL J. RIDGEWAY
JOHN R. LEE
STEVEN R. MILCH
MARY E. DUNCAN

July 19, 1991

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
91 JUL 23 AM 10:36

John Canfield
Office of the General Counsel
Federal Election Commission,
Room 659
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 3204
The Montana Republican Party

Dear Mr. Canfield:

I enclose a new designation of counsel appointing my firm for The Montana Republican Party in this matter.

I also enclose our responses to your interrogatories of May 31, 1991, which have been extended for response until July 22, 1991.

Very truly yours,

ROBERT EDD LEE

REL/ajr

cc: Rick Hill
Barbara Campbell

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF SERVICES BRANCH
91 JUL 22 AM 11:37

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RESPONSE OF MONTANA REPUBLICAN PARTY TO INTERROGATORIES AND REQUEST FOR PRODUCTION

COMES NOW the Montana Republican Party, by its attorneys, Crowley, Haughey, Hanson, Toole & Dietrich of Billings, Montana, Robert Edd Lee and Bruce A. Fredrickson appearing, with its response to the interrogatories and request for production served on May 31, 1991.

PRELIMINARY STATEMENT

We have been retained as counsel for the Montana Republican Party as of June 25, 1991. We also represent the Montana Republican Party in Civil Action No. ADV-89-930, Montana First Judicial District Court, Lewis and Clark County, styled Merica v. Campbell, et al. Because of that civil action, we are unable to contact Terry Merica, former executive directory of the party during 1988, or Neida Merica, former bookkeeper and secretary of the party during parts of 1988. Pursuant to our representation of the Montana Republican Party in the civil action, we have assembled and made a preliminary review of the Republican Party documents and records for the 1988 election cycle. This response is based upon our preliminary review of the materials in our possession and interviews with officers and counsel of the Montana Republican Party during 1988.

SPECIFIC RESPONSES TO THE EXTENT OF CURRENT KNOWLEDGE

Interrogatory No. 1:

This information cannot be determined at this time. It appears that documentation verifying the use of volunteers for Montana Republican Party mailings is missing or was not filed and retained in a way which is readily retrievable. Party mailing activities were disbursed in various cities around the state. We believe that some party records may still be in the hands of the Mericas. Interviews with officers of the party make us believe that the testimony of those personally involved with the volunteer efforts will be the best source of information about those activities at this time. Any records later obtained through discovery against the Mericas will be made available.

Interrogatory No. 2:

The records maintained by the Mericas are not clear, or helpful, in determining whether party funds were the exclusive source. It now appears that considerable receipts to the party were either not picked up by the Merica accounting system at all or were picked up in a manner which makes it difficult to pin down the source and purpose of the funds. There are voucher entries showing payment to Foster and other vendors. However,

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not all cleared and returned checks have been assembled and sorted. The Merica records are inadequate for analyzing receipts and expenditures. The party has resorted to source documents and letters of transmittal, but not all have been located at this time. We believe that continued review of the source documents will corroborate that the Foster mailings were paid for with money generated by the Montana Republican Party.

Interrogatory No. 3:

It now appears from the records maintained by the Mericas that some funds received from or through the NRSC may have been used to pay for mailings or mailing materials. However, what is not clear is the exact materials or the nature of the mailings. It is our understanding that Foster produced absentee and slate ballots and "get out the vote" materials in addition to volunteer mailings. Any records later obtained through discovery against the Mericas will be made available.

Interrogatory No. 4:

No single person, or even group of persons now accessible to the Montana Republican Party, knows why or how or at whose request these transactions were generated or handled. However, at the time the Mericas were getting clear instructions from all

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officers and counsel of the party to comply with the law and rely upon the advice and instructions of the donors so that all legal requirements for the receipt, use, accounting, and reporting of funds would be met. As it turns out, a comparison of the Merica records with the source documents, which was conducted after he left in 1989, shows discrepancies which at this point cannot be reconciled. To that extent, the records are inadequate to identify the nature and amount of receipts. It has been necessary to resort to bank microfilm records to identify the source of transfers and deposits, but that has only been marginally successful. Source documents do establish that there may have been more individual contributions and local party transfers than the Merica records show.

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Interrogatory No. 5:

After a number of years hiatus, when the Montana Republican Party did not enjoy close working relationships with the national and surrounding state committees, Campbell was elected Chairman in 1987 for the purpose of developing party building activities and improving relationships and cross-funding with other committees. The voter identification project was a party project to acquire local county records, followed up by interviews, and develop a voter identification list to be used by the party during the 1988 and future elections. In early March it appeared

to Campbell that Merica was barely able to deal with running the office. She hired Corey Lane to come to Montana from April through July in order to raise funds for the Montana Republican Party. Lane was employed by the Montana Republican Party. There are checks and vouchers reflecting his salary and reimbursed expenses. Campbell is not aware of any other employments of Lane during that period. Merica became terribly jealous of Lane, and there was a bad relationship between them. There are anecdotal accounts of things Merica did which undercut the effectiveness of Lane, and it is now understood to have a personal origin between the two. Because of the manner in which Merica accounted for receipts, it is not possible to determine if Lane was paid exclusively out of funds he raised or otherwise.

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Interrogatory No. 6:

Counsel is not presently aware of any affidavit of Robert Bissen or who he is. There is reflected in the party files a payment on November 1, 1988 to Campaign Mail & Data, Inc. by Check No. 965 in the sum of $1,442.39, for a printout which apparently could not be received and generated in Montana. A copy of the check is attached. Merica reported to the vendor that the printouts had been lost in transit, although it now appears that is not correct and that the lists had been received. On the statement of Merica to the vendor, another printout was

made and shipped to Merica. Any records later obtained through discovery against the Mericas will be made available.

Interrogatory No. 7:

The undersigned has thumbed the cancelled checks of the Montana Republican Party for the accounts used by Merica during 1988 and cannot find any cleared checks to such a payee. However, there are also several checks made out to "doing-business" names which were used by the Mericas from time to time, such as Montana Computer Supply and the like, which were deposited directly to the personal account of the Mericas. The party does not yet know of the Mericas may have been running certain payments through their personal checking accounts in a disguised manner. Any records later obtained through discovery against the Mericas will be made available.

Interrogatory No. 8:

The only payment for a voter list is referred to above at Interrogatory No. 6. At this time there is no reason to believe that the payment was made for the use of the list, as opposed to compensation for reproduction costs because the Montana Republican Party did not have local access to a printer for the download of the list. Any records later obtained through

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discovery against the Mericas will be made available.

Interrogatory No. 9:

Each was engaged by the Montana Republican party for services during 1988. There are checks for salary and expense reimbursements. At this time the exact times and total payments of such service and expense are not available, simply because the checks have not been segregated or tallied. Each was a contract consultant, most likely engaged in follow up on voter identification. Because of the manner in which Merica accounted for receipts, it is not possible to determine if these consultants were paid exclusively out of funds raised from local party sources, but it is the understanding of Campbell that during the times they were employed by the party they were paid from local party funds.

Interrogatory No. 10:

It does not appear that Ann Prestidge had any role or involvement with the Montana Republican Party. She had extensive contacts with local party people in the course of the election cycle. So far as it appears, no employee of the Montana Republican Party reported to, or was supervised by, Prestidge during 1988, although in the course of day to day contacts

2404358328 1

between party employees and Prestidge information was exchanged. The only employees of the party known to have had contact with Prestidge during 1988 were Terry Merica, and his wife Neida Merica, the plaintiffs in the civil action.

Interrogatory No. 11:

Terry Merica's duties were:

1. The Executive Director is directly responsible to the Chairman for the operation of the State Party Headquarters at Helena, Montana.

2. The Executive Director, in addition to the maintenance of all permanent records of the State Central Committee, shall be responsible for managing communications from the Republican National Committee and the County Republican Committees so as to keep the Chairman fully informed of party activities and specifically:

(a) Keep a daily phone log and inform the chairman of telephone communications requiring attention, or in the absence of the Chairman, the Vice-Chairman;

(b) Maintain a smooth correspondence file so that letters which must be brought to the attention of the Chairman or Vice-Chairman are mailed in sufficient time for action;

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(c) Identify and coordinate a calendar of party events, including conventions, fund raising activities, committee meetings, etc. as provided in the rules.

(d) Assist the Finance chairman by implementing and coordinating fund raising activities.

(e) Maintain news media contact, handle official press releases and keep a log of this information available to the Chairman, with copies to the Chairman if requested.

(f) Coordinate campaign activities requested by candidates for federal, state and local offices, including congressional, gubernatorial and legislative campaign committees, under the direction of the Chairman and the other officers of the party.

(g) Maintain office files in party headquarters, including coordination, receipt and report of election night coverage and results.

(h) Extend the courtesies of the State Party Headquarters to all inquiries, while maintaining the appropriate communications with the county chairmen and the state chairmen, i.e., local inquiries must be encouraged to inform their county chairmen of their activities where appropriate and the state chairmen must be kept apprised of particular inquirers asking for "special treatment".

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(i) The Executive Director should be guided at all times by the provisions of the rules of the Montana Republican Party which shall apply in those instances where this Memorandum may be silent or ambiguous; in addition the attention of the Executive Director is called to Title 13 of the Montana Code Annotated which deals with elections and in particular Chapter 37, dealing with campaign practices, and Chapter 38, which pertains to political parties.

Merica's supervisor was the Chairman of the Montana Republican Party, Barbara Campbell. Neida Merica's duties were to carry out the instructions of Terry Merica in the course of his duties. Her supervisor was Terry Merica.

We believe the evidence in the civil action will establish the following concerning the manner in which the Mericas carried out their duties.

Terry Merica was engaged as executive director of the Montana Republican Party in approximately December 1987. Shortly thereafter he engaged his wife, Neida Merica, as a bookkeeper/secretary to assist him in the execution of his duties at the Montana Republican Party office in Helena, Montana. Thereafter, from time to time, he engaged Ian Merica and Tate Merica, his children, for the purpose of assembling and maintaining certain computer based data records in an effort to account for receipts and disbursements of funds by the party during the 1988 election cycle.

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With the election of Barbara Campbell as state chairman in June 1987, the party undertook a renewed effort, after a hiatus of many years, toward party-building activities within the state of Montana. As a part of that effort, Campbell established a new credibility with other party committees and initiated projects and fund-raising which would require accounting and reporting procedures different from what had been the practice in previous years and akin to what has been followed since. The new procedures were intended to be based upon a segregation and separate accounting of funds received and disbursed for various purposes.

By March of 1988, Campbell, who had been familiar with the planning and preparation for party conventions in previous years, experienced unease over Merica's preparation for the two state conventions scheduled in 1988. Consequently, Campbell engaged others to help her with convention preparation, party building projects, and fund-raising functions which seemed to be beyond the capability of Merica, who was by all outward appearances fully occupied operating the party office and keeping track of day to day activities which were to be coordinated through the party office. Circumstances deteriorated.

At the party convention in July 1988, a faction disenchanted with Merica's performance prepared, and intended to raise on the floor of the convention, a petition to remove Merica as executive director of the party. Campbell, not wanting such a petition

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brought before the assembly, persuaded the anti-Merica faction to bring their petition before the executive board of the party at its August meeting.

Campbell met with Merica before the August executive board meeting to determine whether he would attend. At the time the gist of the intended action was based upon perceptions that Merica was simply incapable of carrying out all the duties which were within the scope of an executive director during an election cycle. No question of personal defalcations existed at that time. At the time of the conversation between Campbell and Merica, Merica was not sure whether he would attend the meeting or not. However, there was a clear understanding between Campbell and Merica that whatever the outcome of the meeting, the Mericas would not be employed by the party after the 1988 election cycle.

During the August executive board meeting three lines of thought were developed concerning the dismissal of Merica: first, that he should be dismissed immediately based upon concerns about his competence; second, that concerns about his competence may be only a situational perception and rectified by a clearer written statement of the duties he was to perform; and third, that his employment should be continued and his duties limited to the routine operation of the office until the end of 1988 election cycle.

As a result of the August meeting, a draft compilation of

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the duties of Merica was prepared and submitted to him for supplementary comments based upon his own understanding of the functions he would take responsibility for pending the completion of the election cycle. Merica never made such comments or returned the draft prior to the end of November, when the termination of his employment was negotiated with Merica. In the meantime, Merica undertook the termination of his wife from her duties as well.

From the end of November 1988 through mid-January 1989, the Mericas negotiated, and ultimately agreed, with the Montana Republican Party on the conditions of their termination. Executed releases and an agreement, based upon negotiations and a valid consideration, resulted. The Mericas released all claims grounded upon their employment with the Montana Republican Party.

After the departure of the Mericas, the inadequacy of their accounting procedures became apparent, as the accounts and reports for the 1988 election cycles were examined in detail. It also became apparent that certain records and accounts were either missing or inadequately maintained. The Montana Republican Party undertook a review of the source documents giving rise to various transactions, even referring to microfilm records from banks of deposits made during 1988. Substantial and wide-ranging discrepancies in the party accounts and records as maintained and prepared by the Mericas were revealed during the post-Merica review. Ultimately, many of those accounting and

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reporting records were discovered to be missing, incomplete, or garbled beyond use.

During the review of source documents after the departure of the Mericas, certain irregularities and defalcations of a more personal quality were discovered, leading the party to understand for the first time that there was a greater problem with the Merica operation than just competence alone.

Finally, it appears that substantial documents and records of the party may be missing and are presumably in the hands of the Mericas still. Some documents taken by the Mericas have been revealed through the pleadings in their civil action, but the full scope of the documents and records of the party which remain in the hands of the Mericas has not yet been determined.

The Mericas seemed temperamentally unsuited to work with various persons engaged by Campbell during the 1988 election cycle to work on party building and fund-raising activities which were beyond the capability of the Mericas. Much personal rancor and discord is apparent from the interviews of those involved with particular transactions and projects. It appears that the Mericas either failed to understand, or refused to understand, the full scope of Montana Republican Party activities during 1988. In the context of contemporary events, to the extent any problem existed at all, it lies with the perceptions and understanding of the Mericas and not with the propriety of the events.

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The Merica computer system for tracking receipts and contributions now appears to have been grossly inadequate. It is not until the source documents are laid against the contemporary accounts of the transactions that discrepancies can be fully revealed and a complete accounting and report made.

It also now appears that cash receipts as accounted for by the records of the Mericas may have been less than the actual monies received by the party. However, the exact disbursement and distribution of those cash funds has not yet been determined, although it does appear that all political and official disbursements were made through checks drawn on the party accounts.

Merica, as executive director, was not only unable to grasp the scope of the expanded party-building activities undertaken by the Montana Republican Party during the 1988 election cycle, it now appears that he may have actively resisted, and intentionally subverted, the requisite accounting and reporting procedures required to account and report for, and to maintain the segregation of, party receipts and disbursements.

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Interrogatory No. 12:

In 1988, because of the significant increase of party-building activity to be undertaken by the Montana Republican Party, the following accounts were opened.

Norwest Bank Helena, Republican State Central Committee. State account.

Norwest Bank Helena, Montana Republican Party Victory Fund. State account.

Norwest Bank Helena, Victory 88 Montana, % Montana Republican State Central Committee. State account.

First Bank Helena, Montana Republican State Central Committee, Federal Election Account. Federal account.

the Victory 88 account which was maintained in Billings, Montana, until August 1988, the accounts were maintained through the Mericas at the party offices in Helena, Montana.

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SUMMARY

These responses are intended to reflect the understanding of counsel based upon a preliminary review of the party files and interviews with former officials of the party who are available to us.

Discovery in the underlying civil action with the Mericas is continuing. Discovery closes on October 31, 1991. Trial before a jury is now set for February 18, 1992. The exhibits and testimony developed during the civil proceeding will be the best source means for determining exactly what Merica knows and did or did not do. It is not only probable, but likely, that to the extent the evidence comes in as the underlying records now

suggest, much of what Merica points to as improprieties will boil down to simply his limited understanding of what was actually happening and his incompetence to perform the accounting and reporting functions of executive director of the party during the 1988 election cycle.

VERIFICATION

STATE OF MONTANA)
:
County of Yellowstone)

ROBERT EDD LEE, being first duly sworn, deposes and says:

That he is the attorney for the entity named in the above entitled proceeding; that he has read the foregoing responses and knows the contents thereof; that the matters and things stated therein are true based upon his interviews and preliminary review of documents; that it is his understanding that no further extensions shall be granted as a matter of course; and that the deadline of July 22, 1991 requires that response be made on the basis of his present knowledge and understanding.

Robert Edd Lee

Subscribed and sworn to before me this 19th day of July, 1991.

Notary public for the State of Montana
Residing at Billings, Montana
My commission expires 8/26/90

(Notarial Seal)

2404358329 1

Filed this 19th day of July, 1991.

CROWLEY, HAUGHEY, HANSON,
TOOLE & DIETRICH

By Robert Edd Lee
ROBERT EDD LEE
P.O. Box 2529
Billings, Montana 59103-2529
Attorneys for The Montana
Republican Party

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MONTANA REPUBLICAN STATE CENTRAL COMMITTEE
FEDERAL ELECTION ACCOUNT
1425 HELENA AVE.
HELENA, MT 59601

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PROCESSED

NOV 1 19 88

93-28/920

PAY TO THE ORDER OF Campaign Mail & Data Inc. $ 1442.39

one thousand four hundred forty two Dollars 39/100 DOLLARS

First Bank Helena
Member First Bank System
First National Bank and Trust Company of Helena
On Last Chance Gulch at Sixth Ave.
Helena, MT 59601

FOR VOTER I.D.

Barbara J. Campbell

FOR DEPOSIT ONLY
CAMPAIGN MAIL AND DATA, INC.
214-035-0

MADISON NATL BANK
054001259 001430362

0920-0026-7 113088

STATEMENT OF DESIGNATION OF COUNSEL

MUR 3204 (consolidated with MUR 3087)

NAME OF COUNSEL: Robert Edd Lee

ADDRESS: Crowley, Haughey, Hanson, Toole & Dietrich
P.O. Box 2529
Billings, Montana 59103-2529

TELEPHONE: (406) 252-3441

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.

July 12, 1991
Date

Signature RICK HILL, Chairman,
Montana Republican Party

RESPONDENT'S NAME: Montana Republican Party

ADDRESS: 1425 Helena Avenue
Helena, Montana 59601

HOME PHONE:

BUSINESS PHONE: (406) 442-6469

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

TRT TELEX: 197780
TELECOPIER: 457-6315

WRITER'S DIRECT DIAL

(202) 457-6523

91 JUL 23 PM 3:56

FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

July 23, 1991

BY MESSENGER

Jeff Long, Esquire
Office of the General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

RE: MUR 3204

Dear Mr. Long:

Thanks for understanding our problem in connecting with our treasurer. We have located him and he has signed the Burns Committee's answers to the interrogatories in MUR 3204. They are enclosed, along with the documents that are responsive to the Commission's requests.

I have included two copies of the page with the signature, one is a fax copy with the signature and the other a more legible copy without the signature.

Please call me if you have any questions about the enclosed.

Sincerely,

Richard E. Messick

REM:crg

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BEFORE THE FEDERAL ELECTION COMMISSION

MUR 3204

Responses Submitted by Conrad Burns/US Senate Committee and Jim Swain, Treasurer, to the Federal Election Commission's Interrogatories and Request for the Production of Documents

1. State whether or not the Burns Committee had any agreement, written or oral, to obtain daily tracking poll results from the Gary Lawrence Company of Santa Ana, California, during the 1988 general election campaign. State whether the Burns campaign received any tracking poll results from the Gary Lawrence Company during the 1988 general election. If so, identify what materials were received and how payment for such materials was made.

Response to question 1. The Burns Committee agreed to purchase a part of a daily tracking poll conducted by the Gary Lawrence Company ("Lawrence"). The agreement was oral. The Committee has in its files partial results transmitted October 29, 30 and 31 and November 1, 4, 6 and 7 to the Washington political consultants who were retained by the Burns Committee in 1988. The Committee's files also contain three sets of partial results with no transmittal date. Payment arrangements are described in response to question 2.

.....

2. State whether the Burns Committee paid the Gary Lawrence Company for daily tracking poll results during the 1988 general election. If so, state the amount and date of such payments, and describe how such payments were reported to the Commission.

Response to question 2. As shown on page seven of the Burns Committee's 1988 post-general election FEC report, Lawrence was paid $450 on November 22, 1988. The Committee's bookkeeper classified this expense under the category "telemarketing."

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3. State whether the Burns Committee had an agreement, either written or oral, with the Republican Governor's Association (RGA) regarding daily tracking polls conducted by the Gary Lawrence Company during the 1988 general election. Produce any such written agreement. Describe and explain any such agreement in detail. Identify the employee(s) or agent(s) of the RGA with whom such agreement was arranged. State whether any payments were made by the RGA to the Gary Lawrence Company on behalf of the Burns Committee for daily tracking polls during the 1988 general election.

Reply to Question 3. The Burns Committee had no agreement with the RGA regarding tracking polls conducted by Lawrence. The Burns Committee knows of no payments made by the RGA to Lawrence on behalf of the Burns Committee for tracking polls.

.....

4. Identify what percentage of questions contained in the daily tracking polls conducted by the Gary Lawrence Company during the 1988 general elections pertained to the Burns campaign. Produce a copy of the questions or the script used in conducting such tracking polls.

Reply to Question 4. The Burns Committee's files contain neither a copy of the questions asked nor the script used by Lawrence in conducting the tracking poll. The Burns Committee does not know what percentage of the questions in the tracking poll pertained to the Burns campaign.

.....

5. State whether the Burns Committee received any daily tracking poll results from any source during the 1988 general election. If so, identify the source of all such results by name and address, and list the dates such results were received. List all payments made by the Burns Committee for daily tracking polls, identifying the appropriate payee or vendor, date and amount of each such payment.

Response to Question 5. The only tracking poll results the Burns Committee knows about are the ones from Lawrence found in its files. They were sent to the Committee's Washington

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political consultants by the Gary Lawrence Company in Santa Ana, California. The dates they were received are provided in the response to question 1. The Burns Committee paid Lawrence $450 on November 22, 1989.

.....

6. State whether the Burns Committee had any agreement, either written or oral, with the National Republican Senatorial Committee (NRSC) by which the NRSC solicited and forwarded contributions earmarked for the 1988 Burns Senate campaign. If so, explain the details of how such agreement operated, and how the costs of such solicitations attributable to the Burns Committee were paid and reported by the Burns Committee. Produce all such agreements and all documents which relate to such agreements and payments. Produce copies of all NRSC solicitations which sought contributions on behalf of the Burns Committee.

Response to Questions 6. The NRSC staff told the Burns Committee that the NRSC could solicit contributions for the Burns Committee but that the Committee would have to pay its share of the solicitation costs. The Committee later received earmarked contributions from the NRSC. In some cases the NRSC sent the Committee an NRSC check with a list of the donors whose contributions were reflected in the NRSC's check; in others it forwarded the actual check written by the contributor. The NRSC stated that, before sending the Burns Committee an NRSC check, the solicitation costs were deducted. Where it forwarded the contributor's check, it charged the Burns Committee a fee to cover the solicitation costs. The NRSC invoices for the fee on individual contributor checks are at tab 1. Outside of copies of actual checks and the Committee's FEC reports, the Committee has no other documents relating to the NRSC's solicitations on its behalf.

7 4 0 4 3 5 8 3 2 9 8

.....

7. State whether the Burns Committee had any agreement, either written or oral, with the M&N Committee and/or the Midwestern Majority Committee by which these organizations solicited and forwarded contributions warmarked for the 1988 Burns Senate campaign. If so, explain the details of how each such agreement operated, and how the costs of such solicitations attributable to the Burns Committee were paid and reported by the Burns Committee. Produce all such agreements and all documents relating to such agreements and payments. Produce copies of all solicitations by these organizations which sought contributions on behalf of the Burns Committee.

Response to Question 7. Both the M&N Committee and the Midwestern Majority Committee were joint fundraising committees in which the Burns Committee participated with other candidate committees. The agreements between the Burns Committee and the other committees participating in these two joint fundraising committees are at tab 2. The Burns Committee does not have copies of any of the solicitations sent by either the M&N Committee or the Midwestern Majority Committee. With the exception of a memorandum providing legal advice on joint fundraising committees, all documents relating to either committee which are in the possession of the Burns Committee are at tab 2.

* * * *

I certify under penalty of perjury that the above is true. Executed this 22 day of July, 1991.

Jim Swain

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(1)

NATIONAL REPUBLICAN SENATORIAL COMMITTEE
425 SECOND STREET, N.E.
WASHINGTON, D.C. 20002
(202) 675-6000

I N V O I C E

TO: Conrad Burns/U.S. Senate
Post Office Box 3311
Billings, MT 59103

INVOICE NO. 15974

DATE January 5, 1989

DESCRIPTION

Check Processing Fees $ 78.24

TOTAL AMOUNT DUE $ 78.24

PLEASE RETURN ONE COPY WITH PAYMENT

24043583300

NATIONAL REPUBLICAN SENATORIAL COMMITTEE
425 SECOND STREET, N.E.
WASHINGTON, D.C. 20002
(202) 675-6000

I N V O I C E

TO: Conrad Burns/U.S. Senate
Post Office Box 3311
Billings, MT 59103

INVOICE NO. 15999

DATE January 10, 1989

DESCRIPTION

Check Processing Fees	$ 94.54

TOTAL AMOUNT DUE $.94.54

PLEASE RETURN ONE COPY WITH PAYMENT

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NATIONAL REPUBLICAN SENATORIAL COMMITTEE
440 FIRST STREET N.W. SUITE 600
WASHINGTON, D.C. 20001
(202) 347-0202

I N V O I C E

TO: Conrad Burns for U.S. Senate
P.O. Box 3311
Billings, MT. 59103

INVOICE NO. 15940

DATE September 26, 1988

DESCRIPTION

Check Processing Fee $ 74.98

TOTAL AMOUNT DUE $ 74.98

PLEASE RETURN ONE COPY WITH PAYMENT

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National Republican Senatorial Committee

(2)

SENATOR RUDY BOSCHWITZ
CHAIRMAN

JANN L. OLSTEN
EXECUTIVE DIRECTOR

October 4, 1988

Mr. Dennis Rehberg
Conrad Burns for U.S. Senate
2710 First Ave. N.
Billings, MT 59103

Dear Dennis:

Enclosed you will find the materials you will need to join The Midwestern Majority Committee, the joint fundraising committee we have discussed. We look forward to working with you and making this project a success.

The committee and your participation in it is described in the enclosed legal memorandum entitled "Operation of Joint Fundraising Committee". Also enclosed are the Federal Election Commission Forms you will need to file.

Just to recap, here is what you need to do:

1. Sign the Joint Fundraising Agreement and return it immediately to me at the NRSC.

2. Amend your candidate's Statement of Candidacy (FEC form 2) to reflect your committee's participation in The Midwestern Majority Committee. You can just fill in the blanks on the form attached. This must be filed with the Secretary of the Senate and with your Secretary of State.

3. As soon as we receive the signed Joint Fundraising Agreements we will file The Midwestern Majority Committee with the FEC. You then have 10 days (we will notify you of the exact date) to amend your committee's Statement of Organization (FEC form 1). This must be filed with the Secretary of the Senate and your Secretary of State. A sample form and a blank form are enclosed.

I will be in touch with you in the very near future to discuss our next steps for the Midwestern Majority Committee.

Sincerely,

Michael Winn

Michael Winn
Treasurer
The Midwestern Majority Committee

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Paid for and authorized by the National Republican Senatorial Committee.

STATEMENT OF ORGANIZATION

(See reverse side for instructions)

1. (a) NAME OF COMMITTEE IN FULL ☐ (Check if name is changed)

Midwestern Majority Committee

(b) Number and Street Address ☐ (Check if address is changed)

440 First Street, NW, Suite 600

(c) City, State and ZIP Code

Washington, DC 20001

2. DATE

September 28, 1988

3. FEC IDENTIFICATION NUMBER

4. IS THIS STATEMENT AN AMENDMENT? ☐ YES ☐ NO

5. TYPE OF COMMITTEE (Check one)

☐ (a) This committee is a principal campaign committee. (Complete the candidate information below.)

☐ (b) This committee is an authorized committee, and is NOT a principal campaign committee. (Complete the candidate information below.)

Name of Candidate	Candidate Party Affiliation	Office Sought	State/District

☐ (c) This committee supports/opposes only one candidate _____ (name of candidate) and is NOT an authorized committee.

☐ (d) This committee is a _____ (National, State or subordinate) committee of the _____ (Democratic, Republican, etc.) Party.

☐ (e) This committee is a separate segregated fund.

☒ (f) This committee supports/opposes more than one Federal candidate and is NOT a separate segregated fund or a party committee.

Name of Any Connected Organization or Affiliated Committee	Mailing Address and ZIP Code	Relationship
list attached		

Type of Connected Organization

☐ Corporation ☐ Corporation w/o Capital Stock ☐ Labor Organization ☐ Membership Organization ☐ Trade Association ☐ Cooperative

7. Custodian of Records: Identify by name, address (phone number -- optional) and position of the person in possession of committee books and records.

Full Name / Mailing Address / Title or Position

Gina Mamone
440 First Street, NW, Suite 600, Washington, DC 20001

8. Treasurer: List the name and address (phone number -- optional) of the treasurer of the committee; and the name and address of any designated agent (e.g., assistant treasurer).

Full Name / Mailing Address / Title or Position

Michael Winn
440 First Street, NW, Suite 600, Washington, DC 20001

9. Banks or Other Depositories: List all banks or other depositories in which the committee deposits funds, holds accounts, rents safety deposit boxes or maintains funds.

Name of Bank, Depository, etc. / Mailing Address and ZIP Code

Signet Bank
8330 Boone Boulevard, Vienna, VA 22180

I certify that I have examined this Statement and to the best of my knowledge and belief it is true, correct and complete.

TYPE OR PRINT NAME OF TREASURER	SIGNATURE OF TREASURER	DATE
Michael Winn	Michael Winn	Oct 3, 1988

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Statement to the penalties of 2 U.S.C. §437g.

ANY CHANGE IN INFORMATION SHOULD BE REPORTED WITHIN 10 DAYS.

For further information contact:
Federal Election Commission
Toll-free 800-424-9530
Local 202-376-3120

FEC FORM 1

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STATEMENT OF CANDIDACY

(see reverse side for instructions)

1. (a) Name of Candidate (in full)

(b) Address (number and street) ☐ Check if address changed

(c) City, State, and ZIP Code

2. Identification Number

3. Party Affiliation

4. Office Sought

5. State & District of Candidate

DESIGNATION OF PRINCIPAL CAMPAIGN COMMITTEE

6. I hereby designate the following named political committee as my Principal Campaign Committee for the _____ election(s).
(year of election)

NOTE: This designation should be filed with the appropriate office listed below.

(a) Name of Committee (in full)

(b) Address (number and street)

(c) City, State and ZIP Code

DESIGNATION OF OTHER AUTHORIZED COMMITTEES

(including Joint Fundraising Representatives)

7. I hereby authorize the following named committee, which is NOT my principal campaign committee, to receive and expend funds on behalf of my candidacy.

NOTE: This designation should be filed with the principal campaign committee.

(a) Name of Committee (in full)

Midwestern Majority Committee

(b) Address (number and street)

440 First Street, NW, Suite 600

(c) City, State and ZIP Code

Washington, DC 20001

I certify that I have examined this Statement and to the best of my knowledge and belief it is true, correct and complete.

Signature of Candidate

Date

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Statement to the penalties of 2 U.S.C. §437g.

CANDIDATES FOR THE OFFICE OF:

President mail to:
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

U.S. Senate mail to:
Secretary of the Senate
Office of Public Records
232 Hart Senate Office Bldg.
Washington, DC 20510-7116

U.S. House of Representatives mail to:
Clerk of the House of Representatives
Office of Records and Registration
1036 Longworth Office Bldg.
Washington, DC 20515-6612

For further information contact:
Federal Election Commission
Toll-free 800/424-9530
Local 202/376-3120

FEC FORM 2

24043583305

Fed Ex'd 10/5

National Republican Senatorial Committee

SENATOR RUDY BOSCHWITZ
CHAIRMAN

JANN L. OLSTEN
EXECUTIVE DIRECTOR

A JOINT FUNDRAISING AGREEMENT

BETWEEN THE

MIDWESTERN MAJORITY COMMITTEE

AND

CONRAD BURNS FOR U.S. SENATE

FRIENDS OF SENATOR DAVID KARNES

ENGELEITER FOR SENATE COMMITTEE

STRINDEN FOR U.S. SENATE

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440 First Street, N.W. • Suite 600 • Washington, D.C. 20001 • (202) 347-0202

ARTICLE 1.
THE PARTIES

The Midwestern Majority Committee is a separate on-going committee created by Conrad Burns for U.S. Senate, Friends of Senator David Karnes, Engeleiter for Senate Committee, and Strinden for U.S. Senate to act as fundraising representative for an on-going fundraising project terminating on December 31, 1988. The Midwestern Majority Committee is registered with the Federal Election Commission and organized for the purpose of administering a fundraising project the proceeds of which are to be shared by Conrad Burns for U.S. Senate, Friends of Senator David Karnes, Engeleiter for Senate Committee, and Strinden for U.S. Senate.

Pursuant to 11 C.F.R. 102.17(b)(1), the Midwestern Majority Committee is a reporting political committee which collects all contributions for the 1988 fundraising project, pays fundraising costs from gross proceeds and from funds advanced by Conrad Burns for U.S. Senate, Friends of Senator David Karnes, Engeleiter for Senate Committee, and Strinden for U.S. Senate, and disburses net proceeds according to the allocation formula set forth below.

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ARTICLE 2.
THE AGREEMENT

This agreement is entered into by Conrad Burns for U.S. Senate, Friends of Senator David Karnes, Engeleiter for Senate Committee, and Strinden for U.S. Senate in compliance with 11 C.F.R. 102.17(c)(1) and represents the understanding of the parties regarding the 1988 fundraising project.

ARTICLE 3.
FUNDRAISING PROCEDURES

A. Depository Account

The Midwestern Majority Committee shall establish a depository account to be used solely for the receipt and disbursement of all contributions to the Midwestern Majority Committee that are permissible for the support of candidates under the Federal Election Campaign Act ["Campaign Account"].

B. Allocation Formula

1. Conrad Burns for U.S. Senate, Friends of Senator David Karnes, Engeleiter for Senate Committee, and Strinden for U.S. Senate hereby agree that the Midwestern Majority Committee shall allocate all fundraising proceeds so that 25 percent of all net fundraising proceeds deposited in the Campaign Account shall go to each principal campaign committee that signs this agreement, unless the parties shall agree in advance in writing to a different formula.

2. The participants further agree that any contributions designated (earmarked) to a specific candidate shall go solely to that candidate.

3. Should any allocation by Midwestern Majority Committee result in a violation of contribution limits to one committee by a donor to that committee, the Midwestern Majority Committee shall reallocate the funds so that the contribution limits of the Federal Election Campaign Act are not violated, while maintaining the overall proportionate division of net proceeds as described in Section 1.

C. Expenses

All expenses for the 1988 fundraising project will be paid by the Midwestern Majority Committee from the gross proceeds received. Any additional funds and any start-up funds needed by the Midwestern Majority Committee shall come equally from the participating committees that have signed this agreement, unless the parties shall agree in advance in writing to a different formula. In the event a different allocation formula is used, the participating committees shall pay expenses in the same proportion as their share of the proceeds from the project.

The undersigned persons are authorized by the parties hereto to sign this agreement and have read and fully understand the foregoing and it is their intent to be bound by the terms and conditions hereof:

For Conrad Burns for U.S. Senate:

Dennis Rehberg 10/5/55 (Date)

For Friends of Senator David Karnes:

Terri Evans (Date)

For Engeleiter for Senate Committee:

Jill Hanson (Date)

For Strinden for U.S. Senate:

Kevin Pifer (Date)

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Midwestern Majority Committee, organized to serve as a Joint Fundraising Committee pursuant to 11 C.F.R. 102.14, is composed of the following participating committees:

Conrad Burns for U.S. Senate
P.O. Box 3311
Billings, MT 59101

Friends of Senator David Karnes
626 N-109th Plaza
Omaha, NE 68154

Engeleiter for Senate Committee
P.O. Box 822
Brookfield, WI 53008

Strinden for U.S. Senate
P.O. Box 5267
Grand Forks, ND 58201

24043583309

National Republican Senatorial Committee

SENATOR RUDY BOSCHWITZ
CHAIRMAN

JANN L. OLSTEN
EXECUTIVE DIRECTOR

August 31, 1988

Mr. Dennis Rehberg
Conrad Burns for U.S. Senate
P.O. Box 3311
Billings, MT 59101

Dear Dennis:

Enclosed you will find the materials you will need to join The M & N Committee, the joint fundraising committee we have discussed. We look forward to working with you and making this project a success.

The committee and your participation in it is described in the enclosed legal memorandum entitled "Operation of Joint Fundraising Committee". Also enclosed are the Federal Election Commission Forms you will need to file.

Just to recap, here is what you need to do:

1. Sign the Joint Fundraising Agreement and return it immediately to me at the NRSC. We will distribute a fully executed copy as soon as we receive them from all the participating committees.

2. Amend your candidate's Statement of Candidacy (FEC form 2) to reflect your committee's participation in The M & N Committee. A sample form and a blank form are attached. This must be filed with the Secretary of the Senate and with your Secretary of State.

3. As soon as we receive the signed Joint Fundraising Agreements we will file The M & N Committee with the FEC. You then have 10 days (we will notify you of the exact date) to amend your committee's Statement of Organization (FEC form 1). This must be filed with the Secretary of the Senate and your Secretary of State. A sample form and a blank form are enclosed.

I will be in touch with you in the very near future to discuss our next steps for The M & N Committee.

Sincerely,

Michael Winn
Treasurer
The M & N Committee

440 First Street, N.W. • Suite 600 • Washington, D.C. 20001 • (202) 347-0202

Paid for and authorized by the National Republican Senatorial Committee.

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STATEMENT OF CANDIDACY

(see reverse side for instructions)

1. (a) Name of Candidate (in full)
CONRAD R. BURNS

(b) Address (number and street) ☐ Check if address changed
P. O. Box 3311

(c) City, State, and ZIP Code
Billings, Montana 59103

2. Identification Number

3. Party Affiliation: Republican

4. Office Sought: United States Senate

5. State & District of Candidate: Montana

DESIGNATION OF PRINCIPAL CAMPAIGN COMMITTEE

6. I hereby designate the following named political committee as my Principal Campaign Committee for the 1988 election(s).
(year of election)

NOTE: This designation should be filed with the appropriate office listed below.

(a) Name of Committee (in full)
CONRAD BURNS/U.S. SENATE

(b) Address (number and street)
P. O. Box 3311 (2710 First Avenue North)

(c) City, State and ZIP Code
Billings, Montana 59103

DESIGNATION OF OTHER AUTHORIZED COMMITTEES

(Including Joint Fundraising Representatives)

7. I hereby authorize the following named committee, which is NOT my principal campaign committee, to receive and expend funds on behalf of my candidacy.

NOTE: This designation should be filed with the principal campaign committee.

(a) Name of Committee (in full)
M & N COMMITTEE

(b) Address (number and street)
440 First Street, NW, Suite 600

(c) City, State and ZIP Code
Washington, D.C. 20001

I certify that I have examined this Statement and to the best of my knowledge and belief it is true, correct and complete.

Signature of Candidate: X [signature]

Date: September 9, 1988

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Statement to the penalties of 2 U.S.C. §437g.

CANDIDATES FOR THE OFFICE OF:

President mail to:
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

U.S. Senate mail to:
Secretary of the Senate
Office of Public Records
232 Hart Senate Office Bldg.
Washington, DC 20510-7116

U.S. House of Representatives mail to:
Clerk of the House of Representatives
Office of Records and Registration
1036 Longworth Office Bldg.
Washington, DC 20515-6612

For further information contact:
Federal Election Commission
Toll-free 800/424-9530
Local 202/376-3120

FEC FORM 2
(revised 4/87)

P40435833111

STATEMENT OF ORGANIZATION

(See reverse side for instructions)

1. (a) NAME OF COMMITTEE IN FULL ☐ (Check if name is changed)
CONRAD BURNS/U.S. SENATE

2. DATE Sept 7, 1988 February 11, 1988

(b) Number and Street Address ☐ (Check if address is changed)
P.O. Box 3311

3. FEC IDENTIFICATION NUMBER

(c) City, State and ZIP Code
Billings, Montana 59103

4. IS THIS STATEMENT AN AMENDMENT? YES X NO

5. TYPE OF COMMITTEE (Check one)

☒ (a) This committee is a principal campaign committee. (Complete the candidate information below.)

☐ (b) This committee is an authorized committee, and is NOT a principal campaign committee. (Complete the candidate information below.)

Name of Candidate	Candidate Party Affiliation	Office Sought	State/District

☐ (c) This committee supports/opposes only one candidate _____ and is NOT an authorized committee.
(name of candidate)

☐ (d) This committee is a _____ committee of the _____ Party.
(National, State or subordinate) (Democratic, Republican, etc.)

☐ (e) This committee is a separate segregated fund.

☒ (f) This committee supports/opposes more than one Federal candidate and is NOT a separate segregated fund or a party committee.

Name of Any Connected Organization or Affiliated Committee	Mailing Address and ZIP Code	Relationship
None		

Type of Connected Organization
☐ Corporation ☐ Corporation w/o Capital Stock ☐ Labor Organization ☐ Membership Organization ☐ Trade Association ☐ Cooperative

7. Custodian of Records: Identify by name, address (phone number -- optional) and position of the person in possession of committee books and records.

Full Name	Mailing Address	Title or Position
H. Elwood English (406) 252-0550	P.O. Box 3311 Billings, MT 59103	Campaign Manager

8. Treasurer: List the name and address (phone number -- optional) of the treasurer of the committee; and the name and address of any designated agent (e.g., assistant treasurer).

Full Name	Mailing Address	Title or Position
Jim Swain	P.O. Box 3311 Billings, MT 59103	Treasurer
Ed Davis		Ass't Treasurer

9. Banks or Other Depositories: List all banks or other depositories in which the committee deposits funds, holds accounts, rents safety deposit boxes or maintains funds.

Name of Bank, Depository, etc.	Mailing Address and ZIP Code
First Citizens Bank	1st Avenue North at Broadway Billings, MT 59101

I certify that I have examined this Statement and to the best of my knowledge and belief it is true, correct and complete.

TYPE OR PRINT NAME OF TREASURER	SIGNATURE OF TREASURER	DATE
JIM SWAIN	Jim Swain	2/11/88

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Statement to the penalties of 2 U.S.C. §437g.
ANY CHANGE IN INFORMATION SHOULD BE REPORTED WITHIN 10 DAYS.

For further information contact:
Federal Election Commission
Toll-free 800-424-9530
Local 202-378-3120

FEC FORM 1
(revised 4/87)

P 2 0 4 3 5 8 3 3 1 2

Done

A JOINT FUNDRAISING AGREEMENT

BETWEEN THE

M & N COMMITTEE

AND

CONRAD BURNS FOR U.S. SENATE

FRIENDS OF SENATOR DAVID KARNES

VALENTINE FOR U.S. SENATE COMMITTEE

STRINDEN FOR U.S. SENATE

9404358331 3

to Nate Wiens
9/7/88

ARTICLE 1.
THE PARTIES

The M & N Committee is a separate on-going committee created by Conrad Burns for U.S. Senate, Friends of Senator David Karnes, Valentine for U.S. Senate Committee, and Strinden for U.S. Senate to act as fundraising representative for an on-going fundraising project terminating on December 31, 1988. The M & N Committee is registered with the Federal Election Commission and organized for the purpose of administering a fundraising project the proceeds of which are to be shared by Conrad Burns for U.S. Senate, Friends of Senator David Karnes, Valentine for U.S. Senate Committee, and Strinden for U.S. Senate.

Pursuant to 11 C.F.R. 102.17(b)(1), the M & N Committee is a reporting political committee which collects all contributions for the 1988 fundraising project, pays fundraising costs from gross proceeds and from funds advanced by Conrad Burns for U.S. Senate, Friends of Senator David Karnes, Valentine for U.S. Senate Committee, and Strinden for U.S. Senate, and disburses net proceeds according to the allocation formula set forth below.

ARTICLE 2.
THE AGREEMENT

This agreement is entered into by Conrad Burns for U.S. Senate, Friends of Senator David Karnes, Valentine for U.S. Senate Committee, and Strinden for U.S. Senate in compliance with 11 C.F.R. 102.17(c)(1) and represents the understanding of the parties regarding the 1988 fundraising project.

ARTICLE 3.
FUNDRAISING PROCEDURES

A. Depository Account

The M & N Committee shall establish a depository account to be used solely for the receipt and disbursement of all contributions to The M & N Committee that are permissible for the support of candidates under the Federal Election Campaign Act ["Campaign Account"].

B. Allocation Formula

1. Conrad Burns for U.S. Senate, Friends of Senator David Karnes, Valentine for U.S. Senate Committee, and Strinden for U.S. Senate hereby agree that the M & N Committee shall allocate all fundraising proceeds so that 25 percent of all net fundraising proceeds deposited in the Campaign Account shall go to each principal campaign committee that signs this agreement, unless the parties shall agree in advance in writing to a different formula.

2. The participants further agree that any contributions designated (earmarked) to a specific candidate shall go solely to that candidate.

24043583314

3. Should any allocation by M & N Committee result in a violation of contribution limits to one committee by a donor to that committee, M & N Committee shall reallocate the funds so that the contribution limits of the Federal Election Campaign Act are not violated, while maintaining the overall proportionate division of net proceeds as described in Section 1.

C. Expenses

All expenses for the 1988 fundraising project will be paid by the M & N Committee from the gross proceeds received. Any additional funds and any start-up funds needed by the M & N Committee shall come equally from the participating committees that have signed this agreement, unless the parties shall agree in advance in writing to a different formula. In the event a different allocation formula is used, the participating committees shall pay expenses in the same proportion as their share of the proceeds from the project.

The undersigned persons are authorized by the parties hereto to sign this agreement and have read and fully understand the foregoing and it is their intent to be bound by the terms and conditions hereof:

For Conrad Burns for U.S. Senate:

Dennis Rehberg 9/3/88 (Date)

For Friends of Senator David Karnes:

Terri Evans (Date)

For Valentine for U.S. Senate Committee:

Diana Welch (Date)

For Strinden for U.S. Senate:

Kevin Pifer (Date)

2404358315

M & N Committee, organized to serve as a Joint Fundraising Committe pursuant to 11 C.F.R. 102.17(b)(1), is composed of the following participating committees:

Strinden for U.S. Senate
P.O. Box 5267
Grand Forks, ND 58201

Valentine for U.S. Senate Committee
1803 Louisiana NE, Suite 132
Albuquerque, NM 87106

Friends of Senator David Karnes
626 N-109th Plaza
Omaha, NE 68154

Conrad Burns for U.S. Senate
P.O. Box 3311
Billings, MT 59101

24043583316

DEPOSIT TICKET

CONRAD BURNS/U.S. SENATE
GENERAL ELECTION FUND

FIRST CITIZENS BANK
1ST AVENUE SOUTH AT BROADWAY
BILLINGS, MONTANA 59101

DATE 11/10/88

	DOLLARS	CENTS
CURRENCY		
COIN		
CHECKS LIST EACH SEPARATELY		
Baker, L.	50	00
Bennett, S.	[redacted]	
Clardge, R.	150	00
Eramb, H.	50	00
Fullmer, E.	10	00
Gibbs, R. J.	25	00
Heiken, J.	50	00
Hochmuth, J.	25	00
Holleran, K.	100	00
Hurd, M.	25	00
Hutton, D.	35	00
Michel, K.	10	00
Petersen, G.	5	00
Schubert, R.	10	00
Stutzman, J.	35	00
Sweeney, P.	35	00
Maj Comm.	350	00
Mid-Mont.	[redacted]	
Bechtel Enc.	500	00
Col. L. Holleac	100	00
M. Marietta Mr.	500	00
Norfolk Sound	100	00
Hanzsch	50	00
Vol. Const.	Zero	
TOTAL FROM OTHER SIDE OR ATTACHED LIST		
TOTAL	1984	87

Checks and other items are received for deposit subject to the provisions of the Uniform Commercial Code or any applicable collection agreement.

[redacted]

L. H. OR R'DELLE GIBBS
STAR ROUTE NO. 21 [redacted]
FALLON, MT 59326

8493

Nov. 6 1988

PAY TO THE ORDER OF Conrad Burns for Senate — $ 25 00/100

Twenty-five & no/100 DOLLARS

THE FIRST NATIONAL BANK OF GLENDIVE, MONTANA

R'Delle Gibbs

[redacted]

KENNETH OR CAROL MICHEL
PERSONAL ACCOUNT
BOX 3535 [redacted]
DUTTON, MT [redacted]

2227

11/8 88

PAY TO THE ORDER OF Burns for Senate $ 25 00

Twenty five & 00 DOLLARS

FIDELITY BANK OF MONTANA

MEMO Camp Cont.

Kenneth Michel

[redacted]

.240435833317

M & N COMMITTEE
[redacted] FIRST ST., N.W., [redacted] 800
WASHINGTON, D.C. [redacted]001

11-8 19 88 405

PAY TO THE ORDER OF Conrad Burns for U.S. Senate $ 3,500.00

Three thousand five hundred and no/100 DOLLARS

SIGNET BANK
Virginia

FOR Transfer of Proceeds Gina Mamone

⑈00000132⑈ ⑆056004089⑆ 652-016103⑈

LAUREN A. COX 8-86
ESTHER COX
830 SUNSET DRIVE
ANDERSON, INDIANA 46011

12936

Oct 27 19 88 71-71/719

PAY TO THE ORDER OF Conrad Burns/US Senate $ 100.00

One hundred & No

DOLLARS

ANDERSON BANKING COMPANY
[redacted]

MEMO [redacted]

Lauren A Cox

⑆043583318

HOUPAC
3434 LOCKE LANE
HOUSTON, TEXAS 77027

1690

Pay to the Order of Conrad Burns for Senate 11/6 19 88 $ 500.00

Five hundred Dollars

Charter Bank
Westheimer
P.O. Box [redacted]
Houston, Texas 77227

For [redacted]

Jack McAllen
Diane W Webb

⑈001690⑈ ⑆113001268⑆ 106036 27⑈

342

L. J. BAKER
JEAN B. BAKER
[redacted]
604 - 2ND AVE. NORTH
GLASGOW, MT 59230

11-4-1988

PAY TO THE ORDER OF Conrad Burns $50.00

Fifty & no/100 DOLLARS

FIRST SECURITY BANK OF MONTANA, N.A.
P.O. BOX 69, GLASGOW, MONTANA 59230

FOR [redacted]

137

MILES' GUN HUT
BOX 144 [redacted]
TURNER, MT 59542

93-387/929

Nov 4 1988

PAY TO THE ORDER OF Conrad Burns for U.S. Senate $25.00

Twenty five and 00/100 DOLLARS

BLAINE BANK OF MONTANA
[redacted]

FOR Best of luck

[redacted]

121

MIDWESTERN MAJORITY COMMITTEE
440 FIRST ST., N.W., SUITE 600
WASHINGTON, D.C. 20001

11-9 1988

PAY TO THE ORDER OF Conrad Burns for U.S. Senate $625.00

Six hundred seventy five and no/o DOLLARS

SIGNET BANK
Virginia

FOR Transfer of Proceeds

Gina Mamone

[redacted]

9404 3 5 8 3 3 2 0

DEPOSIT TICKET 10/19/88

CONRAD BURNS/U.S. SENATE
GENERAL ELECTION FUND

(4)

FIRST CITIZENS BANK
MEMBER FDIC
1ST AVENUE NORTH AT BROADWAY
BILLINGS, MONTANA 59101

DATE 10/19/88

	DOLLARS	CENTS
CURRENCY		
COIN		
CHECKS LIST EACH SEPARATELY		
WICKENS, R.	50	00
WOODS, J.	25	00
WILDERICH, R.	100	00
AMERICAN GEN'L PAC	500	00
BECHTEL GROUP PAC	1000	00
CITIZENS FOR THE REPUBLIC	2000	00
RUFF PAC.	1000	00
USTEAM PAC.	1000	00
MIDWESTERN MAT. COMM.	2091	25
M-N COMMITTEE	2001	46
MIDWESTERN MAT. COMM.	1859	00
	47,328	71
TOTAL FROM OTHER SIDE OR ATTACHED LIST		
TOTAL		

Checks and other items are received for deposit subject to the provisions of the Uniform Commercial Code or any applicable collection agreement.

DEPOSIT T.

CONRAD BURNS/U.S. SEN.
GENERAL ELECTION FUND

(3)

FIRST CITIZENS BANK
MEMBER FDIC
1ST AVENUE NORTH AT BROADWAY
BILLINGS, MONTANA 59101

DATE 10/19/88

	DOLLARS	CEN
CURRENCY		
COIN		
CHECKS LIST EACH SEPARATELY		
WOODS, J.	100	00
DOLMEYER, H.	50	
NORBO, J.	25	
OGREN, K.	50	00
OLOFSON, C.	50	00
OLOFSON, C.	50	00
PEDERSEN, K.	50	00
PFEIFLE, P.	50	00
RIZER, P.	100	00
RAMSEY, C.	100	00
RICE, D.	25	00
ROMAIN, A.	10	00
ROWHOUSE, V.	50	00
ST. GERMAIN, P.	25	00
SHESTACK, J.	100	00
SHESTACK, J.	100	00
SPANJUTH, E.	25	00
STORY, M.	15	00
SWANSON, M.	50	
TAYLOR, G.	100	00
TAYLOR, S.	150	00
TERRETT, E.	50	00
THOMPSON, R.	75	00
THORNTON, W.	25	00
TRAXLER, J.	50	00
TRIPP, W.	25	00
ULLOM, S.	25	00
VISSER, C.	50	00
TOTAL FROM OTHER SIDE OR ATTACHED LIST	5175	00
TOTAL		

Checks and other items are received for deposit subject to the provisions of the Uniform Commercial Code or any applicable collection agreement.

105

MIDWESTERN MAJORITY COMMITTEE
440 FIRST ST., N.W., SUITE 600
WASHINGTON, D.C. 20001

OCTOBER 18 19 88 405

PAY TO THE ORDER OF CONRAD BURNS FOR U.S. SENATE $ *2,991.25*

*TWO THOUSAND NINE HUNDRED NINETY ONE AND 25/00****** DOLLARS

SIGNET BANK
Virginia

FOR TRANSFER Gina Mamone

[redacted]

110

M & N COMMITTEE
440 FIRST ST., N.W., SUITE 600
WASHINGTON, D.C. 20001

OCTOBER 14 19 88 405

PAY TO THE ORDER OF CONRAD BURNS FOR U.S. SENATE $ 20,072.46

*TWENTY THOUSAND SEVENTY TWO AND 46/00********** DOLLARS

SIGNET BANK
Virginia

FOR TRANSFER Gina Mamone

[redacted]

101

MIDWESTERN MAJORITY COMMITTEE
440 FIRST ST., N.W., SUITE 600
WASHINGTON, D.C. 20001

OCTOBER 17 19 88 405

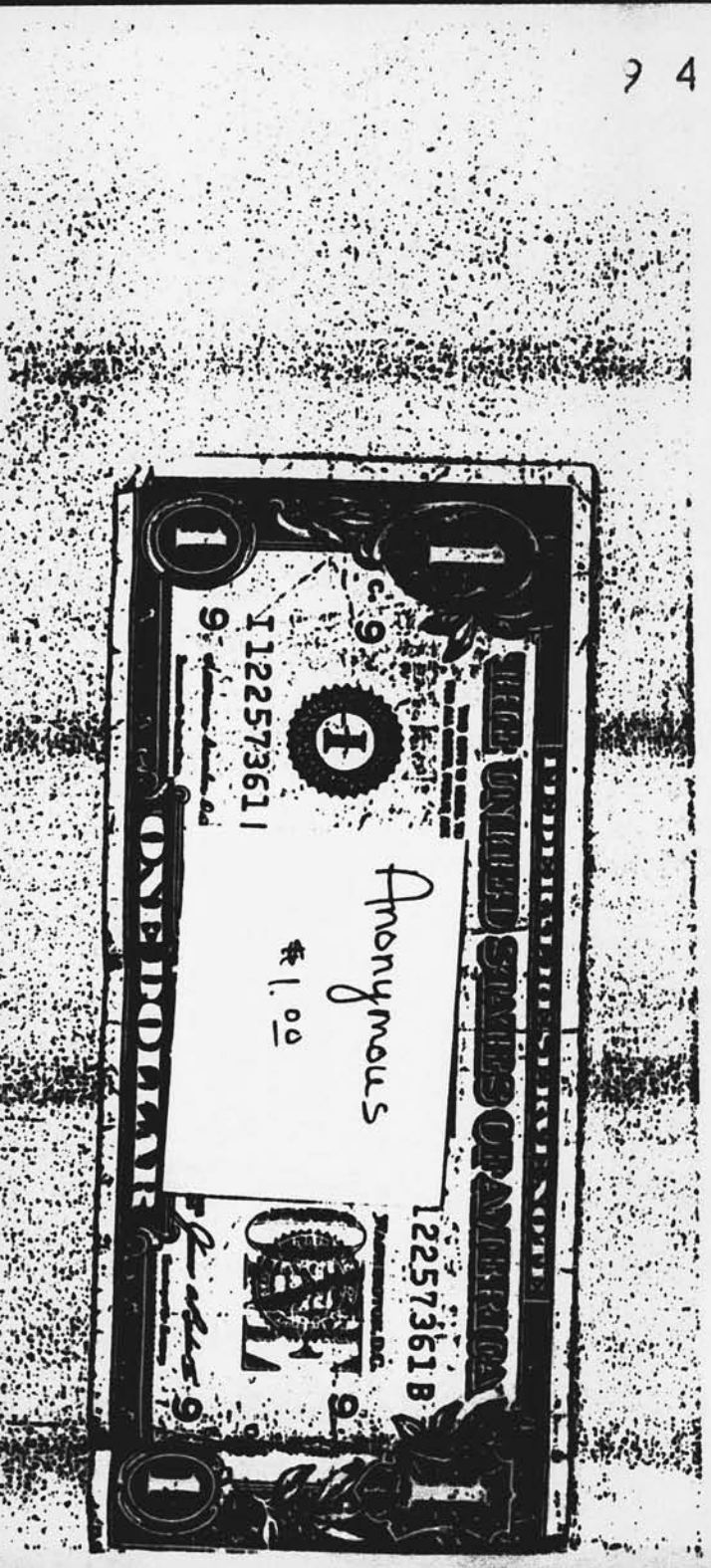
PAY TO THE ORDER OF CONRAD BURNS FOR U.S. SENATE $ 18,590.00

*EIGHTEEN THOUSAND FIVE HUNDRED NINETY AND 00/00****** DOLLARS

SIGNET BANK
Virginia

FOR PROCEEDS

[redacted]



9 4 0 4 3 5 8 3 3 2 2 63-119/929

CONRAD BURNS/U.S. SENATE
GENERAL ELECTION FUND

(2)

FIRST CITIZENS BANK
1ST AVENUE NORTH AT BROADWAY
BILLINGS, MONTANA 59101

DATE 11/3/88

	DOLLARS	CENTS
CURRENCY		
COIN		
CHECKS LIST EACH SEPARATELY		
NOLDE, L.	20	00
ODENBACH, E.	50	00
OKOWSKI, M.	100	00
PATTERSON, L.	5	00
PEHLKE, E.	25	00
SCHWIDDE, C.	50	00
SHUMATE, H.	100	00
SMITH, E.	5	00
STANAWAY, D.	100	00
" STICHMAN, E.	50	00
" STOKES, G.	50	00
" TEIGEN, E.	100	00
" TRASK, E.	25	00
" WILLCUTT, D.	100	00
"		
" M+M COMM.	12500	00
" MID. MAJ.	1300	00
"		
" CONS. VICTORY	1000	00
" H. FLETCHER	1000	00
" FUND. AM. FUT.	5000	00
" GLACIER CO. W.	50	00
" D. GUILLERMO	100	00
" A. HILDE JR	300	00
" A. PAGDAN	200	00
" J. PATINO	200	00
" S. ZELL	1000	00
TOTAL FROM OTHER SIDE OR ATTACHED LIST		
PLEASE RE-ENTER TOTAL HERE TOTAL	[illegible]	

Checks and other items are received for deposit subject to the provisions of the Uniform Commercial Code or any applicable collection agreement.

DEPOSIT TIC

CONRAD BURNS/U.S. SENATE
GENERAL ELECTION FUND

(1)

FIRST CITIZENS BANK
1ST AVENUE NORTH AT BROADWAY
BILLINGS, MONTANA 59101

DATE 11/3/88

	DOLLARS	CEN
CURRENCY Fruehauger, P	16	00
COIN Holden, R. Riffle, J.		
CHECKS LIST EACH SEPARATELY		
ANDERSON, B.	100	00
CAMPBELL, K.	100	00
CLARY, R. (C)	5	00
CONKLING, O.	30	00
DAVIS, B.	30	00
DEWEES, D.	350	00
EATON, S.	20	00
EDSALL, W.	25	00
ESSMANN, J.	150	00
" FICHTNER, L.	250	00
" FITZHUGH, D.	15	00
" GAUB, F.	20	00
" GRAUMAN, D.	30	00
" GROSFIELD, L.	100	00
" HANCOCK, W.	1000	00
" HILES, J.	50	00
" HORTON, J.C.T.	10	00
" JOHNSON, N.	30	00
" KENAT, A.	50	00
" KNUDSON, R.	25	00
" KOLSTAD, M.	50	00
" KRUSHENSKY, J	50	00
" LARSON, H.	5	00
" MADER, J.T.	5	00
" MAGILL, E.	500	00
" MCCASLIN, N.	50	00
" MCMILLAN, W.	50	00
TOTAL FROM OTHER SIDE OR ATTACHED LIST		
PLEASE RE-ENTER TOTAL HERE TOTAL	26,546	00

Checks and other items are received for deposit subject to the provisions of the Uniform Commercial Code or any applicable collection agreement.

128

M A N COMMITTEE
440 FIRST ST., N.W., SUITE 600
WASHINGTON, D.C. 20001

11-1 19 88 405

PAY TO THE ORDER OF Conrad Burns for U.S. Senate $ 12,500.00

Twelve thousand five hundred and no/00 DOLLARS

SIGNET BANK Virginia

FOR Transfer of Proceeds Gina Mamone

[redacted]

115

MIDWESTERN MAJORITY COMMITTEE
440 FIRST ST., N.W., SUITE 600
WASHINGTON, D.C. 20001

11-1 19 88 405

PAY TO THE ORDER OF Conrad Burns for U.S. Senate $ 1300.00

Thirteen hundred and no/00 DOLLARS

SIGNET BANK Virginia

FOR Transfer of Proceeds Gina Mamone

[redacted]

LORENTS GROSFIELD
HC 67, BOX 2145 [redacted]
BIG TIMBER, MT 59011

CITIZENS BANK & TRUST COMPANY
BIG TIMBER, MT 59011
93-66-929

5091

DATE	AMOUNT
10/31/88	$100.00

PAY TO THE ORDER OF: CONRAD BURNS FOR U.S. SENATE
PO BOX 3311
BILLINGS, MT 59103-9909

**********100.00DOLLARS**********

Lorents Grosfield

[redacted]

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 29, 1991

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Steven Goldberg, President
Campaign Telecommunications, Inc.
1556 3rd Avenue, Suite 209
New York, N.Y. 10128

RE: MUR 3204

Dear Mr. Goldberg:

On June 28, 1991, the Federal Election Commission sent you a set of interrogatories and requests for documents as a nonrespondent witness in a matter under investigation by the Commission. A copy of this document is enclosed. The interrogatories and requests for documents requested your response within 15 days of receipt.

To date, we have not received your response to the interrogatories and requests for documents. You should contact the Office of the General Counsel immediately. If your response to the interrogatories and requests for documents is not received within 10 days of your receipt of this letter, this Office will consider recommending that the Commission issue a subpoena and order for the requested information.

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

Sincerely,

Lawrence M. Noble
General Counsel

BY: George F. Rishel
Assistant General Counsel

2404358333324

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 30, 1991

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Elwood English
Election Enterprises
540 Ave B - #1
Billings, MT 59102

RE: MUR 3204

Dear Mr. English:

The attached correspondence was misaddressed. It is being resent to you at the correct address. You should respond within 15 days of your receipt of this letter.

If you have any questions, please contact Lawrence Parrish or Anne Weissenborn, the attorneys assigned to this matter at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

BY: George F. Rishel
Assistant General Counsel

Enclosure

2043583325

TELEGRAMMATORS

July 23, 1991

RECEIVED
FEDERAL ELECTION COMMISSION
SEC
91 JUL 30 AM

[redacted]

1. [redacted] Telecommunications, Inc. ("Campaign") conducted the [redacted] telemarketing survey [redacted] Campaign did not conduct any telemarketing survey [redacted] Wisconsin. Campaign does not have an address or telephone number for Redmond. The names and telephone numbers were delivered on 3"x5" index cards which were probably arranged by congressional district. Campaign does not know who paid for the preparation of the names and telephone numbers.

2. The 1988 Montana telemarketing survey conducted by Campaign consisted of employees of Campaign conducting telephone interviews of the individuals whose names and phone numbers were supplied to Campaign from Redmond. The telemarketing survey was one single event. The exact script which was used by the telephone interviewer is no longer available; however, scripts generally consist of four or five questions asking voters to state their candidate preference in various races.

National Republican Senatorial Committee (NP-Montana)	$ 7,132.73	(38%)
Conrad Burns/U.S. Senate	4,749.91	(25%)
RGA-Republican Governors Association	4,731.00	(25%)
National Republican Congressional Committee (Marlenee for Congress)	2,366.00	(12%)
	$18,999.64	

Campaign determined the cost of the program, however, the allocation of the program as set forth above was given to Campaign by Jill Jackson, Campaign's contact person at the National Republican Senatorial Committee.

3. Campaign does not have any records indicating that it had any direct contact with the Conrad Burns committee. The [illegible]

4. [illegible]

Bill dated October 16, 1995 is an abbreviation for the following:

National Republican Senatorial Committee (NP-Montana)	$ 7,132.73	(38%)
Conrad Burns/U.S. Senate	4,749.91	(25%)
RGA-Republican Governors Association	4,731.00	(25%)
National Republican Congressional Committee	2,366.00	(12%)
	$18,999.64	

The allocation was provided to Campaign by Jill Jackson.

Very truly yours,

Steve Goldberg

OGC # 2052

WILEY, REIN & FIELDING

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

August 1, 1991

JAN WITOLD BARAN
(202) 429-7330

FACSIMILE
(202) 429-7049
TELEX 248349 WYRN UR

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
91 AUG -1 PM 5:11

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

ATTN: Anne A. Weissenborn

Re: MUR 3204
National Republican Senatorial Committee and
James L. Hagen, as treasurer

Dear Mr. Noble:

Attached hereto is the Response of the National Republican Senatorial Committee and James L. Hagen, as treasurer, to the Federal Election Commission's Interrogatories and Requests for Production of Documents of May 31, 1991 in Matter Under Review 3204.

Sincerely yours,

Jan Witold Baran
Carol A. Laham
Steven M. Mister
Counsel for the National
Republican Senatorial
Committee and James L. Hagen,
as treasurer

JWB:cb

Enclosure

2404358333328

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
91 AUG -1 PM 5:12

RESPONSES OF THE NATIONAL REPUBLICAN SENATORIAL COMMITTEE

TO THE INTERROGATORIES OF THE FEDERAL ELECTION COMMISSION

IN MUR 3204

1. Describe and fully explain the fundraising practices and techniques used by the National Republican Senatorial Committee (NRSC) during 1988 which resulted in earmarked and/or "bundled" contributions being made by the NRSC to the Conrad Burns/U.S. Senate Committee. Produce any and all documents which relate to the making of such earmarked and/or "bundled" contributions to the 1988 Burns campaign. Produce copies of any and all NRSC solicitations which sought contributions on behalf of the 1988 Burns campaign. Identify and explain all costs incurred by the NRSC in connection with solicitations on behalf of the 1988 Burns campaign, and describe how such costs were reported by the NRSC.

ANSWER: As a preliminary matter, the NRSC does not know what the Commission means when it uses the word "bundled" in this Interrogatory. This word is not defined in the instructions accompanying these interrogatories, nor is it a term of art under the Federal Election Campaign Act, as amended, or under the Commission's regulations. Accordingly, we cannot provide answers to this Interrogatory with respect to "bundled" contributions.

On the other hand, the term earmarked is defined at 11 C.F.R. § 110.6(b) as:

> a designation, instruction, or encumbrance, whether direct or indirect, express or implied, oral or written, which results in all or any part of a contribution or expenditure being made to, or expended on behalf of, a clearly identified candidate or a candidate's authorized committee.

Thus, this response addresses earmarked contributions.

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After a review of the NRSC's records for the 1988 election cycle, it has been determined that the NRSC received earmarked contributions for the Burns for U.S. Senate Committee in one of three ways. First, some earmarked contributions were generated by a mailing which requested that contributions be made to the Burns for U.S. Senate Committee and the Engeleiter for Senate Committee. See solicitation letter attached as Exhibit 1. In accordance with that letter, contributors earmarked contributions to the Burns and Engeleiter Committees. Further, pursuant to 11 C.F.R. § 110.6(c)(1)(v), these contributions were itemized as "memo entries" for Line 11a on the NRSC's FEC reports. Expenses for the solicitation were paid out of the gross receipts from the mailing and reported as "operating expenditures" of the NRSC on Line 19 of its reports. The proceeds were then distributed equally between the two committees in accordance with the earmarking instructions. The NRSC reported these transfers as itemized disbursements on Line 21 of its FEC reports. Copies of the checks issued to the Conrad Burns for U.S. Senate Committee representing earmarked contributions to Conrad Burns are attached as Exhibit 2. However, there is an additional balance due to the NRSC from the Burns Committee of $1,737.49 in connection with this mailing. The Committee was billed for this balance on January 26, 1989.

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Second, the NRSC received contributions made payable to Conrad Burns directly. A limited number of such contributions were mailed to the NRSC to be counted by the NRSC in determining whether an individual would receive an honorary designation as a member of the NRSC Trust (the title of an NRSC fundraising program). See solicitation letter attached as Exhibit 3. Again, because the NRSC simply received the checks and forwarded them to the Burns for U.S. Senate Committee, the NRSC itemized these contributions as "memo entries" for Line 11a on its FEC reports. The Burns committee was charged a processing fee which was designed to ensure that the expenses for the solicitation were borne by the candidate.

Finally, the NRSC received four miscellaneous contributions during the course of the election cycle addressed to the NRSC but which were earmarked for a particular candidate. The NRSC cannot locate or identify the solicitations that may have led to the receipt of these contributions. These contributions were forwarded to the appropriate designated candidate, reported by the NRSC on Line 21 of its FEC reports, and itemized as "earmarked contributions."

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2. Describe and fully explain how the fundraising practices and techniques used by the NRSC which resulted in earmarked and/or "bundled" contributions being made to the 1988 Burns campaign differed from the 1986 NRSC "Direct To" program which was the subject of Common Cause v. FEC, 729 F. Supp. 148 (D.D.C. 1990).

ANSWER: Albert Mitchler, the current Finance Director of the NRSC, has previously stated in his Affidavit before the Federal Election Commission in MUR 3087 (a predecessor of this action) that, "The NRSC did not employ any program identical to or similar to the 1986 'Direct To' program in 1988." See Affidavit of Albert Mitchler Before the Federal Election Commission in Matter Under Review 3087 (previously attached to the NRSC's Response to MUR 3087) at ¶ 4. Specifically, there was no Direct-To program in 1988. Thus, a comparison of the fundraising practices would be inapt. With regard to the specific solicitations identified in response to question 1 above, they possessed the following attributes, among many: 1) The solicitations clearly identified Conrad Burns as a candidate to receive the earmarked contributions; 2) Contributors designated in writing the committee to receive their contributions; and 3) Expenses for soliciting the contributions were borne by the candidate committees benefitting from those solicitations.

3. State whether or not the NRSC had any agreement, written or oral, with the M&N Committee and/or the Midwestern Majority Committee for fundraising activity in 1988. Produce any such written agreements. Describe and explain any and all fundraising activity conducted by these two committees on behalf of the 1988 Burns campaign.

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ANSWER: According to the Statements of Organization on file with the Federal Election Commission, both the Midwestern Majority Committee and the M & N Committee are joint fundraising committees composed of various candidates for federal office. The NRSC was not a participant in either joint fundraising committee, and accordingly, it had no agreement -- written, oral or otherwise -- with either the Midwestern Majority Committee or the M & N Committee. The NRSC does have in its files an unsigned copy of a proposed joint fundraising agreement for the M & N Committee (see Exhibit 4), but cannot attest to whether this draft reflects the final agreement of the parties.

It is my understanding that both the M & N Committee and the Midwestern Majority Committee conducted a variety of fundraising activities on behalf of each of the participants of the joint fundraising committee. These included direct mail solicitations and special events (*i.e.* -- receptions). Based on the committees' publicly-filed FEC reports, it appears that, consistent with FEC regulations regarding joint fundraising, the expenses of the committees were paid out of the gross receipts of the committees prior to any proceeds being distributed to the participants.

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4. State whether or not the NRSC had any agreement, written or oral, with the Gary Lawrence Company of Santa Ana, California, to conduct and/or produce daily tracking polls for the 1988 Montana General Election. Describe and fully explain any such agreement or arrangement. Produce any such written document.

ANSWER: The NRSC did have an oral agreement with the Gary Lawrence Company to conduct tracking polls in Montana in 1988. There was no written agreement. See Second Affidavit of Jeff Willis Before the Federal Election Commission in MUR 3204 (hereinafter "Willis Aff. II") at ¶ 5 (attached hereto as Exhibit 5). This agreement was made in conjunction with an agreement between the Republican Governor's Association and the Gary Lawrence Company to conduct daily tracking polls in Montana in 1988. Pursuant to these agreements, the Gary Lawrence Company conducted telephone interviews regarding the gubernatorial and senatorial races in Montana (among other states) and provided the appropriate results to the NRSC and the Republican Governors' Association (RGA). Willis Aff. II at ¶¶ 4-5. As Jeff Willis stated in his Affidavit:

> The NRSC used the data from these tracking polls to determine the allocation of its financial and creative resources; the kinds of party programs most likely to be effective in particular states; and the best use of its money by targeting close races.

Willis Aff. II at ¶ 2.

In the case of one question in the poll, "the Burns for U.S. Senate Committee asked that the results of one question be made available to the campaign for the one-week period of

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October 30 through November 6, 1988." Willis Aff. II at ¶ 6. In accordance with FEC regulations, the Burns committee agreed to pay for its share of the results and purchased the answers to that question directly from the vendor. Willis Aff. II at ¶ 6.

The results of one question in the poll (a head-to-head comparison of Burns and Melcher) were shared equally between the Burns Committee and the NRSC for the week of October 31 to November 6. Accordingly, the Burns committee was responsible for one-half its cost. Willis Aff. II at ¶ 6. The Factual and Legal Analysis in this Matter states "that the total amount of the Montana poll was $50,100. The Factual and Legal Analysis indicates that the RGA paid $49,650, part of which was reimbursed to the RGA by the NRSC, and the remaining $450 was paid by the Burns for U.S. Senate Committee." See Factual and Legal Analysis in MUR 3204 at 10-12. Jeff Willis has reviewed these findings and has stated that he believes "this portion of the analysis accurately reflects the arrangement between the RGA, the NRSC, the Burns Committee, and the Gary Lawrence Company." Willis Aff. II at ¶ 9.

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5. State whether or not the NRSC had any agreement, written or oral, with the Republican Governors Association (RGA) of Washington, D.C., regarding daily tracking polls for the 1988 Montana General Election conducted by the Gary Lawrence Company. Describe and fully explain any such agreement or arrangement. Produce any such written agreement.

ANSWER: Again, the NRSC did not have any written agreement with the RGA for tracking polls conducted by the Gary Lawrence Company on their behalf. Rather, the poll was the result of an informal oral agreement between the NRSC and the RGA. Willis Aff. II at ¶ 4. The NRSC drafted its own questions and submitted them to the Gary Lawrence Company, the vendor for this project. The vendor conducted a telephone poll and sent the appropriate daily tracking information to the NRSC pursuant to its portion of the questions. Willis Aff. II at ¶ 4.

"It was not uncommon for the NRSC to cooperate with other organizations, such as the Republican Governors' Association (RGA), in the development of such polls since, by combining the questions in a single poll, both organizations split the costs of the poll according to the number of questions each organization requested." Willis Aff. II at ¶ 3. In this case, the polls were conducted on October 15 through November 2, 1988. The payment arrangements are detailed in the NRSC's Response to Interrogatory No. 4.

6. State whether or not the results of the tracking polls conducted and produced by the Gary Lawrence Company were provided to the NRSC. Further state whether these results were in turn provided by the NRSC to any federal or state candidates or candidate committees during the 1988 Montana General Election campaign. Identify which candidates and/or committees, if any, were provided with these results, and describe what payments were made for these results and how such payments were reported to the Commission. Produce any and all documents relating to these polling results and the reporting of any related payments.

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ANSWER: The NRSC did receive the results of those questions in the tracking polls conducted by the Gary Lawrence Company that pertained to the U.S. Senate race. Further, in response to the Commission's question as to whether the results were provided by the NRSC to any candidate, Jeff Willis, the NRSC's Polling Director, states:

> It was the policy of the NRSC not to provide the results of any polls to an individual candidate committee unless the committee agreed in advance to pay for those results in accordance with FEC regulations. Accordingly, I never released the results of the daily tracking polls to anyone employed by the Burns campaign or any state candidate; I did not authorize anyone else to release these tracking poll results to the Burns campaign or any state candidate; nor to my knowledge, did anyone else release the poll results to the Burns Campaign or any state candidate, with the one exception of the question . . . for which the Burns Committee made payment.

Willis Aff. II at ¶ 8.

Additionally, with regard to the one polling question shared with the Burns Committee, Jeff Willis states that "[t]o the best of my knowledge, the Gary Lawrence Company did provide results of that question to the Burns Committee, but because the results were sent directly to the Burns Campaign, I cannot verify the contents of the information the Gary Lawrence Company actually sent to the Burns Campaign." Willis Aff. II at ¶ 7.

Attached as Exhibit 6 are the summary results of the Montana tracking polls as well as other materials in the NRSC

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files which relate to the polling results, with the exception of the computer-generated data which includes the questionnaire, crosstabs, and individual results.

7. Describe and explain the "Voter Identification Project" conducted in Montana for the 1988 election, and the NRSC's role in this project. State whether the NRSC paid for all or any portion of this project. Identify any and all vendors to whom the NRSC paid in connection with this project, and list all amounts expended by the NRSC for this project. Identify and explain how such sums were reported by the NRSC on its reports to the Commission.

ANSWER: As previously stated by Robert Bissen, Special Projects Director of the NRSC, "[t]he 'Montana Voter Identification Project' began in the Fall of 1987 as a joint effort of the Republican National, State and local Montana parties to create a list of voters in Montana and provide demographic and party affiliation data for those voters to the extent possible." Second Affidavit of Robert J. Bissen Before the Federal Election Commission in MUR 3204 (hereinafter "Bissen Aff. II") at ¶ 3 (attached hereto as Exhibit 7); see also First Affidavit of Robert J. Bissen Before the Federal Election Commission in MUR 3204 (hereinafter "Bissen Aff. I") at ¶ 2 (attached to the NRSC's Response to MUR 3204). As previously explained, the State of Montana neither maintains a statewide voter registration list nor does it require registration by party affiliation. Bissen Aff. II at ¶ 3; Bissen Aff. I at ¶ 3.

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In his Affidavit, Robert Bissen describes the execution of the voter list development and enhancement conducted in Montana:

> The first stage in this undertaking was for local Republican groups in Montana to visit the county courthouses around the state and to retrieve the voter registration lists for that county . . . These lists were on floppy discs, magnetic tapes, computer cartridges, personal computer hard drives, or sometimes simply type-written lists. The state party initially paid many of the retrieval costs to acquire voter registration lists (travel expenses, copying costs, postage, etc.) and then was reimbursed by the national party committees.
>
> Once obtained, these lists were forwarded to Data Dimensions Corporation. Data Dimensions was responsible for data entry and restructuring or converting the various voter lists into a standard format.
>
> The next step was to verify and supplement the information collected from the counties with various software packages. Two list vendors, Rexnord Data Systems and Parity Political Planning, were used to perform phone number, address, and zip code matches using commercial software packages that correct and update demographic data.
>
> Despite this process, many entries still contained no, or incorrect, demographic data. At this point, the Montana Republican Party assigned portions of the newly-created list to various local Republican groups in Montana to compare voter names with their local telephone directories and to correct erroneous information. Elwood English, working on behalf of the Montana Republican Party, coordinated the delivery and collection of materials with local parties, and travelled around the state to obtain this data.
>
> The final stage in the creation of the voter list was to discern likely party affiliation. Direct Communications conducted a telephone bank using the prepared list and this new information was added to the list. At this point, the project was complete and a Montana voter list created. As

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with all lists, it was converted to magnetic tape from which output was available.

Output from the master list, or some identified portion thereof (e.g., Republicans only, or all voters in Flathead County), was available through list vendors to any Republican entity who sought it for the normal charges by the vendor to produce these materials (mailing labels, index cards, etc.). No federal candidate was provided with a magnetic computer tape of the completed voter list.

Bissen Aff. II at ¶ 4-9.

Finally, some confusion is evident in the Commission's Factual and Legal Analysis in this Matter. To correct this confusion, Robert Bissen states in his Affidavit that "Campaign Telecommunications was not a vendor used in connection with the voter list development and enhancement in Montana." Bissen Aff. II at ¶ 10 (emphasis added). Rather Campaign Telecommunications was independently commissioned to do a phone bank which was participated in by many entities, including the Burns Committee. See Bissen Aff. II at ¶ 10. As Mr. Bissen has previously explained in his First Affidavit to the Commission in this Matter, the Burns for U.S. Senate Committee paid for its share of that phone bank. Bissen Aff. II at ¶ 11. See also Bissen Aff. I at ¶ 6 and Attachments thereto.

8. State whether or not the NRSC made any payments to Campaign Telecommunications of New York, New York, in connection with the 1988 Senate campaign in Montana. If so, identify all such payments as to date and amount, and explain the purpose of each such payment. Produce all records pertaining to such payments.

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ANSWER: The NRSC made one payment to Campaign Telecommunications in connection with activities in Montana on October 25, 1988, for the amount of $15,131.60. A copy of the check is attached as Exhibit A to the Second Affidavit of Robert J. Bissen. This check represents payment for the NRSC's share of phone banks in Montana ($7,152.73) and Wyoming ($7,978.87). Bissen Aff. II at ¶ 11.

As Robert Bissen has explained, Campaign Telecommunications conducted a phone bank in Montana for which each entity participating in the phone bank paid its share of the results. Bissen Aff. I at ¶ 6. The total bill from Campaign Telecommunications for the Montana phone bank was $18,999.64. Bissen Aff. II at ¶ 10.

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9. Identify all federal candidates who were provided with all or portions of a Montana voter list which was produced as a result of the "Voter Identification Project." Further identify which candidates paid for this information, and for which candidates this was reported as a coordinated expenditure, as well as the applicable amounts for each. Produce any and all documents relating to the NRSC's providing this voter list information to federal candidates.

ANSWER: No federal candidate was provided with the Montana voter list compiled by the "Montana Voter Identification Project." See Bissen Aff. II at ¶ 9. However, once this generic list of voters in Montana was completed, "[o]utput from the master list, or some identified portion thereof (e.g. Republicans only, or all voters in Flathead County) was

available through list vendors to any Republican entity that sought it for the normal charges by the vendor to produce these materials." Bissen Aff. II at ¶ 9. The NRSC, the Burns Committee, the Montana Republican Party, or any other entity seeking access to the output from the voter list paid the vendor maintaining the list directly for the desired output. See Bissen Aff. I at ¶ 4.

10. Several monetary transfers made by the NRSC to the Montana Republican State Central Committee (Montana Republican Party) coincide as to amount and date with payments made by the Montana Republican Party to James R. Foster and Associates, a direct mail vendor located in Carrollton, Texas (i.e., $6,879 on October 7, 1988; $4,956 on October 24, 1988; $32,110 on October 31, 1988). State why the NRSC made transfers in these specific dollar amounts to the Montana Republican Party on these particular dates. State whether or not any employee or agent of the Montana Republican Party had requested the NRSC to make these transfers. State whether any employee or agent of the NRSC was aware that amounts identical to these transfers were being paid by the Montana Republican Party to James R. Foster and Associates. State for what purpose the NRSC believed these funds were being used by the Montana Republican Party. State whether or not any employee or agent of the NRSC was aware that these transfers were being used by the Montana Republican Party to pay for direct mail activity. Produce all documents pertaining to all monetary transfers by the NRSC to the Montana Republican Party during 1988, including copies of all transmittal letters.

ANSWER: As a preliminary matter, this question incorrectly assumes that "these transfers were being used by the Montana Republican Party to pay for direct mail activity." Interrogatory and Request for Documents No. 10 Propounded by the FEC to the NRSC. The NRSC does not believe that its transfers to the Montana Party were used for "direct mail"

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which is, of course, a term of art in election law. Nor, in fact, does the NRSC believe that the state party undertook any direct mail in 1988. Rather, the NRSC transferred funds to the Montana party in order to assist the party with its administrative and overhead expenses. See Affidavit of Ann Prestidge Before the Federal Election Commission (hereinafter "Prestidge Aff.") at ¶ 9 (attached hereto as Exhibit 8). Ms. Prestidge states that:

> [i]t was my understanding that the state party was aware that the transfers from the NRSC were intended for general overhead expenses and were not designated for any particular use. I am not personally aware of whether the NRSC made any transfers in amounts that coincide with payments by the Montana Republican Party to James R. Foster and Associates.

Prestidge Aff. at ¶ 9.

Moreover, there is no prohibition on a transfer from a national party committee to a state party for use as the state party sees fit. A state party is permitted to use the funds for non-allocable activities like get-out-the-vote mailings, absentee ballots, and slate mailings. Furthermore, James R. Foster and Associates produces a variety of mail activity which includes get-out-the-vote mailings, absentee ballots, and slate mailings, as well as producing volunteer materials, for various state parties around the country. Thus, there is no reason to assume that payments made by the Montana Party to James R. Foster were for direct mail rather

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than for one of these other non-allocable, permissible, activities.

The check requests for all transfers from the NRSC to the Montana Republican Party in 1988 are attached at Exhibit 9. The NRSC has located in its files a bill attached to a check request from J.R. Foster & Associates to the Montana Republican State Central Committee for the amount in question ($6,879.01) for "Absentee Ballot Mailing." See Exhibit 9. There is no restriction on the source of otherwise legally permissible state party funds which are used to pay for absentee ballots.

Finally, because we are now in the second election cycle since the 1988 election and there is a frequent turnover of NRSC staff, current NRSC employees are unable to attest to the conversations between former NRSC employees and the Montana Republican Party in 1988 other than those discussed above.

11. Identify the date(s) when copies of the NRSC's 1988 disclosure reports were filed with the Montana Office of Political Practices.

ANSWER: The NRSC provided the Montana Office of Political Practices with copies of its FEC reports for its activities with regard to Burns for U.S. Senate Committee on February 8, 1990. The NRSC provided the Montana Office of Political Practices with copies of its FEC reports for its transfers to

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the Montana Republican Party on April 27, 1990. Again, however, these reports were filed timely with the Federal Election Commission and have been available for public inspection from the date of their original filing with the FEC.

12. State whether or not the following persons were employees or agents of the NRSC in 1988: Elwood English, Ken Knudson, and Tom Hannah. If so, please identify each person, their position or title with the NRSC, dates of employment with the NRSC, and how and where salary payments made to each person were reported by the NRSC. State whether or not the NRSC had any agreement, written or oral, with the Montana Republican Party (or employee or agent thereof) by which the Montana Republican Party would pay all or a portion of the salary and/or expenses of the above-listed persons. Produce the last known business and home addresses for English, Knudson, and Hannah, including telephone numbers.

ANSWER: The NRSC has reviewed its files (W-2 forms, 1099 forms, payroll registers, vendor files, personnel files) and has verified that neither Elwood English, Ken Knudson, nor Tom Hannah were employed by, agents of, or contractors for, the NRSC during 1988. Furthermore, to my knowledge, the NRSC did not have any agreement, written or oral, with the Montana Republican Party (or employee or agent thereof) by which the Montana Republican Party would pay all or a portion of the salary and/or expenses of these persons. The NRSC has no known addresses or telephone numbers for these individuals.

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13. Produce the current business and home addresses of Ann Prestidge, including telephone numbers. If not known, then produce the last known business and home addresses of Ann Prestidge, including telephone numbers. State whether Ann Prestidge was employed by the NRSC during 1988, and if so, identify her title, position, and dates of employment. Describe her employment duties during 1988, and identify her immediate supervisor. Explain Prestidge's role or involvement with the 1988 Senate campaign in Montana.

ANSWER: Ann Prestidge's home address is: 803 Bernard St., Alexandria, VA 22314. Her business address is: Inter-American Foundation, 1515 Wilson Blvd, Arlington, VA 22209. Prestidge Aff. at ¶ 2.

Ann Prestidge was employed by the NRSC from June 15, 1987 through January 6, 1989 as a Field Coordinator. Her supervisor was Ed Brookover, the Political Director of the NRSC. Prestidge Aff. at ¶ 6. Ms. Prestidge describes her employment duties as follows:

> My job responsibilities at the NRSC included serving as a liaison and coordinator for political activities between the NRSC, various consultants, state parties and Senatorial campaigns throughout the country. I encouraged state parties to help their Senate candidates and consulted with them regarding permissible state party activity on behalf of Republican candidates. I served as a principal contact of the NRSC for these entities in various states and as an advocate on behalf of their requests for allocation of NRSC resources.
>
> Additionally, I assisted with coalition development and target outreach programs to specific voter groups. I also assisted with PAC fundraising, list development, voter identification and voter turnout activities.

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> My job responsibilities in the 1988 Montana Senate race are a reflection of those general duties I performed for the NRSC throughout the country.

Prestidge Aff. at ¶¶ 3-5.

14. State whether Corey Lane was employed by the NRSC during 1988 and, if so, identify his title, position, dates of employment, and immediate supervisor. State his employment duties during 1988. Explain his role or involvement in the 1988 Senate campaign in Montana. Produce Corey Lane's last known business and home addresses, including telephone numbers.

ANSWER: As previously explained in the NRSC's response to the Complaint in this Matter, Corey Lane was employed by the Montana State Republican Party as a fundraiser for the state party. NRSC Response To MUR 3204 at 10. See also Prestidge Aff. at ¶ 7. Corey Lane was not employed in any capacity by the NRSC during 1988. As Corey Lane was never an employee of the NRSC, the NRSC has no knowledge of his home or business address.

Pursuant to an oral agreement with the Montana Republican Party, the NRSC agreed to transfer $20,000 to the state party (in four installments) to help pay Corey Lane's salary. Prestidge Aff. at ¶ 8. These amounts were reported to the FEC as transfers for administrative expenses of a state party, as permitted under 2 U.S.C. § 441a(a)(4). The NRSC exercised no authority over Corey Lane, as he was an employee of the Montana Republican Party, but the NRSC was aware that he was hired for the purpose of raising funds for

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the state party for its use in connection with party-building activities, including the state party's anticipated expenses incurred from the creation and enhancement of a Montana state-wide voter list. Prestidge Aff. at ¶ 8.

As Robert Bissen explains, "[Corey Lane] was not involved in any way with the development or execution of the Montana Voter Identification Project." Bissen Aff. II at ¶ 12. Corey Lane's sole function was to assist the Montana State Republican Party in raising funds. See Prestidge Aff. at ¶ 7.

The above responses are based on my review of the NRSC records currently available. I was not the treasurer of the NRSC during the 1988 election cycle. This information is true and correct to the best of my knowledge and belief.

James L. Hagen

James L. Hagen, Treasurer
National Republican
Senatorial Committee

Sworn and subscribed to before me this 1st day of August, 1991.

Notary Public

My Commission expires: July 14 1992

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Senator Bob Dole
P.O. Box 96028
Washington, DC 20077-7467

** 0042 00001 1 ZP 0.205 RSC277A **

October 5, 1988

Ms Kerry Anderson
8761 Contee Rd #302
LAUREL MD
20708-1974

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Dear Ms Anderson,

This is the most volatile election of the century.

And if you and I can't put our heads together, solve problems and make the most of opportunities, **we risk losing everything!**

Within the last four days, field reports from Montana and Wisconsin have revealed tremendous new opportunities for victory.

But like everything else, victory has its price -- in this case, the price is the cost of last-minute phone banks and waves of voter-persuasion mail that will get a winning margin of likely Republican voters to the polls on November 8th.

That's why I hope you will do one very important special favor for me. I need you to rush an emergency contribution of at least $50 or even $100 to our Republican Senate candidates in these two states, care of me, in the enclosed post-paid envelope.

Conrad Burns, our Republican Senate candidate in Montana, is breathing down the neck of incumbent Democrat John Melcher despite the fact that 70% of Melcher's huge war chest is paid for by PACs and special interests outside Montana. By comparison, 70% of Conrad Burns' contributions come from individual hard-working, tax-paying Montanans.

Still, Conrad cannot make it without outside help. Without your immediate assistance, he'll truly be a day late and a dollar short of victory.

Wisconsin is much the same. Our GOP candidate, Susan Engeleiter, has been relying mostly on individual contributions from fellow Wisconsin citizens. Her opponent, multi-millionaire Democrat Herbert Kohl, has promised to pay any price . . . out of his own checkbook . . . to buy this seat outright.

Even so, Susan Engeleiter, the Republican Leader of the Wisconsin State Senate who has established a proven pro-business record, has pulled to **within six points** of Kohl.

However, she cannot close the gap without our immediate financial assistance.

The picture in both of these Senate races has improved dramatically in just the last few days -- so much so that it would truly be a crime if we lost because we failed to provide the required level of support.

Your immediate response will help elect two Republicans to the Senate who will vote with President Bush to maintain our national defense, to fight Democrat-sponsored tax increases and over-regulation, to make our streets safe from hardened criminals and to improve the quality of our education.

Failure to act now will mean two Democrats who will be voting against us and against George Bush on these all-important issues.

That's why I'm urging you to write out a special emergency check for $50 or even $100 payable to the National Republican Senatorial Committee. I'll see to it personally that your entire contribution is divided evenly and channelled directly to future GOP Senators Burns and Engeleiter.

If Montana Democrat Melcher wasn't raking in so much money from out-of-state special interests, I wouldn't need to write you. If Wisconsin Democrat Kohl wasn't a multi-millionaire, I wouldn't need to call on you for help.

But those are the facts. **Without victory in these two states, you and I may well have to scrap our goal of winning a Republican Senate Majority.**

You've never let me down, Ms Anderson. And with the stakes so high, I know you won't let me down today.

Sincerely,

Bob Dole

Bob Dole
Senate Republican Leader

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MEMORANDUM

TO: Senator Bob Dole

FROM: Ms Kerry Anderson 01002090 P804
8761 Contee Rd #302
LAUREL MD
20708-1974

RE: Montana and Wisconsin races

Bob, I understand how winning the Senate races in Montana and Wisconsin is essential to capturing a Republican majority. You can count on me to do my part to help Conrad Burns and Susan Engeleiter win.

I've enclosed my most generous contribution of:

$100 _____ $50 _____ $_____ Other

I've made my check payable to the National Republican Senatorial Committee. I direct you to divide my earmarked contribution evenly between Conrad Burns for U.S. Senate and Engeleiter for Senate Committee.

_____ _____
Signature Date

Paid for and authorized by the National Republican Senatorial Committee, Conrad Burns for U.S. Senate and Engeleiter for Senate Committee.

Please refold and insert in return envelope with address showing through window.

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POSTAGE WILL BE PAID FOR BY ADDRESSEE

National Republican Senatorial Committee
440 First Street N.W., Suite 700
P.O. Box 96028
Washington, DC 20077-7467

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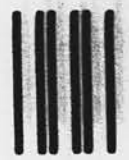

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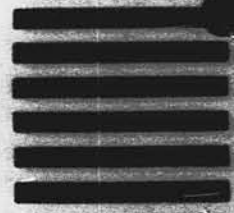

BUSINESS REPLY MAIL

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NATIONAL REPUBLICAN SENATORIAL COMMITTEE

E	DESCRIPTION	AMOUNT
10/21/88	Earmarked Contribution 4100-A01	$50,000.00

NATIONAL REPUBLICAN SENATORIAL COMMITTEE
440 FIRST STREET, NW, 6TH FLOOR
WASHINGTON, D. C. 20001

№ 30412

68-408/580 475

October 21 88

*Fifty thousand and 00/00****** *50,000.00*

Conrad Burns for U.S. Senate
P.O. Box 3311
Billings, MT 59103

BANK OF VIRGINIA
CRYSTAL CITY OFFICE
ARLINGTON, VIRGINIA

COPY NOT NEGOTIABLE

⑈000304⑆2⑈ ⑆056004089⑆ 65⑆-⑆⑆72927⑈

2435833554

NATIONAL REPUBLICAN SENATORIAL COMMITTEE

DATE	DESCRIPTION	AMOUNT
11/04/88	EARMARKED CONTRIBUTION 4100-A01	$40,000.00

2 0 4 3 5 8 3 3 5 5

NATIONAL REPUBLICAN SENATORIAL COMMITTEE
440 FIRST STREET, NW, 6TH FLOOR
WASHINGTON, D. C. 20001

№ 30521

69-408/560 475

NOVEMBER 4 88

*FORTY THOUSAND AND 00/00******* *40,000.00*

CONRAD BURNS FOR U.S. SENATE
P.O. BOX 3311
BILLINGS, MT 59103

BANK OF VIRGINIA
CRYSTAL CITY OFFICE
ARLINGTON, VIRGINIA

COPY NOT NEGOTIABLE

⑈00030521⑈ ⑆056004089⑆ 651⑈7172927⑈

.TE	DESCRIPTION	AMOUNT
10/25/88	EARMARKED CONTRIBUTION 4100-A01	$40.

NATIONAL REPUBLICAN SENATORIAL COMMITTEE
440 FIRST STREET, NW, 6TH FLOOR
WASHINGTON, D. C. 20001

№ 30454

68-408/560 475

OCTOBER 25 88

*FORTY THOUSAND AND 00/00****** *40,000.00*

CONRAD BURNS FOR U.S. SENATE
P.O. BOX 3311
BILLINGS, MT 59103

BANK OF VIRGINIA
CRYSTAL CITY OFFICE
ARLINGTON, VIRGINIA

COPY NOT NEGOTIABLE

⑈000304 54⑈ ⑆056004089⑆ 651⑈7172927⑈

2 4 3 5 8 3 3 5 6

National Republican Senatorial Committee

3

SENATOR RUDY BOSCHWITZ
CHAIRMAN

JANN L. OLSTEN
EXECUTIVE DIRECTOR

October 17, 1988

Mr. Jesse Lloyd Upchurch
One Tandy Center Plaza
Fort Worth, Texas 76102

Dear Jesse:

As we near November 8, one thing is sure: the U.S. Senate remains up for grabs. In this rather long letter, I'll summarize the races for you and give you a sense of our best prospects.

In these remaining three weeks, races in a number of states could change dramatically. I'm often asked, though, that <u>if</u> we get the breaks and <u>if</u> we win the close ones, do we have a shot at regaining control of the Senate? Indeed, we do, and here's how.

There are three types of races: incumbents; seats "open" because of retirements; and, challengers.

<u>INCUMBENTS</u>

As a group, our incumbents look quite good. Each Republican Senator running for reelection has actually improved his position over the past year and our two incumbents viewed as most vulnerable - Chic Hecht of Nevada and David Karnes of Nebraska - are locked in dead heats with their opponents. Polling data released this week shows Chic within two points of Richard Bryan (41-43), and Dave Karnes has narrowed Bob Kerry's lead to four or five points (41-45). Though we continue to watch closely a number of other incumbent races (which will naturally get closer as the election approaches), we have an excellent chance of retaining them all.

<u>OPEN SEATS</u>

The six "open" seats offer us real opportunities. With retirements in Vermont, Virginia, Mississippi, Florida, Wisconsin and Washington (three Republicans and three Democrats), we have an excellent chance of winning five of those six seats. Trent Lott in Mississippi is running a masterful campaign. The latest polls show Trent ahead by 21 points (57-36). Jim Jeffords in Vermont is also leading his opponent by a wide margin and should win comfortably.

440 First Street, N.W. • Suite 600 • Washington, D.C. 20001 • (202) 347-0202

Paid for and authorized by the National Republican Senatorial Committee

Many of you have met and have come to know Conrad Burns of Montana. Conrad would be the most "refreshing addition" to the U.S. Senate since I arrived (!) and he is giving John Melcher the race of his life. His biggest hurdle - and Earl Strinden's as well - is money. We're doing everything we can to assist Conrad and Earl, as many of you know from our recent telephone calls and letters. Conrad can win and Earl can win but they need additional financial support, now!

These, then, are the races most likely to provide us with the gains we need to retake control of the Senate. Also, have in mind that each election year inevitably provides a surprise or two. Bill Valentine's race in New Mexico has all the right ingredients for an upset in this Presidential year. Beau Boulter is providing a strong challenge to Lloyd Bentsen, who is in the curious position of running for reelection for the Senate only as a second choice. Maurice Dawkins is challenging Chuck Robb, who is beset with news reports of problems stemming from his personal life while Governor of Virginia.

Continue to pay attention, as well, to a group of bright, young, aggressive candidates who have been attracted to the Republican party. They include the likes of Bill Anderson in Tennessee, Alan Keyes in Maryland, Jay Wolfe of West Virginia, Joe Malone in Massachusetts and Jack Wyman of Maine. Amongst this group most certainly is a future U.S. Senator or two, perhaps as early as 1988!

As you can see, we have reason to be optimistic as we approach November 8. The Vice President clearly came out the winner of last week's debate, and his strong showing will certainly help. But I must temper my enthusiasm with the observation made in my opening paragraph: a number of U.S. Senate elections - Republican and Democrat - remain undecided; the electorate remains volatile; and, if we get the breaks and win the close ones we can make real gains in the Senate. But if we lose our momentum and fail to take advantage of the opportunities before us, our losses, too, could be real.

So, lest I be accused of writing you and not asking for money at least once (heaven forbid!) I want to stress once again the importance of getting money, immediately, particularly to our close races. If you haven't paid your 1988 Trust dues in full, please do so today. If you've paid but feel you can do more, please do so today. And if you need any further information on the races, call me at my office (202) 224-5641 or at home (703) 734-0514 and, again, please do so today.

Your support has been crucial to the success we've enjoyed thus far this cycle. Let's finish our task and get back the U.S. Senate. We'll celebrate after November 8 and, I truly believe, we'll have good cause to do so.

Sincerely,

Rudy

Rudy Boschwitz

/ds

A JOINT FUNDRAISING AGREEMENT

BETWEEN THE

M & N COMMITTEE

AND

CONRAD BURNS FOR U.S. SENATE

FRIENDS OF SENATOR DAVID KARNES

VALENTINE FOR U.S. SENATE COMMITTEE

STRINDEN FOR U.S. SENATE

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ARTICLE 1.
THE PARTIES

The M & N Committee is a separate on-going committee created by Conrad Burns for U.S. Senate, Friends of Senator David Karnes, Valentine for U.S. Senate Committee, and Strinden for U.S. Senate to act as fundraising representative for an on-going fundraising project terminating on December 31, 1988. The M & N Committee is registered with the Federal Election Commission and organized for the purpose of administering a fundraising project the proceeds of which are to be shared by Conrad Burns for U.S. Senate, Friends of Senator David Karnes, Valentine for U.S. Senate Committee, and Strinden for U.S. Senate.

Pursuant to 11 C.F.R. 102.17(b)(1), the M & N Committee is a reporting political committee which collects all contributions for the 1988 fundraising project, pays fundraising costs from gross proceeds and from funds advanced by Conrad Burns for U.S. Senate, Friends of Senator David Karnes, Valentine for U.S. Senate Committee, and Strinden for U.S. Senate, and disburses net proceeds according to the allocation formula set forth below.

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ARTICLE 2.
THE AGREEMENT

This agreement is entered into by Conrad Burns for U.S. Senate, Friends of Senator David Karnes, Valentine for U.S. Senate Committee, and Strinden for U.S. Senate in compliance with 11 C.F.R. 102.17(c)(1) and represents the understanding of the parties regarding the 1988 fundraising project.

ARTICLE 3.
FUNDRAISING PROCEDURES

A. Depository Account

The M & N Committee shall establish a depository account to be used solely for the receipt and disbursement of all contributions to The M & N Committee that are permissible for the support of candidates under the Federal Election Campaign Act ["Campaign Account"].

B. Allocation Formula

1. Conrad Burns for U.S. Senate, Friends of Senator David Karnes, Valentine for U.S. Senate Committee, and Strinden for U.S. Senate hereby agree that the M & N Committee shall allocate all fundraising proceeds so that 25 percent of all net fundraising proceeds deposited in the Campaign Account shall go to each principal campaign committee that signs this agreement, unless the parties shall agree in advance in writing to a different formula.

2. The participants further agree that any contributions designated (earmarked) to a specific candidate shall go solely to that candidate.

3. Should any allocation by M & N Committee result in a violation of contribution limits to one committee by a donor to that committee, M & N Committee shall reallocate the funds so that the contribution limits of the Federal Election Campaign Act are not violated, while maintaining the overall proportionate division of net proceeds as described in Section 1.

C. Expenses

All expenses for the 1988 fundraising project will be paid by the M & N Committee from the gross proceeds received. Any additional funds and any start-up funds needed by the M & N Committee shall come equally from the participating committees that have signed this agreement, unless the parties shall agree in advance in writing to a different formula. In the event a different allocation formula is used, the participating committees shall pay expenses in the same proportion as their share of the proceeds from the project.

The undersigned persons are authorized by the parties hereto to sign this agreement and have read and fully understand the foregoing and it is their intent to be bound by the terms and conditions hereof:

For Conrad Burns for U.S. Senate:

_____

Dennis Rehberg (Date)

For Friends of Senator David Karnes:

_____

Terri Evans (Date)

For Valentine for U.S. Senate Committee:

_____

Diana Welch (Date)

For Strinden for U.S. Senate:

_____

Kevin Pifer (Date)

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BEFORE THE FEDERAL ELECTION COMMISSION

City of Washington)
) MUR 3204
District of Columbia)

SECOND AFFIDAVIT OF JEFF WILLIS

Jeff Willis, first being duly sworn, deposes and says:

1. I am Jeff Willis. Since August 1988, I have served as the Polling Director for the National Republican Senatorial Committee (NRSC). Among my duties, I am responsible for coordinating the contracts for polls conducted by outside firms with the information needs of the NRSC. I am responsible for disseminating the polling results to proper individuals within the NRSC, requesting the payment of those bills, and allocating those costs where necessary.

2. I am familiar with the tracking polls conducted in Montana during the 1988 campaign of Conrad Burns for United States Senate. The NRSC used the data from these tracking polls to determine the allocation of its financial and creative resources; the kinds of party programs most likely to be effective in particular states; and the best use of its money by targeting close races.

3. It was not uncommon for the NRSC to cooperate with other organizations, such as the Republican Governors' Association (RGA), in the development of such polls since, by combining the questions in a single poll, both organizations

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split the costs of the poll according to the number of questions each organization requested.

4. The RGA and the NRSC had discussions regarding the possibility of conducting a joint tracking poll in Montana to monitor the gubernatorial and senatorial races in that state. These conversations led to an oral agreement between the RGA and the NRSC to hire a consultant to conduct the tracking polls and to divide the expenses proportionately between the two organizations.

5. The NRSC and the Republican Governors' Association (RGA) contracted with the Gary Lawrence Company, the vendor for this project, to conduct the tracking polls in Montana. There was no written agreement with the Gary Lawrence Company, rather the agreement was an oral one. The NRSC drafted its own questions and submitted them to the Gary Lawrence Company. The vendor conducted telephone interviews and sent the NRSC its appropriate portion of the daily tracking information. The polls were conducted on October 15 through November 6, 1988. The RGA made its own arrangements with the Gary Lawrence Company regarding its portion of the polls.

6. Upon learning that tracking polls would be conducted in Montana, the Burns for U.S. Senate Committee asked that the results of one question be made available to the campaign for the one-week period of October 30 through

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November 6, 1988. That question involved voter opinion in a head-to-head race between Burns and his Democratic opponent. In accordance with FEC regulations, because these results would be shared jointly between the NRSC and the Burns Campaign, each entity was responsible for one-half of the costs of that question after dividing the total costs of the poll by the number of questions asked over this period of time. Thus, the cost to Burns was $450. Upon conversations with the Gary Lawrence Company, it was agreed that the vendor would release directly to the Burns for U.S. Senate Committee the results of the tracking poll for that one question and the Burns Committee would pay the Gary Lawrence Company directly for its share of the results.

7. To the best of my knowledge, the Gary Lawrence Company did provide results of that question to the Burns Committee, but because the results were sent directly to the Burns Campaign, I cannot verify the contents of the information the Gary Lawrence Company actually sent to the Burns Campaign.

8. It was the policy of the NRSC not to provide the results of any polls to an individual candidate committee unless the committee agreed in advance to pay for those results in accordance with FEC regulations. Accordingly, I never released the results of the daily tracking polls to anyone employed by the Burns Campaign or any state candidate;

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I did not authorize anyone else to release these tracking poll results to the Burns Campaign or any state candidate; nor to my knowledge, did anyone else release the poll results to the Burns Campaign or any state candidate, with the one exception of the question noted above for which the Burns Committee made payment.

9. I am familiar with the Factual and Legal Analysis in this Matter which states that the total amount of the Montana poll was $50,100. The Factual and Legal Analysis indicates that the RGA paid $49,650, part of which was reimbursed to the RGA by the NRSC, and the remaining $450 was paid by the Burns for U.S. Senate Committee. I believe this portion of the analysis accurately reflects the arrangement between the RGA, the NRSC, the Burns Committee, and the Gary Lawrence Company.

The above information is true and correct to the best of my knowledge and belief.

Jeff Willis

Jeff Willis

Sworn and subscribed to by the said Jeff Willis this 1 day of August, 1991.

Notary Public

My Commission Expires: July 14 1992

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MT

Field Date	October 15	15-16	15-17	15-18	15-19	23	24	25	26	24-26	27	24-27	26-29	27-29	28-30 "		29-31 "		30-1 "		31 "	
Sample Size	100	200	300	400	500	100	100	100	100	300	100	500	300	300								
% Error	10+%	6.9+%	5.6+%	4.9+%	4.5%	10%						4.5%	5.6+%	5.6%								
Weight/Unwt	unwt	unwt	unwt	unwt	unwt	unwt	unwt	unwt	unwt	unwt	unwt	unwt	unwt	unwt	wt@	unwt	wt@	unwt	wt@	unwt	wt@	unwt
SEN CAND BALLOT																						
Rep	32	34	32	33	33	45	44	35	43	41	47	43	44	42	40	43	41	44	44	47	40	44
Dem	59	59	61	60	60	48	46	55	48	50	42	38	46	48	53	49	52	50	50	47	50	47
INC REELECT																						
Reelect	52	51	51	49	49	43	38	39	43	40	34	39	41	42	48	44	45	43	41	39	44	41
New	39	38	38	40	40	51	49	46	49	48	55	50	50	43	44	47	47	45	51	53	49	52
PREZ BALLOT																						
Bush/Q	45	45	47	49	48	43	47	46	51	48	56	48	53	49	46	49	46	50	48	52	45	51
Dukakis/B	44	45	42	40	41	47	39	39	34	37	31	38	34	38	43	40	42	39	40	36	40	35
REP CAND ID																						
Fav	36	39	40	40	39	39	41	44	48	44	46	44	46	47	52	56	55	51	48	51	46	48
Unfav	34	35	35	34	36	34	35	36	32	34	27	33	33	34	35	32	36	34	37	34	37	34
DEM CAND ID																						
Fav	65	70	67	64	64	55	48	58	36	52	50	53	54	56	55	51	59	56	55	53	55	52
Unfav	25	24	26	27	28	37	39	35	39	40	38	36	35	35	35	39	34	36	35	[illegible]	34	37
REP CAND (ADS*): SEEN/HD, IMPACT	*	*	*	*	*																	
Yes-More Lkly	13	13	14	14	14	18	21	19	22	21	31	20	20	19	22	22	24	25	34	27	20	22
Yes-Less Lkly	23	21	23	21	23	15	21	33	23	26	16	22	23	26	31	30	29	28	29	28	26	25
No	42	41	39	41	38	43	33	31	33	32	41	36	37	36	31	32	30	31	30	30	35	34
DEM CAND (ADS*): SEEN/HD, IMPACT	*	*	*	*	*																	
Yes-More Lkly	23	20	21	20	19	18	22	25	22	21	20	21	21	25	28	25	27	25	23	21	33	21
Yes-Less Lkly	8	11	11	12	12	21	14	19	24	19	19	19	19	19	18	20	19	21	22	25	20	[illegible]
No	35	34	34	35	34	26	29	35	36	31	32	32	33	32	32	32	33	33	33	31	34	34

(* "Ads" asked thru 10/19; "Anything" asked thereafter)

(@ "wt" revises raw data to reflect a party ID equal to the average of the July and September survey responses to the question: "In politics today, do you usually think of yourself as a Rep, Dem, an Indep or what?")

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SURVEY TRACKING DATA: MONTANA
October 2 - November 8, 1988
Updated:

Field Dat:	1-3		2-4		3-5		5		4-6				6				ACTUAL
Sample Size	"		"		"		100		300				100				VOTE
% Error																	
Weight/Unwt	wt@	unwt	wt@	unwt	wt@	unwt	wt@	unwt	wt@		unwt		wt@		unwt		
										w/ leans		w/l		w/l		w/l	
SEN CAND BALLOT																	
Rep	43	47	43	46	44	45	40	40	45	45	45	46	46	47	47	48	52
Dem	48	44	48	45	49	46	51	51	48	51	48	50	47	49	47	49	48
THC REFLECT																	
Reflect	41	38	44	41	41	40	43	45	43		43		43		42		
Now	50	54	47	51	48	51	43	43	47		47		48		49		
PRES BALLOT																	
Bush/Q	45	49	47	51	48	50	48	49	46		46		43		43		
Dukakis/B	42	37	41	37	42	38	43	42	41		41		43		42		
REP CAND FD																	
Fav	49	51	54	56	57	53	52	52	54		54		52		53		
Unfav	34	32	31	29	31	32	35	35	35		35		37		37		
DEM CAND FD																	
Fav	53	49	54	51	55	53	57	56	58		57		59		58		
Unfav	37	41	38	42	38	39	33	33	36		37		37		38		
REP CAND (ADS*): SEEN/HD IMPACT																	
Yes-More Lkly	23	25	25	27	24	24	14	14	23		22		23		23		
Yes-Less Lkly	26	25	21	22	27	26	11	11	26		26		25		25		
No	35	33	36	35	34	34	35	34	33		33		33		33		
DEM CAND (ADS*): SEEN/HD IMPACT																	
Yes-More Lkly	22	21	25	24	25	23	23	24	30		21		16		16		
Yes-Less Lkly	24	26	26	28	32	28	30	28	28		28		24		24		
No	32	32	30	30	26	29	27	25	30		30		35		36		

(* "Ads" asked thru 10/19; "Anything" asked thereafter)

(@ "wt" revises raw data to reflect a party ID equal to the average of the July and September survey responses to the question: "In politics today, do you usually think of yourself as a Rep, Dem, an Indep or what?")

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SURVEY TRACKING DATA: MONTANA
October 9 - November 8, 1988
Update: 17 October 88

	October	
Field Date	16	16-17
Sample Size	100	200
% Error	na	na
Weight/Unwr	unwr	unwr
SEN CAND BALLOT		
Rep	32	34
Dem	59	59
INC REELECT		
Reelect	52	51
New	39	38
PREZ BALLOT		
Bush/Q	45	45
Dukakis/B	44	45
REP CAND FV		
Fav	36	39
Unfav	24	25
DEM CAND FV		
Fav	55	70
Unfav	25	24

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9 4 0 4 3 5 8 3 3 7 0

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Q. 12 B:Main Reason Not Vote Melcher :

104 I don't like the man.

120 Burns is a farm man / It is time to give a new person a chance.

108 I have heard Burns' name on the radio.

112 He talks out of both sides of his mouth / At a cattleman's association meeting some of the things he addressed were not the way he has actually performed.

135 I just don't like him.

141 He doesn't do what he wants us to do.

134 It is time for a change / The economy doesn't seem to be moving in Montana.

153 I don't think he has business backgroun[illegible] background.

190 He is too liberal / I think he is out of touch of Montana / I just don't agree with his point of view.

169 Past years I haven't been able to figure him out.

125 Because he lies too much / He says one thing and does another.

109 I am a staunch Republican.

145 He is too liberal / He would be likely to raise taxes and spend more.

193 I don't like the way he has conducted himself as Senator / He hasn't done a lot for Montana.

197 I think he is set in his ways / He needs to look at some new ideas.

101 I am against him because of some of the environmentalists / He is too environmentalist on some things / Some of these environmentalists go overboard.

183 We need new blood / We just need a change.

189 It is time for a change / He represents the eastern people too much.

130 I think his views on abortion are bad / His family issues are not right for me.

170 I want more Republicans in the senate / I like Melcher / If Dukakis gets elected I want a balance of Republicans and Democrats.

198 I think Melcher has been here long enough / Montana is in bad shape / If Melcher was going to do something he would have done it by now.

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Q. 12 B:Main Reason Not Vote Melcher :

191 It is time for a change / His time is up.

187 He hasn't done anything / He only does things during the elections / He is a weak senator.

196 I don't find him consistent in what he does and what he says he will do.

150 I don't know.

133 He doesn't respond to my letters / The reports from Washington about him are unfavorable / He says one thing and does another.

107 He has been in Congress a long time / We need newer insights / I thing Melcher is out of touch with the people.

116 He has been there long enough / I think he has done alright but it is time for a change / I want someone new.

129 [illegible] him.

138 He is too liberal / I think the media would like to blame Reagan for the deficit / I think it is the Congress.

147 Melcher hasn't said that he will oppose anything that has gone on / The wilderness bill / He should do what the people want him to do.

124 I would like to see some new blood / He has done okay but I want new blood.

152 I think it is time we had someone else / I don't think Melcher has always had our best interest in mind.

122 I can't say that I am not voting for him / There is no reason that I would vote for the other guy.

154 I believe that he is supported by the unions / He is not looking out for Montana's interest / I wish he would retire.

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Q. 13 M:Main Reason Not Vote Burns :

163 Because I don't know him.

161 The lack of knowledge.

188 I'm a Democrat / I like the Democratic philosophy.

105 I think that Melcher has done a very good job for Montana / He has represented us well in Congress / I like the man.

127 I don't know enough about him / I would vote for Melcher because of the kind of man he is.

171 I don't know about him.

148 Conrad was doing all right until he was in a commercial that showed a lot of things that he really didn't believe in.

195 He is a good old boy but he is useless because he lacks the integrity to be a leader / He couldn't help out the state as much as Melcher.

146 A negative impression from campaigning / He hasn't addressed any issues / He seems to be avoiding them.

106 I don't like his attitude , I didn't like his T.V. advertisements / the ones now aren't bad but before they were mudslinging.

132 I don't like everything he stands for / I just don't like his ideas.

117 Melcher has more experience in the Senate.

139 I don't know much about him.

142 I haven't seen him on T.V. as much as Melcher.

128 I don't know the man so I wouldn't vote for him.

144 I have heard enough about the man.

174 There isn't any way I would vote for him / Melcher has done a fine job.

118 I know John Melcher better than Conrad / I like John Melcher.

114 His attitude / His name calling / He needs to stick to the issues / He is hiding.

157 I just like Melcher.

165 I am really not sure where he stands on all issues.

185 I just don't know where he stands.

111 I am a Democrat.

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Q. 13 M:Main Reason Not Vote Burns :

180 I like Melcher / He has done a great job / He gives answers to people who write to him / Melcher really seems to want to help the people.

194 The man doesn't work hard enough / I have been trying to make contact with him / I don't think he is qualified.

156 Mostly because I am a Democrat / Although Melcher hasn't been overwhelming we know him / Burns is unknown.

160 I don't know him / He is a Republican / We want a Democrat.

115 He ran a negative campaign in the beginning.

121 I don't know enough about him / I know more Melcher and his past voting record.

126 I didn't like him.

137 I haven't heard very much about him / I do know what Melcher has done.

143 I like Melcher / Burns really hasn't said anything to make me vote for him.

[illegible] I am satisfied with Melcher, [illegible] information on Burns.

177 The longer we leave our Senators in Washington the more influence and power they have / My personal opinions are aligned with Burns but I would vote for Melcher for the reason that I mentioned before.

199 He talks too much / Negative, nasty mind / He doesn't produce anything.

102 I think he is going about his tactical campaign in a wrong way / He is cutting down Melcher / He is not saying what he is going to do.

159 I don't like Burns / In his commercials he comes across as a buffoon / He doesn't really stand on any real issues.

182 I don't like him / I don't think he is doing anything / I just don't like the guy.

186 His business record / He wasn't very successful in his business ventures.

166 I like Melcher / I don't think Burns has really stood on the issues / Burns hasn't really done anything to prove he should be elected.

181 I just like Melcher better.

200 I don't like him / I don't like his tactics.

103 I don't know anything about him.

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Q. 13 M:Main Reason Not Vote Burns :

178 I don't care for him / I don't like his position on issues / I don't like him.

151 I don't have much time for the Republicans / Every time they are put in they haven't done the country much good / They just get us in a mess.

184 I have never heard of him.

158 I don't have anything against Burns / I like Melcher.

140 I think Melcher has done a lot for Montana / Conrad has done nothing / Conrad has lied about Melcher during his campaign.

172 I don't like his ways / I just don't like him.

164 He is a Republican / I am not impressed with him.

162 Because of Melcher's experien[illegible] holds / Conrad just doesn't have the seniority.

119 I don't know much about Conrad Burns / Melcher has done a good job.

167 I don't know anything about him.

110 He hasn't told us what he is running for / He hasn't given us any issues / He just slings a lot of dirt.

123 I don't really know him / I would probably vote for Melcher because of the ticket.

113 I think Melcher is a better man / He is a little more experienced.

192 I didn't care for him as County Commissioner / I don't like his election campaign / I wouldn't vote for him.

179 I am not a Republican / He is not qualified / He has never been in office / Melcher has done a hell of a job.

175 Because he is a Republican / Melcher has done a hell of a job / He answers his mail.

136 I vote Democrat.

155 I didn't like his TV advertisement / Blood slinging / I have a hard time finding his experience.

9 4 0 4 3 5 8 3 3 7 5

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Q. 14 U:main Reason Not Vote Burns :

176 I don't know anything about him.

168 I don't know.

149 Melcher has just really screwed up / I don't really know all that much about Burns.

173 I don't know that I am not / I am afraid of him.

9404358337 6

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Q. 16: Burns Advertising

Have you seen or heard any advertising recently for Conrad Burns? Did that advertising make you more likely or less likely to vote for Him?

Current Period 10/16	1	3	5	H3	H5	L3	L5
1. Yes/More Likely	13	13	13	13	13	12	12
2. Yes/Less Likely	19	21	21	23	23	21	21
3. Yes/No Difference	23	22	22	22	22	21	21
4. Yes/No Opinion	6	4	4	4	4	2	2
5. No	39	41	41	42	42	41	41

Format 1/2/3/4/5

Day Ending	10/15	10/16
1 Day:		
Yes/More Likely	12	13
Yes/Less Likely	23	19
Yes/No Difference	21	23
Yes/No Opinion	2	6
No	42	39
3 Day Ave:		
Yes/More Likely	12	13
Yes/Less Likely	23	21
Yes/No Difference	21	22
Yes/No Opinion	2	4
No	42	41
5 Day Ave:		
Yes/More Likely	12	13
Yes/Less Likely	23	21
Yes/No Difference	21	22
Yes/No Opinion	2	4
No	42	41

9404358337 7

Q. 17 Why More Likely Burns :

104 I just don't know how much it costs for advertisements / It is expensive / He is for the farmers and the ranchers.

108 I hear Burns' name and it sticks in my head / He mentioned farming and they need help.

112 He seems to address issues and document issues / Melcher doesn't document issues / Burns refers to voting records.

141 He is going to get Montana on the right track / Melcher has been in too long / He is old and gray.

144 I heard more about him from friends.

169 It is time for a new one.

155 Familiarity.

185 The statement that he made about John Melcher voting down certain bills and if it were true then I would not vote for Melcher I would vote for Burns.

197 They talk about voting record / He says he will vote the way I feel.

177 He was discussing his positions on the issues / He was discussing Melcher's voting record on certain issues.

189 He seems to talk about Melcher's record.

191 Go forward / He is for the best of the state.

187 He is very positive / Truthful / He points out why he should win and what he has done.

9 4 0 4 3 5 8 3 3 7 8

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Q. 18 Why Less Likey Burns :

171 He has a mudslinging platform / He finds stuff about John Melcher / Negative sayings instead of positive ones.

195 They tend to lie a little bit / They need to tell more about what he will do for the state.

132 When you get such a dirty politician there is no use voting for him / I just didn't like the advertisements that I have seen / He stands up and calls everybody a liar and things like that.

111 It is just political junk.

180 He cuts a person down and I don't like that / He is getting better but his commercials aren't too positive.

125 They always cut each other / That is not the way to run a campaign / I don't like it one bit.

126 I didn't like him.

199 I don't like people to spear others / Negative, black list others.

159 It is a negative campaign / He comes across as a buffoon / He is not competent.

[illegible] I am tired of [illegible]

186 He claimed something in one advertisement that turned out to be untrue.

103 I don't remember.

151 They just put up some junk that isn't true.

173 Negative campaigning / Politicians find the negative to dwell on.

140 He has lied about John Melcher / We have heard some things about Burns that we really disagreed with.

172 I did not like Slone.

110 He hasn't given us any issues / He hasn't committed himself to anything.

192 He was abrasive and negative / I didn't like it / I didn't like him being negative and creating a vacuum and putting nothing in it's place.

155 He listed things that happened under Melcher / He talked about an Indian girl that was murdered / I don't like talking down commercials.

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Q. 19: Melcher Advertising

Have you seen or heard any advertising recently for John Melcher? Did that advertising make you more likely or less likely to vote for him?

Current Period 10/16	1	3	5	H3	H5	L3	L5
1. Yes/More Likely	17	20	20	22	22	20	20
2. Yes/Less Likely	13	11	11	11	11	8	8
3. Yes/No Difference	31	32	32	33	33	32	32
4. Yes/No Opinion	7	5	5	5	5	2	2
5. No	32	34	34	35	35	34	34

Format 1/2/3/4/5

Day Ending	10/15	10/16
1 Day:		
Yes/More Likely	22	17
Yes/Less Likely	8	13
Yes/No Difference	33	31
Yes/No Opinion	2	7
No	35	32
3 Day Ave:		
Yes/More Likely	22	20
Yes/Less Likely	8	11
Yes/No Difference	33	32
Yes/No Opinion	..	..
No	35	34
5 Day Ave:		
Yes/More Likely	22	20
Yes/Less Likely	8	11
Yes/No Difference	33	32
Yes/No Opinion	2	5
No	35	34

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****

Q. 20 Why More Likely Melcher :

105 It shows what he has done for Montana / How he has helped out Montana.

142 He somewhat leans toward the common people / I like him.

128 I see him a lot in papers / The way he works for us / He has helped my family a lot with things we have written to him / He shows that in the commercials.

144 Advertisements that I saw hit on issues I am concerned with / I am writing him about a problem that I would not trust anyone else / They mentioned his past record which is good.

118 Bring his name into my mind / I like him.

194 It contained facts about problems he is currently working on.

115 He explained his record / He is on some agriculture committee / That is important in Montana.

137 I can't recall exactly what is was.

186 I don't know.

103 I would vote for him again / His ads tell lies.

178 I can't remember the feeling I had after the commercial.

151 They put up a bunch of stuff that didn't make any sense / They said untrue stuff about Melcher.

164 He is a Democrat so I would vote for him / I am a Democrat.

110 The things that I have been interested in he has always voted right for / He stuck up for Social Security.

113 He has been good Joe / He has just done a good job.

192 He seemed more positive.

136 It just sounded good.

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Q. 21 Why Less Likely Melcher :

108 I have just seen his name whereas I have heard from Burns.

135 I don't know.

169 I don't care for him / I am uncomfortable about him / I don't care about his past accomplishments.

193 He just too pat with his explanations / He is unbelievable / I don't like the idea of taking all the eastern money.

177 He didn't talk of the issues / He just talked about being a good old boy / He just tried to make Conrad Burns look like a bad guy for calling him names.

191 Dirty underhanded tactics / I don't like his tactics.

187 I don't like him / His name turns me off.

[illegible] It seems like Latel, he has been involved in some bad issues / He has not done a good job in defending himself.

133 Negative advertising / It is not a clean campaign / He is running a negative campaign.

107 He didn't really appeal to me / He is critical towards his opponent / That really bothers me.

129 He basically didn't approach issues / It was more of a personal attack.

152 He is kind of pushy / I don't remember much about the ad / That cow thing was ridiculous.

154 Campaign promises / He gives tax money away and thinks it is a joke / Had testimonials from a low income family.

9404358338 2

9404358333 83

Memo: MONTANA BALLOT RESULT
To: Ed Brookover, Jann Olsten, Tom Mason
Tony Payton, Ann Prestidge
From: Jeff Willis
Date: 2 Nov 88

October 30, 31 - November 1, 1988
Gary Lawrence Research
300 Voters / Margin of Error 5.7%

Burns	48%
Melcher	47%

These results are now public.

FLEMT

2404358333884

BEFORE THE FEDERAL ELECTION COMMISSION

County of Ramsey)
) MUR 3204
State of Minnesota)

SECOND AFFIDAVIT OF ROBERT J. BISSEN

ROBERT J. BISSEN, first being duly sworn, deposes and says:

1. I am Robert J. Bissen. I served as Special Projects/Voter Programs Director for the National Republican Senatorial Committee (NRSC) from February 1987 to March 1989.

2. As Special Projects/Voter Programs Director, I am familiar with the "Voter Identification Project" undertaken by the various national party committees and the Montana Republican Party in Montana in 1987-88 as a party-building activity.

3. The Montana "Voter Identification Project" began in the Fall of 1987 as a joint effort of the Republican National, State and local Montana parties to create a list of voters in Montana and provide demographic and party affiliation data for those voters to the extent possible. As a generic party-building activity, the costs of this project were not allocable to any particular candidate.

4. The first stage in this undertaking was for local Republican groups in Montana to visit the county courthouses around the state and to retrieve the voter

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registration lists for that county. The State of Montana neither maintains a statewide voter registration list nor does it require registration by party affiliation. These lists were on floppy discs, magnetic tapes, computer cartridges, personal computer hard drives, or sometimes simply type-written lists. The state party initially paid many of the retrieval costs to acquire voter registration lists (travel expenses, copying costs, postage, etc.) and then was reimbursed by the national party committees.

5. Once obtained, these lists were forwarded to Data Dimensions Corporation. Data Dimensions was responsible for data entry and restructuring or converting the various voter lists into a standard format.

6. The next step was to verify and supplement the information collected from the counties with various software packages. Two list vendors, Rexnord Data Systems and Parity Political Planning, were used to perform phone number, address, and zip code matches using commercial software packages that correct and update demographic data.

7. Despite this process, many entries still contained no, or incorrect, demographic data. At this point, the Montana Republican Party assigned portions of the newly-created list to various local Republican groups in Montana to compare voter names with their local telephone directories and to correct erroneous information. Elwood English,

9 4 0 4 3 5 8 3 3 8 6

working on behalf of the Montana Republican Party, coordinated the delivery and collection of materials with local parties, and travelled around the state to obtain this data.

8. The final stage in the creation of the voter list was to discern likely party affiliation. Direct Communications conducted a telephone bank using the prepared list and this new information was added to the list. At this point, the project was complete and a Montana voter list created. As with all lists, it was converted to magnetic tape from which output was available.

9. Output from the master list, or some identified portion thereof (e.g., Republicans only, or all voters in Flathead County), was available through list vendors to any Republican entity who sought it for the normal charges by the vendor to produce these materials (mailing labels, index cards, etc.). No federal candidate was provided with a magnetic computer tape of the completed voter list.

10. Campaign Telecommunications was not a vendor used in connection with the voter list development and enhancement in Montana. However, a voter preference phone bank was conducted in Montana by Campaign Telecommunications, entirely separate from the list development and enhancement project described above. This is the same phone bank to

9404358337

which I referred in my previous Affidavit in this Matter at ¶ 6. The total bill from Campaign Telecommunications for the Montana phone bank was $18,999.64.

11. The Conrad Burns for U.S. Senate Committee paid its share of the expenses of this phone bank, as evidenced by the checks attached as Exhibits to my previous Affidavit. The NRSC also paid its share of the phone bank, as evidenced by the check attached hereto as Exhibit A. It is my understanding that this check represents payment for a portion of a phone bank conducted in Wyoming ($7,978.87) as well as the NRSC's share of the Montana expenses ($7,152.73).

12. Finally, I understand that the Federal Election Commission seeks information concerning the role played by Corey Lane in Montana. I have no knowledge of Corey Lane's employment duties, if any, in 1988, but I do know that he was not involved in any way with the development or execution of the Montana Voter Identification Project.

The above information is true and correct to the best of my knowledge, information and belief.

9404358338

PAULA BIEVER
NOTARY PUBLIC - MINNESOTA
RAMSEY COUNTY
My Commission Expires Apr. 10, 1994

Robert J. Bissen

Signed and sworn to before me this 29 day of July, 1991.

Notary Public

My Commission Expires: 4-10-94

PAULA BIEVER
NOTARY PUBLIC - MINNESOTA
RAMSEY COUNTY

4

CHECK REQUEST
STATE PARTY TRANSFERS

Date: 10/19/88

Amount Requested: $15,131.60

___Corporate ✓ Federal

(If corporate, attach legal citation allowing entire corporate contribution

Payable to: CAMPAIGN TELECOMMUNICATIONS
1556 3rd Avenue Suite 209
New York, NY 10128

Check is to cover: MT/WY list enhancement

Disposition of check: Return To Bisson

When needed: ASAP 10/21/88 Account number: 7810

Approvals: Deputy _____ /Date

Pol Dir _____ /Date 10/19/88

Counsel _____ /Date 10/19/88

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SENATORIAL COMMITTEE

CURR. REF.	YOUR INVOICE NO.	INVOICE DATE	INVOICE AMOUNT	AMOUNT PAID	DISCOUNT TAKEN	NET CHECK AMOUNT
176H7 CR #		10/14/88	15,131.60	15,131.60	.00	
LIST DEVELOPMENT						
1-CAMPAIGHT	27-027343	10/25/88				15,131.60

NATIONAL REPUBLICAN
SENATORIAL COMMITTEE
440 FIRST ST. N.W., SUITE 800
WASHINGTON, DC 20001

01-CAMPAIGHT

NATIONAL BANK OF VIRGINIA
ARLINGTON, VA
51-7207/520

27[illegible]

10/25/88 027343 *****15,131.60

*****15,131 DOLLARS AND 60 CENTS

PAY TO THE ORDER OF

CAMPAIGN TELECOMMUNICATIONS
155 3RD AVENUE, #209
NEW YORK NY 10128

NOT NEGOTIABLE

[illegible]

9404358393O

8

BEFORE THE FEDERAL ELECTION COMMISSION

County of Arlington	)	
	)	MUR 3204
Commonwealth of Virginia	)	

AFFIDAVIT OF ANN PRESTIDGE

Ann Prestidge, first being duly sworn, deposes and says:

1. I am Ann Prestidge. I served as a Field Coordinator for the National Republican Senatorial Committee from June 15, 1987 through January 6, 1989.

2. My current home address is: 803 Bernard St., Alexandria, VA 22314. My current business address is: Inter-American Foundation, 1515 Wilson Blvd, Arlington, VA 22209.

3. My job responsibilities at the NRSC included serving as a liaison and coordinator for political activities between the NRSC, various consultants, state parties and Senatorial campaigns throughout the country. I encouraged state parties to help their Senate candidates and consulted with them regarding permissible state party activity on behalf of Republican candidates. I served as a principal contact of the NRSC for these entities in various states and as an advocate on behalf of their requests for allocation of NRSC resources.

4. Additionally, I assisted with coalition development and target outreach programs to specific voter groups. I also assisted with PAC fundraising, list

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development, voter identification and voter turnout activities.

5. My job responsibilities in the 1988 Montana Senate race are a reflection of those general duties I performed for the NRSC throughout the country.

6. My supervisor at the NRSC was Ed Brookover, the Political Director of the NRSC.

7. I am familiar with the FEC's inquiries regarding Corey Lane. Corey Lane was employed by the Montana State Republican Party as a fundraiser for the state party. To my knowledge, Corey Lane was not employed in any capacity by the NRSC during 1988, nor did he have any involvement in the 1988 Senate race in Montana.

8. Pursuant to an oral agreement with the Montana Republican Party, the NRSC agreed to transfer $20,000 to the state party (in four installments) to help pay Corey Lane's salary. The NRSC exercised no authority over Corey Lane, as he was an employee of the Montana Republican Party, but the NRSC was aware that he was hired for the purpose of raising funds for the state party for its use in connection with party-building activities, including the state party's anticipated expenses incurred from the creation and enhancement of a Montana state-wide voter list.

9. Finally, I am familiar with the fact that the NRSC transferred funds to the Montana State Republican Party

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in 1988. The transfers of which I am aware were made in order to assist the party with its administrative and overhead expenses. It was my understanding that the state party was aware that the transfers from the NRSC were intended for general overhead expenses and were not designated for any particular use. I am not personally aware of whether the NRSC made any transfers in amounts that coincide with payments by the Montana Republican Party to James R. Foster and Associates.

The above information is true and correct to the best of my knowledge and belief.

Ann Prestidge

1st Sworn and subscribed to by the said Ann Prestidge this day of August, 1991.

Notary Public

My Commission Expires: _____

My commission expires October 31, 1994

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7810 9

CHECK REQUEST
STATE PARTY TRANSFERS

Date: 1/25/88

Amount Requested: 853.83

___ Corporate X Federal

(If corporate, attach legal citation allowing entire corporate contribution

Payable to: MONTANA REPUBLICAN STATE CENTRAL COMMITTEE
1425 Helena Ave
Helena MT 59601

Check is to cover: List (Voter List) Purchase - Party Building

Disposition of check: give To Bob Bisson

When needed: ASAP Account number: 7810

Approvals: Deputy /Date 1/25/88
Pol Dir /Date 1/26/88
Counsel /Date 1/25/88

>40435833994

NATIONAL REPUBLICAN SENATORIAL COMMITTEE
440 FIRST STREET, NW, 6TH FLOOR
WASHINGTON, D. C. 20001

№ 29585

68-408/560 475

January 26 88

Eight Hundred Fifty-three and 63/100 **853.63**

[redacted]

BANK OF VIRGINIA
CRYSTAL CITY OFFICE
ARLINGTON, VIRGINIA

COPY NOT NEGOTIABLE

⑈00029585⑈ ⑆056004089⑆ 651-7172927⑈

9404583395

CHECK REQUEST
STATE PARTY TRANSFERS

Date: 3/14/88

Amount Requested: $534.19 ___Corporate X Federal

(If corporate, attach legal citation allowing entire corporate contribution

Payable to: Montana Republican State Central Committee
1425 Helena Ave.
Helena MT 59601

Check is to cover: List Development - Party Building

Disposition of check: give To Bob Bissen

When needed: 3/16/88 Account number: 7810

Approvals: Deputy [signature] /Date 3-14
Pol Dir [signature] /Date 3/14/88
Counsel BH /Date 3/14/88

9404358333996

NATIONAL REPUBLICAN SENATORIAL COMMITTEE
440 FIRST STREET, NW, 6TH FLOOR
WASHINGTON, D. C. 20001

№ 29741

52-402/560 475

March 24, 88

[redacted]

[redacted]

BANK OF VIRGINIA
CRYSTAL CITY OFFICE
ARLINGTON, VIRGINIA

COPY NOT NEGOTIABLE

⑈00029741⑈ [redacted]

940358339 7

STATE PARTY TRANSFERS

Date: 4/27/88

Amount Requested: 5,000 ___Corporate ✓ Federal

(If corporate, attach legal citation allowing entire corporate contribution

Payable to: Montana Republican State Central Committee
1425 Helena Ave
Helena, MT 59601

Check is to cover: first of 4 installments - MT State party finance assistance program

Disposition of check: return to VANCE

When needed: ASAP Account number: 7810

Approvals: Deputy /Date 4/27/88

Pol Dir /Date 4/27/88

Counsel /Date 4/27/88

Gina - Total Commitment 20K.

> 4 0 4 3 5 8 3 3 9 8

NATIONAL REPUBLICAN SENATORIAL COMMITTEE
440 FIRST STREET, NW, 6TH FLOOR
WASHINGTON, D. C. 20001

№ 29806

[illegible]-408/560 475

April 29 [illegible]

"Five thousand and 00/[illegible]" "$5,000.00"

[illegible] Republican State Central Comm.
1425 Main Ave.
[illegible], Md. 21061

BANK OF VIRGINIA
CRYSTAL CITY OFFICE
ARLINGTON, VIRGINIA

COPY NOT NEGOTIABLE

"000 29806" [illegible]

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MEMORANDUM

TO: Ed Brookover

FROM: Ann Prestidge

SUBJ: MT Finance Person

26 April, 1988

Corey Lane, the person chosen for the MT finance program, starts in Helena tomorrow.

We have committed to give the state party $20,000 to pay Lane's salary and expenses in raising a projected $100,000 - $200,000 for the federal account.

I've worked out with Terry Merica, state party ED, that we will send him $5000 on the first of May, June, July and August. Montana is not a corporate state.

Depending on the expense level, I expect the money will last through the first to mid September. The party and he are then free to negotiate their own deal about his staying to finish the cycle. Our project will be finished by that time.

We need to go ahead and send the first $5000 check.

CC: Lee Vance
Jill Jackson

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CHECK REQUEST

STATE PARTY TRANSFERS

Date: 6/1/88

Amount Requested: 6,000

___Corporate ✓ Federal

(If corporate, attach legal citation allowing entire corporate contribution

Payable to: Montana Republican State Central Committee
1425 Helena Ave.
Helena, MT 59601

Check is to cover: 2nd of 4 installments
for finance assistance program

Disposition of check:

When needed: 6/2/88 or asap Account number: 7810

Approvals: Deputy /Date

Pol Dir /Date 6/1/88

Counsel /Date 6/1/88

24043583401

NATIONAL REPUBLICAN SENATORIAL COMMITTEE
440 FIRST STREET, NW, 6TH FLOOR
WASHINGTON, D. C. 20001

No 29884

[illegible]

BANK OF VIRGINIA
CRYSTAL CITY OFFICE
ARLINGTON, VIRGINIA

COPY NOT NEGOTIABLE

[illegible]

⑆ 0 4 3 5 8 3 4 0 2

STATE PARTY TRANSFERS

Date: 6/16/88

Amount Requested: 5,000 ___Corporate ✓ Federal

(If corporate, attach legal citation allowing entire corporate contribution

Payable to: Montana State Republican Committee
1425 Helena Ave
Helena, MT 59601

Check is to cover: state party finance assistance program (3rd installment)

Disposition of check: return to Vance 6/16

When needed: 6/16 Account number: 7810

Approvals: Deputy /Date 6/16/88

Pol Dir /Date 6/16/88

Counsel /Date 6/16/88

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NATIONAL REPUBLICAN SENATORIAL COMMITTEE
440 FIRST STREET, NW, 6TH FLOOR
WASHINGTON, D. C. 20001

№ 29932

[redacted]

[redacted]

BANK OF VIRGINIA
CRYSTAL CITY OFFICE
ARLINGTON, VIRGINIA

COPY NOT NEGOTIABLE

[redacted]

9404358340 4

STATE PARTY TRANSFERS

Date: 7/18/88

Amount Requested: 4,000 ___Corporate ✓ Federal

(If corporate, attach legal citation allowing entire corporate contribution

Payable to: Montana State Republican Committee
1425 Helena Ave
Helena, MT 59601

Check is to cover: state party finance program

Disposition of check: return to Vance

When needed: 7/19/88 Account number: 7810

Approvals: Deputy _____ /Date _____

Pol Dir _____ /Date 7/18/88

Counsel _____ /Date 7/18/88

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NATIONAL REPUBLICAN SENATORIAL COMMITTEE
440 FIRST STREET, NW, 6TH FLOOR
WASHINGTON, D. C. 20001

№ 30054

[illegible]/580 475

July 21, 88

[illegible]

[illegible]

BANK OF VIRGINIA
CRYSTAL CITY OFFICE
ARLINGTON, VIRGINIA

[illegible]

⑈00030054⑈ [illegible]

CHECK REQUEST
STATE PARTY TRANSFERS

Date: 8/3/88

Amount Requested: 10,000

____Corporate ✓ Federal

(If corporate, attach legal citation allowing entire corporate contribution

Payable to: Montana State Republican Committee
1425 Helena Avenue
Helena, MT 59601

Check is to cover: party building

Disposition of check: return to Vance

When needed: 8/4/88 Account number: 7810

Approvals: Deputy _____ /Date _____

Pol Dir [signature] /Date 8/3/88

Counsel [signature] /Date [signature] 8/4/88

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9404358340 8

NATIONAL REPUBLICAN SENATORIAL COMMITTEE
440 FIRST STREET, NW, 8TH FLOOR
WASHINGTON, D. C. 20001

№ 30123

68-408/560 475

August 3 88

Ten Thousand and 00/100 **$10,000.00**

Montana State Republican Committee
[illegible] Avenue
Helena, MT [illegible]

BANK OF VIRGINIA
CRYSTAL CITY OFFICE
ARLINGTON, VIRGINIA

COPY NOT NEGOTIABLE

⑈00030123⑈ [illegible]

CHECK REQUEST
STATE PARTY TRANSFERS

Date: 8/29/88

Amount Requested: $10,000

___Corporate ✓ Federal

(If corporate, attach legal citation allowing entire corporate contribution

Payable to: Montana Republican State Central Committee
1425 Helena Ave
Helena, MT 59601

Check is to cover: party operating exp.

Disposition of check: return to Vance

When needed: 8/29/88 Account number: 7810

Approvals: Deputy /Date

Pol Dir /Date 8/29/88

Counsel /Date 8/29/88

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MONTANA	11-026277	03/30/88				10,000.00

NATIONAL REPUBLICAN SENATORIAL COMMITTEE
440 FIRST ST. N.W., SUITE 400
WASHINGTON DC 20001

11-MONTANA

BANK OF VIRGINIA
ARLINGTON, VA
52-470/560

03/30/88 026277 ****$10,000.00

*****10,000 DOLLARS AND 00 CENTS

PAY TO THE ORDER OF

MONTANA REPUBLICAN STATE
CENTRAL COMMITTEE
1425 HELENA AVENUE
HELENA MT 59601

NOT NEGOTIABLE

⑈026277 ⑆056000108⑆ 551-717927⑈

P 4 1 0 4 3 5 8 3 4 1 0

CHECK REQUEST
STATE PARTY TRANSFERS

Date: 9/13/88

Amount Requested: 10,000. ___Corporate ___Federal

(If corporate, attach legal citation allowing entire corporate contribution

Payable to: Montana Republican Party
1425 Helena Ave.,
Helena, MT 59601

Check is to cover: State party overhead.

Disposition of check: Attn to Chuck

When needed: 9/13/88 Account number: 7810

Approvals: Deputy /Date

Pol Dir [signature] /Date 9/13/88

Counsel [signature] /Date 9/13/88

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[illegible]	[illegible]	1--026586	09/13/89			10,000.00

NATIONAL REPUBLICAN SENATORIAL COMMITTEE
440 FIRST ST. N.W., SUITE 800
WASHINGTON DC 20001

01-MONTANA

BANK OF VIRGINIA
[illegible]INGTON, VA
[illegible]-409/599

09/13/89 026586 *****10,000.00

PAY ******10,000 DOLLARS AND 00 CENTS

TO THE ORDER OF

MONTANA REPUBLICAN STATE
CENTRAL COMMITTEE
1425 HELENA AVENUE
HELENA MT 59601

NOT NEGOTIABLE

⑈026586 ⑆056000408⑆ 651⑈7172937⑈

24 0435841 2

STATE PARTY TRANSFERS

Date: 9/22/88

Amount Requested: 5,000.00

___Corporate ✓ Federal

(If corporate, attach legal citation allowing entire corporate contribution

Payable to: Montana Republican Party
1426 Helena Ave
Helena, MT 59601

Check is to cover: overhead

Disposition of check: 9/22/88 to Priotidse

When needed: 9/23/88 Account number: 7810

Approvals: Deputy _____ /Date _____

Pol Dir _____ /Date 9/22/88

Counsel _____ /Date 9/22/88

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NATIONAL REPUBLICAN SENATORIAL COMMITTEE
440 FIRST STREET, NW, 6TH FLOOR
WASHINGTON, D. C. 20001

No 30289

65-408/560 476

September 23, 86

[redacted]

[redacted]

BANK OF VIRGINIA
CRYSTAL CITY OFFICE
ARLINGTON, VIRGINIA

[redacted]

⑈00030289⑈ [redacted]

⑆0440358341⑆

CHECK REQUEST
STATE PARTY TRANSFERS

Date: 10/5/88

Amount Requested: 15,000 .

___Corporate ✓ Federal

(If corporate, attach legal citation allowing entire corporate contribution

Payable to: Montana Republican Party
1426 Helena Ave.
Helena, MT 59601

Check is to cover: party transfer

Disposition of check:

When needed: 10/5/88 Account number: 7810

Approvals: Deputy /Date

Pol Dir /Date 10/5/88

Counsel /Date 10/5/88

C4N

7404358341 5

NATIONAL REPUBLICAN SENATORIAL COMMITTEE
440 FIRST STREET, NW, 6TH FLOOR
WASHINGTON, D. C. 20001

No 30355

65-408/560 475

October 5 96

[redacted]

[redacted]

BANK OF VIRGINIA
CRYSTAL CITY OFFICE
ARLINGTON, VIRGINIA

[redacted]

⑈00030355⑈ [redacted]

⑆940435834116⑆

CHECK REQUEST
STATE PARTY TRANSFERS

Date: 10/7/88

Amount Requested: ~~6879.01~~ 6879.01

___ Corporate ✓ Federal

(If corporate, attach legal citation allowing entire corporate contribution

Payable to: Montana Republican State Central Committee
1425 Helena Ave.
Helena, MT 59601

Check is to cover: party transfer

Disposition of check: return to Vance

When needed: 10/7/88 Account number: _____

Approvals: Deputy _____ /Date

Pol Dir [signature] /Date 10/7/88

CV

Counsel [signature] /Date

24043583417

DESCRIPTION	AMOUNT
Party Transfer 7810	$6,879.01

NATIONAL REPUBLICAN SENATORIAL COMMITTEE
440 FIRST STREET, NW, 6TH FLOOR
WASHINGTON, D. C. 20001

№ 30366

68-408/560 475

October 7 88

Six Thousand Eight Hundred Seventy Nine and 01/100 **6,879.00**

Montana Republican State Central Cmte
1425 Helena Avenue
Helena, MT 59601

BANK OF VIRGINIA
CRYSTAL CITY OFFICE
ARLINGTON, VIRGINIA

COPY NOT NEGOTIABLE

⑈00030366⑈ ⑆056004089⑆ 651-?172927⑈

2404583418

CHECK REQUEST
STATE PARTY TRANSFERS

Date: 10/14

Amount Requested: 16,000

___Corporate ✓ Federal

(If corporate, attach legal citation allowing entire corporate contribution

Payable to: Montana Republican Party
1425 Helena Ave.
Helena, MT 59601

Check is to cover: party transfer

Disposition of check: return to Vance

When needed: 10/18

Account number: 7810

Approvals: Deputy /Date

Pol Dir /Date 10/18/88

Counsel /Date

9404358341 9

NATIONAL REPUBLICAN SENATORIAL COMMITTEE
440 FIRST STREET, NW, 6TH FLOOR
WASHINGTON, D. C. 20001

№ 30393

65-408/560 475

October 18 88

Sixteen thousand and 00/hundredths *16,000.00*

Boston Republican Party
1425 Dalton Street
Boston, MA 02115

BANK OF VIRGINIA
CRYSTAL CITY OFFICE
ARLINGTON, VIRGINIA

COPY NOT NEGOTIABLE

00030393 [illegible]

24043583420

CHECK REQUEST
STATE PARTY TRANSFERS

Date: 10/25/88

Amount Requested: $9,000.

___Corporate ✓ Federal
(If corporate, attach legal citation allowing entire corporate contribution

Payable to: Montana Republican State Central Cmte
1425 Helena Ave.
Helena, MT 59601

Check is to cover: party transfer

Disposition of check: Vance

When needed: 10/25/88

Account number: 7810

Approvals: Deputy _____ /Date _____

Pol Dir _____ /Date 10/25/88

Counsel _____ /Date _____

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NATIONAL REPUBLICAN SENATORIAL COMMITTEE
440 FIRST STREET, NW, 6TH FLOOR
WASHINGTON, D. C. 20001

№ 30445

65-408/560 475

[redacted]

[redacted]

BANK OF VIRGINIA
CRYSTAL CITY OFFICE
ARLINGTON, VIRGINIA

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⑈00030445⑈ [redacted]

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CHECK REQUEST
STATE PARTY TRANSFERS

Date: 10/25/88

Amount Requested: 4,956.00 ___Corporate ✓Federal

(If corporate, attach legal citation allowing entire corporate contribution.

Payable to: Montana Republican State Central Cmte
1425 Helena Ave
Helena, MT 59601

Check is to cover: party transfer

Disposition of check: Vance

When needed: 10/25/88 Account number: 7810

Approvals: Deputy /Date

Pol Dir /Date 10/25/88

Counsel /Date

24043583423

NATIONAL REPUBLICAN SENATORIAL COMMITTEE
440 FIRST STREET, NW, 6TH FLOOR
WASHINGTON, D. C. 20001

No 30436

68-408/560 475

[redacted]

[redacted]

BANK OF VIRGINIA
CRYSTAL CITY OFFICE
ARLINGTON, VIRGINIA

COPY NOT NEGOTIABLE

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CHECK REQUEST
STATE PARTY TRANSFERS

Date: 10/28/88

Amount Requested: 32,110.00

___Corporate ✓Federal

(If corporate, attach legal citation allowing entire corporate contribution

Payable to: Montana Republican State Central Committee
1425 Helena Ave.
Helena, MT 59601

Check is to cover: party transfer

Disposition of check: Vance

When needed: 10/31/88

Account number: 7810

Approvals: Deputy _____ /Date _____

Pol Dir _____ /Date 10/28/88

Counsel _____ /Date 10/31/88

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NATIONAL REPUBLICAN SENATORIAL COMMITTEE
440 FIRST STREET, NW, 6TH FLOOR
WASHINGTON, D. C. 20001

№ 30484

56-408/560 475

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BANK OF VIRGINIA
CRYSTAL CITY OFFICE
ARLINGTON, VIRGINIA

[redacted]

⑆0435834260

CHECK REQUEST
STATE PARTY TRANSFERS

Date: 11/3/88

Amount Requested: 18,000.00

___Corporate ✓ Federal
(If corporate, attach legal citation allowing entire corporate contribution

Payable to: Montana Republican Party
1425 Helena Ave
Helena, MT 59601

Check is to cover: party transfer

Disposition of check: Mail

When needed: 11/3/88

Account number: 7810

Approvals: Deputy /Date

Pol Dir /Date 11/3/88

Counsel /Date

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NATIONAL REPUBLICAN SENATORIAL COMMITTEE
440 FIRST STREET, NW, 6TH FLOOR
WASHINGTON, D. C. 20001

№ 30515

68-408/560 475

November 3 88

*Nineteen thousand and 00/00******************** *19,000.00*

Montana Republican Party
1425 Helena Ave.
Helena, MT 59601

BANK OF VIRGINIA
CRYSTAL CITY OFFICE
ARLINGTON, VIRGINIA

COPY NOT NEGOTIABLE

⑈000305150⑈ ⑆056004089⑆ 651⑉7172927⑈

CHECK REQUEST
STATE PARTY TRANSFERS

Date: 11/10/88

Amount Requested: 5200.00 ___Corporate L Federal

(If corporate, attach legal citation allowing entire corporate contribution

Payable to: Montana Republican Party
1425 Helena Ave.
Helena Montana 59601

Check is to cover:
party transfer

Disposition of check: Return to Prestidge

When needed: Check Must be to Ann on Tues. Account number: 7810

Approvals: Deputy /Date

Pol Dir /Date 11/10/88

Counsel /Date 11/10/88

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1-MONTANA	1E-028063	11/15/88				5,200.00

NATIONAL REPUBLICAN SENATORIAL COMMITTEE
443 FIRST ST. N.W. SUITE 600
WASHINGTON, DC 20001

01-MONTANA

BANK OF VIRGINIA
ARLINGTON, VA
[illegible]

11/15/88 028063 *****$5,200.00

PAY ******5,200 DOLLARS AND 00 CENTS

TO THE ORDER OF

MONTANA REPUBLICAN STATE
CENTRAL COMMITTEE
1425 HELENA AVENUE
HELENA MT 59601

NOT NEGOTIABLE

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RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

91 AUG -2 PM 5:03

Republican
National
Committee

Benjamin L. Ginsberg
Chief Counsel

Michael A. Hess
Janice P. Lacy
Deputy Chief Counsels

August 2, 1991

Mr. Larry Parrish
Office of the General Counsel
Federal Election Commission
Room 659
999 E Strret, N.W.
Washington, D.C. 20463

Re: MUR 3204
Republican National Committee
and William J. McManus, as
treasurer

Dear Mr. Parrish:

Attached is our response to the Interrogatories and Request for Production of Documents posed to us in the above-captioned Matter. I also want to advise you that on August 1, the original due date for this response, I contacted Anne Weissenborn, the attorney with whom I have previously dealt on this Matter, to request a one-day extension in submitting our response, due to our computers being down. She granted this request. We also intend to submit an affadavit addressing the issues raised by this Matter in the next week.

Please contact me if you have any questions.

Sincerely,

Janice P. Lacy

Enclsoure

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Dwight D. Eisenhower Republican Center • 310 First Street Southeast • Washington, D.C. 20003 • (202) 863-8638
Telex: 701144 • FAX: (202) 863-8820

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Republican National Committee	)	**MUR 3204**
and William J. McManus,	)	
as treasurer	)	

For the reasons stated below in our Response to Factual and Legal Analysis, and Response to Interrogatories and Request for Production of Documents, we respectfully urge the Federal Election Commission to find no reason to believe that the Republican National Committee (RNC) violated 2 U.S.C. §§ 441a(f) and 434(b).

RESPONSE TO FACTUAL AND LEGAL ANALYSIS

The Republican Governor's Association (RGA), the auxillary organization of the RNC which deals with governors' races, entered into a verbal agreement with Gary Lawrence Company (GLC) whereby it would conduct tracking surveys for RGA pertaining to the 1988 Montana Governor's race. These surveys were conducted in October and November, 1988.

RGA made this agreement with GLC nearly three years ago in the hectic closing days of the election. In researching this Matter, we have found that RNC and RGA have at best only a faded recollection of the circumstances of this agreement. It appears that RGA and the National Republican Senatorial Committee (NRSC) agreed to each ask questions in a poll of Montana conducted by GLC. RNC then paid $49,650.00 to GLC, on behalf of RGA, its auxillary organization, for the cost of the poll. RGA has no recollection of any agreement made with NRSC regarding the poll; it has, however, always been the RNC's and RGA's practice that each organization responsible for including questions in a poll would incur the proportionate costs of the poll, in accordance with Commission regulations. *See* 11 C.F.R. Part 106. Accordingly, it appears that RNC, on behalf of RGA, sought and received reimbursement from NRSC for its portion of the questions.

A review of RNC's FEC reports disclosing these transactions reflects this practice. Attached to this submission are RNC reports showing three payments by the RNC to GLC totalling $49,650.00. *See* Exhibit A1-3. Additionally, the RNC's 1988 reports show numerous transfers from the NRSC to the RNC, some of which were made in October and November, 1988, which were in sufficient amounts to reimburse

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the RNC for the NRSC's share of the polling costs. Because the Commission's inquiry is three years after the fact, we have, however, been unable to locate any background materials regarding RNC's or RGA's arrangement with the NRSC.

Neither RGA nor RNC shared the data from the tracking poll with any candidate committee, *see* Response to Interrogatories at Question 5, and RNC's payment of the bill was properly disclosed, *see* Exhibit A1-3. It appears that, given RNC practice, it sought and received reimbursement from the NRSC for its share of the polling costs. Accordingly, the Commission should find no reason to believe that the RNC violated 2 U.S.C. §§ 441a(f) and 434(b) in connection with tracking polls conducted in 1988 in Montana.

RESPONSE TO INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS

At the outset, we express concern about the timing of this inquiry. This enforcement action concerns events which occurred during the 1987-88 election cycle, which is over three years ago. As will be evident from our response below, there is little documentation concerning the events in question; most of the facts transpired in discussions between the relevant parties in the hectic closing days of the Montana Governor's election. In researching these answers we found that the recollection of detailed facts relating to these specific events is faded, and documents which might have been relevant to this investigation are no longer available, all because of the passage of time. We have, however, attempted to answer these questions to the best of our knowledge under these circumstances.

1. Identify and fully describe any and all agreements, both written and oral, which the Republican National Committee (RNC) had with the Gary Lawrence Company (GLC) of Santa Ana, California to conduct tracking polls in Montana during the 1988 general election campaign. Produce any such written agreement. Identify all payments by date and amount made by the RNC to the GLC for such polls.

Response: The RNC entered into no written agreement with GLC; therefore, we can produce no written agreement. However, the Republican Governors' Association (RGA), an auxillary organization of the RNC which deals with governors' races, entered into an oral agreement with GLC whereby GLC would provide tracking polls to RGA for the 1988 Montana Governor's race. *See* Response to Question 2.

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The RNC made payments on behalf of RGA to GLC for the Montana tracking study as follows:

11/05/88	$ 20,000.00
12/15/88	15,000.00
1/13/89	14,650.00
TOTAL	$ 49,650.00

These payments are discussed below. *See* Response to Question 5.

2. Identify and fully describe any and all agreements, both written and oral, which the Republican Governors Association had with the Gary Lawrence Company to conduct tracking polls in Montana during the 1988 general election campaign. Produce any such written agreement. Identify by date and amount all payments made by the RGA to the Gary Lawrence Company for such polls.

Response: RGA entered into no written agreement with GLC, and so RGA can produce no written agreement. RGA did, however, enter into a verbal agreement with GLC whereby it would provide RGA with tracking polls for the 1988 Montana Governor's race. GLC conducted such polls during October and November, 1988. As the entity responsible for the election of Republican governors, RGA's interest in the tracking polls was limited solely to the Governor's race. Payments for the tracking poll are set forth above. *See* Response to Question 1.

3. Identify and fully describe any and all agreements, both written and oral, between the [RNC], the [RGA], and the National Republican Senatorial Committee regarding these tracking polls, including conducting the polls themselves and providing the results to various candidates and/or committees. Produce any such written agreements.

Response: It appears that RGA and NRSC agreed to each ask questions in a poll of Montana conducted by GLC. RGA cannot, however, recall the agreement, if any, that was reached between NRSC and RGA concerning the tracking poll. RGA has no recollection of the payment arrangement for the questions; most likely, the entity responsible for including certain questions on the poll would incur the proportionate costs of the poll. We have, however, found no written agreements concerning this arrangement. To the best of our knowledge, RNC had no agreements with RGA or NRSC regarding conducting the poll or providing poll results to any candidates. As for

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payment, RNC paid GLC on behalf of RGA, RNC's auxillary organization, and it appears that RNC, on behalf of RGA, sought and received reimbursement from NRSC for its portion of the questions. *See* Response to Question 5 below.

To RGA's knowledge, no agreements were made with any candidate committee to share the results obtained from the poll. RGA was provided only with the data from poll questions relating to the Montana Governor's race, and to RGA's knowledge, this data was provided only to RGA. RGA has no knowledge of what was provided to the NRSC.

4. Identify all candidates which were included in the questions or scripts used for such tracking polls. State what percentage of questions in the tracking polls pertained to the candidacy of Conrad Burns for the U.S. Senate.

Response: The RGA never reviewed the questions other than those pertaining to the Montana Governor's race and never reviewed a "complete" poll. Accordingly, RGA cannot know what percentage of questions pertained to any specific election. Rather, because of the good working relationship between RGA and GLC, RGA simply accepted GLC's representations concerning questions on the poll which were relevant to RGA and which solely concerned the Montana Governor's campaign. To the best of RGA's recollection, GLC did not discuss with RGA any questions in the poll other than those relating to the Montana Governor's race.

5. Identify what persons, committees, and/or organizations were provided with the results of the above-described tracking polls. Identify and explain how payments for these poll results were reported to the Federal Election Commission.

Response: Regarding RGA's handling of the poll results it obtained, RGA was provided with updated data pertaining to the Montana Governor's race by telephone approximately every three days. RGA never shared the data it received from the poll with any candidate committee. Other than this data, RGA never received any additional poll data from GLC, including any data pertaining to the Burns campaign, and so could not have made such data available to anyone.

The FEC reports which record the payments to GLC for the poll are attached as Exhibit A1-3, and the payments for the Montana tracking survey are circled. Note that other payments made to GLC shown on these pages were not made for the Montana poll. Also note that the payment dated December 15, 1988 for $18,600.00 includes a

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payment of $15,000.00 for the Montana tracking survey; the remaining $3,600.00 is attributed to another state.

The reports show that the RNC paid for the costs of the tracking polls. Regarding the NRSC's reimbursement of its share of these costs to the RNC, it has always been the policy of the RNC to obtain reimbursement for such shared projects from other entities, so it was likely that the RNC sought and received reimbursement from the NRSC for its portion of the poll. Our reports for 1988 show numerous transfers from the NRSC to the RNC, some of which were made in October and November, 1988, which were in sufficient amounts to reimburse the RNC for the NRSC's share of the polling costs. Inasmuch as this question is posed nearly three years after the date of the transaction, we are unable to locate any background materials regarding our arrangement with the NRSC.

For these reasons discussed in this Response, the Federal Election Commission should find no reason to believe that the RNC violated 2 U.S.C. §§ 441a(f) and 434(b).

Respectfully submitted,

Janice P. Lacy

August 1, 1991

2404358343 6

EXHIBIT A-1

NAME ADDRESS	PURPOSE OF EXPENDITURE	DATE	AMOUNT
MR. FRANK LAVIN THE WHITE HOUSE WASHINGTON, DC 20500	TRANS	12/16/88	58.50
GARY C LAWERENCE CO 1900 E 4TH ST STE 210 SANTA ANA, CA 92705	SURVEY	11/30/88	7,350.00
GARY C LAWERENCE CO 1900 E 4TH ST STE 210 SANTA ANA, CA 92705	SURVEY	12/15/88	18,600.00
LAWYERS CO-OPERATIVE PUB. CO. AQUEDUCT BLDG. ROCHESTER NY 14694	SUBSCRIPTION	12/15/88	60.95
JOHN PAUL LAXALT P O BOX 3297 CARSON CITY, NV 89702	MEALS TRANS SUPPLIES	12/15/88	870.29
JOHN PAUL LAXALT P O BOX 3297 CARSON CITY, NV 89702	TELE RENT	12/31/88	658.04
LEGI-SLATE 111 MASS. AVE. NW WASHINGTON DC 20001	COMPUTER SVS	11/30/88	1,661.00
LEGI-SLATE 111 MASS. AVE. NW WASHINGTON DC 20001	COMPUTER CHGS	12/15/88	1,661.00
	PAGE TOTAL		30,919.78

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EXHIBIT A-2

NAME ADDRESS	PURPOSE OF EXPENDITURE	DATE	AMOUNT
LAS VEGAS SUN PO BOX 4275 LAS VEGAS, NV 89127 MAIL SUBS	SUB RENEWAL	01/25/89	222.00
GARY C LAWERENCE CO 1900 E 4TH ST STE 210 SANTA ANA, CA 92705	POLLING	01/13/89	14,650.00
LAWYERS CO-OPERATIVE PUB. CO. AQUEDUCT BLDG. ROCHESTER NY 14694	CODE SVS.	01/25/89	63.60
LEGI-SLATE 111 MASS. AVE. NW WASHINGTON DC 20001	MTHLY FEE REPORTING ACCES	01/25/89	1,661.00
THE LEONARD CORP 323 E ALLEGHENY AVE PHILADELPHIA PA 19134	GIFTS	01/18/89	640.53
LIBERTY EXPRESS 3708 HILL ST FAIRFAX VA 22030	DEL CHGS	01/13/89	133.25
LIBERTY EXPRESS 3708 HILL ST FAIRFAX VA 22030	DEL CHGS	01/25/89	11.42
PATRICIA LIKINS 2854 HUNTER RD. FAIRFAX, VA 22031	TRANS	01/27/89	54.00
		PAGE TOTAL	17,435.80

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EXHIBIT A-3

PERIOD 10/20/88 TO 11/28/88 — REPUBLICAN NATIONAL COMMITTEE - EXPENDITURES — PAGE 62/228
RUN DATE 11/29/88
ITEMIZED DISBURSEMENT
SCHEDULE B LINE 19A

NAME ADDRESS	PURPOSE OF EXPENDITURE	DATE	AMOUNT
TOM LABRECQUE 1575 COLONIAL TERR. #203 ARLINGTON, VA 22209	PER DIEM	10/25/88	400.00
TOM LABRECQUE 1575 COLONIAL TERR. #203 ARLINGTON, VA 22209	LODGE TRANS	11/18/88	1,611.83
MR. FRANK LAVIN THE WHITE HOUSE WASHINGTON, DC 20500	PER DIEM	10/26/88	186.38
GARY C LAWERENCE CO 1900 E 4TH ST STE 210 SANTA ANA, CA 92705	SURVEY	10/27/88	2,650.00
GARY C LAWERENCE CO 1900 E 4TH ST STE 210 SANTA ANA, CA 92705	SURVEY	11/05/88	20,000.00
GARY C LAWERENCE CO 1900 E 4TH ST STE 210 SANTA ANA, CA 92705	SURVEY	11/07/88	9,150.00
LAWYERS CO-OPERATIVE PUB. CO. AQUEDUCT BLDG. ROCHESTER NY 14694	SUBSCRIPTION	11/18/88	60.95
LAWYERS CO-OPERATIVE PUB. CO. AQUEDUCT BLDG. ROCHESTER NY 14694	SUBSCRIPTION	10/21/88	60.95
	PAGE TOTAL		34,120.11

RECEIVED
FEDERAL ELECTION COMMISSION
MAIN COPY ROOM

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 3204

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

91 AUG 23 PM 3:02

H. ELWOOD ENGLISH'S
ANSWERS TO INTERROGATORIES AND
REQUEST FOR PRODUCTION OF DOCUMENTS

1. State whether you were employed by the Montana Republican State Central Committee (Montana Republican Party) during 1988. If so, state your title and position, the dates of your employment, and your immediate supervisor. Describe your duties as an employee of the Montana Republican Party. Identify and explain all payments made to you, including salary and expense reimbursements, by the Montana Republican Party during 1988. Produce all records in your possession relating to said employment and payments.

ANSWER

September, 1988. In late August and the first two weeks of September, 1988, I assisted the Montana State Republican Party in the development of a voter identification list. Voter registration lists secured by Terry Merica from each of the county election offices had been matched by computer with commercially-available telephone directories. Because of the rural nature of many Montana addresses, the computer had often been unable to match the telephone listing with the obvious post office address. This project was of vital concern to the Montana Republican Party, all of the candidates both state and local, as well as local party organizations.

During the first week of September, I made a broad sweep through the western two-thirds of the State of Montana dropping off these incomplete voter identification lists with local Republicans to be matched with phone numbers by local volunteers who would recognize local locations and names. The following week, the second week of September, I retraced my steps to pick up the lists completed by volunteers. I also shipped lists to various Republican stalwarts, particularly in the eastern part of the state, for the same telephone matchups.

It was my understanding that completion of these voter lists was a cooperative effort of the Montana Republican Party,

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the National Republican Senatorial Committee, and the Republican Governors Association. I submitted my bill, including a daily fee together with my expenses, to the Republican Governors Association and was paid the statement amount of $3,200.00. My letter including my expense account is attached along with a letter from the RGA which accompanied the check.

When my second trip was completed and all of the shipped lists had been accounted for, my involvement ended.

October, 1988. During the month of October and until election day in November, 1988, I served as an independent contractor in the position of Communications Director for the Montana Republican Party. My only supervisor was State Chairman Barbara Campbell. My oral agreement with Mrs. Campbell was that I was to be paid $4,000 for the job. My expenses were my own responsibility. My check register shows that I was paid $2,000 which I deposited on November 7, 1988, and I was paid the final $2,000 which I deposited on November 21, 1988.

My duties during that period of time were to make contact, both in person and by telephone, with news media representatives throughout the State of Montana. In past elections, it has been my experience that Montana Democrats do desperate things including wild accusations against Republican candidates during the final month of the election campaign. My job was to be on top of the rumor mill and to be prepared to mount aggressive responses to last minute accusations. I also had information available regarding Democrat opponents in an effort to interest investigative reporters in issues which would reveal misdeeds of the Democrats. My areas of interest included all of the statewide Republican candidacies as well as the two Congressional races.

The only documents I have related to the Communications Director project are the entries in my check register referred to above and receipts for travel and expense items. I have attached a summary page I prepared in 1988 showing my major trips during the period as well as names of contacts in the larger cities. That is a handwritten document with the heading "State Party-Communications Director".

2. State whether you were employed by the National Republican Senatorial Committee (NRSC) during 1988. If so, state your title and position, the dates of employment, and your immediate supervisor. Describe your duties as an employee of NRSC. Identify and explain all payments made to you, including salary and expense reimbursements, by the NRSC during 1988. Produce all

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records in your possession relating to said employment and payments.

ANSWER

I was not employed by the National Republican Senatorial Committee during 1988.

3. Describe all work you performed for the benefit of the 1988 Conrad Burns/U.S. Senate campaign. Include dates, supervisors, and a description of the nature of the work.

ANSWER

Beginning in late 1987, I entered into an agreement with Conrad Burns to be the campaign manager of his U.S. Senate campaign. During late 1987 I put together the beginnings of the organization. On New Year's Eve, 1987, I moved to Billings, and opened a headquarters in early 1988. I hired all staff, dealt with news media and consultants, and essentially was responsible for all areas of the campaign.

The dates of my involvment with the campaign were from October or November, 1987, until July, 1988, when I was fired by Conrad Burns. Except for reporting directly to the candidate, Conrad Burns, I had no supervisors.

4. Describe the role of Ann Prestidge during 1988 as it related to the Montana Republican Party and/or the Conrad Burns/ U.S. Senate campaign. State whether or not you ever received instructions or were otherwise supervised by Ann Prestidge or any other employee or agent of the NRSC during 1988. If so, identify who provided such supervision and describe the project or work involved. State whether any other employees of the Montana Republican Party were supervised or otherwise given instructions by Prestidge during 1988. If so, state the name of the employee, last known address, and a brief description of the nature of the work and instructions they were given.

ANSWER

My understanding of Ann Prestidge's role at the NRSC was that she was a full-time staff person charged with maintaining communication between the state party, the Senate campaign and the NRSC. Ms. Prestidge served as a clearing house for messages and information, and coordinated staff and resources of the NRSC with the state parties and Senate candidates. I was

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not employed by the NRSC, and I was not supervised by Ann Prestidge nor any other employee of the NRSC during 1988. Moreover, to my knowledge, no employees of the Montana Republican Party were supervised by Ann Prestidge in 1988.

5. Describe the role of Terry Merica during 1988 as it related to his role as Executive Director of the Montana Republican Party. Describe any supervision you were given by Merica.

ANSWER

Terry Merica was the Executive Director of the Montana Republican Party during 1988. In that position, Mr. Merica was a support person for the Republican campaigns active in the state that year. Because of a serious lack of experience, judgment, and good sense, as well as due to the service nature of his employment, Mr. Merica was never in a position to give supervision to me either as Campaign Manager for Conrad Burns, Communications Director of the State Party, or "Pony Express rider" on the preparation of the Montana voter ID list.

DATED this 20th day of August, 1991.

H. ELWOOD ENGLISH

STATE OF MONTANA)
: ss.
County of Yellowstone)

H. Elwood English, being first duly sworn, upon oath, deposes and says:

That he has read the foregoing Answers to Interrogatories and Request for Documents, and that the same are true, accurate and complete to the best of his knowledge, information and belief.

H. ELWOOD ENGLISH

9404358343

SUBSCRIBED AND SWORN to before me this 20th day of August, 1991.

E. Kay Hoe

Notary Public for the State of Montana
Residing at: Billings
My commission expires: 11-15-91

(S E A L)

9404358344

COPY

H. Elwood English

ATTORNEY AT LAW

September 22, 1988

Ms. Michelle Davis
Republican Governors Association
310 First Street, S.E.
Washington, D.C. 20003

Re: Montana Voter ID "Pony Express" Project

Dear Michelle:

Enclosed is my statement for services and expenses incurred in the pony express runs I made through the state of Montana with the voter ID lists. As you know, these were lists of those registered voters for whom phone numbers had not been matched by the computer.

My job was to deliver those lists around the state, find and convince someone to take responsibility for looking up the phone numbers, and return one week later to pick them up.

Western Montana contains a far higher concentration of people than the eastern part of the state. Republican voters per mile driven were far greater in the west. Consequently I shipped lists for 13 eastern counties to Miles City for distribution and drove west. My Miles City contact did a good job both completing her own county and distributing the other lists.

In my travels I made 18 stops at which I secured help in every case. At many of those stops I also left lists for smaller nearby counties for distribution. All but two of my contacts did their own counties by the time I returned. The outlying counties were done in some cases and not in others. The only two contacts who did not perform for me were in Silver Bow and Glacier Counties. Silver Bow may have finished their list the following week and FedExed it in. I am not certain.

In Havre I dropped off an additional six northeastern counties. My contact their spent two days in the hospital before my return and "only" got his own county and one and a half other counties done! The staff of the Jim Fenlason congressional campaign did extra counties, as did the Stan Stephens for Governor group to whom I shipped Lewis and Clark (Helena) and three smaller counties. The Conrad Burns Senate campaign took responsibility for getting the Billings list to local GOP volunteers and did several smaller counties themselves.

Although I had good luck with my shipments to Helena and Miles City, I am convinced that the high level of participation was greatly enhanced by my showing up unannounced on the doorsteps of strangers to ask their help. Somehow my plea that, "I just need to leave the lists with someone who will find local help so I can get back on the road" seemed to work. Only in Missoula did I get turned down by my first contact.

The trips were great fun including lots of wildlife sightings as

540 Avenue B, Suite #1 Billings, Montana 59102 (406) 252-7424

9 4 0 4 3 5 8 3 4 4 5

well as views of various forest fires. I even brought much needed rain to one family in central Montana (after they had used their ample spare time to complete their county list!).

My phone bills, including calls made on the road with my credit card, are not in yet. Consequently, rather than put off preparing this statement any longer, I have estimated (or settled for) the amount which rounds out my total statement to the next even hundred.

Thank you for the opportunity to assist with this project which I believe will change Montana politics for the better this year and in the future. If you have any questions or comments, please call.

Very truly yours,

ELWOOD ENGLISH

cc: Ann Prestidge - NRSC
enc: two pages - statement and expenses

9404358346

Montana Voter ID "Pony Express" Project

Elwood English - Professional Fees

8/29	Meet with Tony Payton phone calls and organization	
8/30	(lists didn't arrive AM) more phone calls shipped 13 eastern counties to Miles City distribution night - organize lists for easy distribution	
8/31	Billings to Drummond	372 miles
9/01	Drummond - Kalispell - Shelby	365
9/02	Shelby - Havre - Great Falls - Billings	442
	* * * * *	
9/06	phone calls	
9/07	Billings to Butte	246
9/08	Butte - Missoula - Kalispell - Glacier	328
9/09	Glacier - Havre - Great Falls	404
9/10	Great Falls - Billings	235
9/12 - 9/20	phone calls, collects lists and shipping lists (= 2 full days)	

Total Days = 12 @ $150	Fees $1,800.00
Itemized Expenses (see attached)	Expenses 1,343.65
Estimated Phone	Phone 56.35
TOTAL DUE	TOTAL $3,200.00

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ITEMIZED EXPENSES

8/29	phone		
8/30	phone		
	UPS	$14.63	
	copies	2.85	
8/31	meals	15.00	
	lodging	19.76	Drummond - Star Motel
	gas	14.59	Rock Creek (near Missoula)
	phone		
9/01	meals	23.00	
	lodging	free	Shelby - Mike Letson
	gas	11.48	Chester
	phone		
9/02	meals	15.00	
	gas	9.85	Stanford
	phone		
* * * * *			
9/06	phone		
9/07	meals	17.00	
	lodging	52.16	Butte - Copper King Inn
	gas	11.20	Livingston
9/08	meals	18.00	
	lodging	69.43	Lake McDonald Lodge
	gas	11.55	Polson
9/09	meals	15.00	
	lodging	73.32	Great Falls - Sheraton (includes breakfast w/ Briggs and Knudson)
	gas	12.16	Chester
9/10	meals	5.00	
	gas	10.90	Harlowton
		3.40	Billings
	Package Shop	1.00	Great Falls
	1 Stop Mail	1.00	Billings
Budget Rental Car		904.82	2,422 miles
Total		$1,343.65	(Phone Bills not yet received.)

2 4 0 4 3 5 8 3 4 4 8

REPUBLICAN GOVERNORS ASSOCIATION

October 13, 1988

Mr. H.E. English
Suite #1
540 Avenue B
Billings, Montana 59102

Dear Eldon:

Enclosed you will find a check in the amount of $3,200.00 for services rendered in our list development project.

From all reports, it was a great success, and I think will be of major benefit to the entire Republican Party ticket.

Many thanks for your help in this important project.

Sincerely,

Michele Davis

Michele Davis
Executive Director

cc: Steve Yeakel
Barbara Campbell
Jack Galt
Ione Brownson
Eddie Mahe, Jr.

9404358449

310 First Street, Southeast, Washington, D.C. 20003 • (202) 863-8587

Paid for by the Republican Governors Association

State Party - Communications Director

10/4 Travel to Helena

Billings Gas + Groc- 7.45
mileage 240 16.00
Tony's Bunn

10/5 Helena

Chuck Johnson / Steve Shirley G.F. Trib
Mike Denison / Len Iwanski AP
Bill Wilke Lee Bureau
Neil Bush
Barbara Campbell
Terry Mason
Ward Shanahon

10/6 Missoula

mileage 170
gas 5.35
Jim Ludwig
Julie Altamus
Stan Stephens

Super 8 motel 24.22
gas+gas. 16.41

10/10 Missoula to Great Falls

mileage 206
Plaza Inn 24.96

10/11 Great Falls to Billings

mileage 250
gas+gas. 9.65

10/18 Bllgs to Miles City

gas - 8.09
mileage

10/19 Miles City to Culbertson

gas+gas. 10.54
mileage

10/20 Culbertson

mileage
King Inn (2 nts) 48.68

10/21 Culbertson to Billings

gas+gas (Circle) 11.64
gas - Bllgs. 9.88

9404358345O

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 30, 1991

CERTIFIED MAIL
RETURN RECEIPT

James Swenson, Pres.
Rexnord Company
4701 West Greenfield
Milwaukee, WI 53214

RE: MUR 3204

Dear Mr. Swenson:

The Federal Election Commission has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended, and Chapters 95 and 96 of Title 26, United States Code. The attached Interrogatories and Request for Production of Documents are being issued to you in connection with an investigation the Commission is conducting. The Commission does not consider you a respondent in this matter, but rather a witness only.

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

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

If you have any questions, please contact Lawrence Parrish, the attorney assigned to this matter, at (202) 219-3400.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosure
Interrogatories and Request for Documents

2043583451

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 3204

INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS

TO: James Swenson, Pres.
Rexnord Company
4701 West Greenfield
Milwaukee, WI 53214

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

2043583452

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INSTRUCTIONS

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

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

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

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

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

Unless otherwise indicated, the discovery request shall refer to the time period from January 1, 1988 to December 31, 1989.

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

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DEFINITIONS

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

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

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

INTERROGATORIES AND REQUEST FOR DOCUMENTS

It has come to the Commission's attention that the Rexnord Company provided names and telephone numbers on index cards to Campaign Telecommunications, Inc., which were used by Campaign in its 1988 Montana general election telemarketing survey.

1. State the exact date the above-mentioned information was transmitted to Campaign Telecommunications, Inc.

   a. Identify the means of transmittal of this information and who received it.

   b. State who requested that this information be transmitted to Campaign Telecommunications, Inc.

   c. Produce all records relating to the information transmitted to Campaign.

2. State whether Rexnord received payment for the transmittal of the names and telephone numbers on index cards to Campaign Telecommunications, Inc.

   a. If so, state whether the Rexnord Company received payments for the above-mentioned information from anyone representing either the Montana Republican Party, National Republican Senatorial Committee or Republican National Committee or any other committee and identify the person.

   b. Produce all records relating to the payment for the information transmitted to Campaign.

3. State how Rexnord Company obtained the names and telephone numbers provided to Campaign Telecommunications, Inc. State whether Rexnord Company paid anyone for this information.

   a. If so, identify who Rexnord Company made payment to for this information.

   b. Produce all records relating to how Rexnord Company obtained the names and telephone numbers provided to Campaign Telecommunications, Inc.

4. Provide copies of all documents relating to the above questions in this matter.

9404358345 5

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 4, 1991

CERTIFIED MAIL
RETURN RECEIPT

Cary Davidson, Esquire
Reed & Davidson
888 West 6th Street, 12th Floor
Los Angeles, CA 90017

RE: MUR 3204

Dear Mr. Davidson:

The Federal Election Commission has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended, and Chapters 95 and 96 of Title 26, United States Code. The attached Interrogatories and Request for Production of Documents are being issued to your client in connection with an investigation the Commission is conducting. The Commission does not consider the Gary Lawrence Company a respondent in this matter, but rather a witness only.

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

You are required to submit the information with 15 days of your receipt of this letter. All answers to questions must be submitted under oath.

If you have any questions, please contact Lawrence Parrish, the attorney assigned to this matter, at (202) 219-3400.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosure
Interrogatories and Request for Documents

9404358345 6

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 3204

INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS

TO: The Gary Lawrence Company
c/o Cary Davidson, Esquire
Reed & Davidson
888 West 6th Street, 12th Floor
Los Angeles, CA 90017

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

9404358457

INSTRUCTIONS

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

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

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

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

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

Unless otherwise indicated, the discovery request shall refer to the time period from January 1, 1988 to December 31, 1989.

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

9404358458

2404358459

DEFINITIONS

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

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

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

INTERROGATORIES AND REQUEST FOR DOCUMENTS

The Gary Lawrence Company ("GLC") stated in their last response to the Commission that the GLC entered into an oral agreement with the National Republican Senatorial Committee ("NRSC") and the Republican Governors Association ("RGA") to provide polling services for both organizations.

1. Identify the person(s) who contacted GLC about conducting the above-mentioned poll. State whether this person(s) was representing the NRSC, RGA, Conrad Burns or any other persons or organizations.

2. State who determined what questions would be asked in this poll and identify how these questions were composed.

   a. Identify the questions attributed to Conrad Burns payment of $450 to GLC. **Provide** copies of any and all of these questions.

   b. **Produce** copies of all questions asked in the above-mentioned poll.

3. In GLC's response, GLC stated that the RNC paid $49,650 and the Burns campaign paid $450 for the results of the poll. Identify all persons, committees or any other parties who received the results of the above-mentioned poll.

   a. Identify the means of transmittal of the poll results and who actually received copies.

   b. State the date of the transmittal of the poll results.

4. Provide copies of all documents relating to the above questions in this matter.

2404358346O

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 6, 1991

CERTIFIED MAIL
RETURN RECEIPT

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

RE: MUR 3204
Conrad Burns/US Senate Committee
and Jim Swain, as treasurer

Dear Mr. Messick:

The Federal Election Commission has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended, and Chapters 95 and 96 of Title 26, United States Code. The attached Interrogatories and Request for Production of Documents are being issued to your client in connection with an investigation the Commission is conducting.

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

You are required to submit the information with 15 days of your receipt of this letter. All answers to questions must be submitted under oath.

If you have any questions, please contact Lawrence Parrish, the attorney assigned to this matter, at (202) 219-3400.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosure
Interrogatories and Request for Documents

2043583461

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 3204

SECOND SET OF INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS

TO: Conrad Burns/US Senate Committee
and Jim Swain, as treasurer
c/o Richard E. Messick, Esquire
Patton, Boggs & Blow
2550 M Street, N.W.
Washington, D.C. 20037

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

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9404358346 3

INSTRUCTIONS

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

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

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

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

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

Unless otherwise indicated, the discovery request shall refer to the time period from January 1, 1988 to December 31, 1989.

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

2404358346 4

DEFINITIONS

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

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

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

INTERROGATORIES AND REQUEST FOR DOCUMENTS

1. The Conrad Burns/US Senate Committee (the "Committee") stated in their last response to the Commission that the Committee entered into an oral agreement with the Gary Lawrence Company (the "GLC") to purchase a part of a daily tracking poll conducting by the GLC. This response also stated that the Washington consultants retained by the Committee received these partial results.

a. Provide copies of of the partial results transmitted October 29, 30 and 31 and November 1, 4, 6 and 7 to the Washington political consultants.

b. Also provide copies of the partial results with no transmittal dates.

c. Identify the means of transmittal of the poll results and who actually received copies.

d. State the names and addresses of the Washington political consultants retained by the Committee.

2. State who determined what questions would be asked in this poll and identify how these questions were composed.

3. The Committee also stated in their response that they received earmarked contributions from the National Republican Senatorial Committee (the "NRSC") and that the NRSC either sent a NRSC check with a list of donors or either the actual checks written by contributors.

a. State the total amount of contributions the Committee received from the NRSC which were sent to the Committee on a NRSC check with a list of the donors.

b. State the total amount of contributions the Committee received from the NRSC in which the NRSC forwarded the actual checks written by contributors.

c. Provide copies of the above-mentioned contributions received from the NRSC.

4. Provide copies of all documents relating to the above questions in this matter.

2 4 0 4 3 5 8 3 4 6 5

OGC 3441

Rexnord

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

91 NOV 18 AM 11:47

November 13, 1991

Rexnord Corporation
P.O. Box 2022
4701 West Greenfield Avenue
Milwaukee, WI 53201
414/643-3000
FAX: 414/643-3078

91 NOV 18 PM 3:33

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

Mr. Lawrence Parrish
Federal Election Commission
Washington, D.C. 20463

Subject: MUR3204

Dear Mr. Parrish:

The purpose of this note is to confirm our telephone conversation of today. In early 1987, Rexnord Inc. was purchased by Banner Industries which has since changed its name to The Fairchild Corporation. Fairchild is located at 300 West Service Road, Chantilly, Virginia 22021. The particular activity about which you are inquiring was a division of Rexnord Inc. It was subsequently sold by The Fairchild Corporation, details unknown to me. The Senior Vice President and General Counsel at Fairchild is Donald Miller.

Rexnord Corporation is the successor company to a division of the old Rexnord Inc. The activity about which you are inquiring was never part of Rexnord Corporation's business.

Best regards,

Jim Swenson
President & CEO

/jms

cc: Donald Miller - The Fairchild Corp. (Chantilly, VA)

(11139101.RJS)

9404358346 6

MUR 3204

GALUSHA HIGGINS & GALUSHA

CERTIFIED PUBLIC ACCOUNTANTS
2825 THIRD AVENUE NORTH, SUITE 502
P.O. BOX 2532
BILLINGS, MONTANA 59103
TELEPHONE 406/248-1681

BILLINGS, MONTANA

November 15, 1991

Via Telecopy
Lawrence Parrish, Esquire
General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

Re: MUR 3204

Dear Mr. Parrish:

This letter is in response to the telephone conversation you had with Mr. Messick's secretary yesterday regarding a request for written notice of the fact that Richard E. Messick is currently in Kiev, Ukraine, Soviet Union and will not return until Wednesday, November 20, 1991. As you requested, upon his return, he will contact you by letter to request an extension of time due to the above circumstances.

Thank you for your attention to this matter.

Sincerely,

Jim Swain

Jim Swain, Treasurer

JWS/gtb

cc: Lawrence M. Noble, Esq.
Richard E. Messick, Esq.

bcc: Jack Ramirez

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
91 NOV 19 PM 3:21

RECEIVED
FEDERAL ELECTION COMMISSION
SECRETARIAT
91 NOV 19 AM 10:41

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OGC 3487

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

TRT TELEX: 197780
TELECOPIER: 457-6315

WRITER'S DIRECT DIAL
(202) 457-6523

November 21, 1991

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
91 NOV 21 PM 12:58

Lawrence Parrish, Esquire
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 3204

Dear Mr. Parrish:

This will confirm our telephone conversation today that the Conrad Burns/U.S. Senate Committee and Jim Swain, its treasurer, will need more time to reply to the Commission's November 6, 1991, request for information.

As I explained, this request was served the day after I left town for an overseas trip. I have just had an opportunity to talk to officials of the Committee and they have begun the process of collecting the information the Commission has requested. While I would hope we could furnish the Commission with this information shortly, I would request an extension until December 15, 1991, in the event there are problems locating documents which the Committee has shipped off to storage.

Thank you for attention to this request.

Sincerely,

Richard E. Messick

REM:crg

cc: Jim Swain

2404358346 8

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 25, 1991

FEDERAL EXPRESS

Leo Gallagher
Special Prosecutor
Office of Political Practices
Capitol Station
Helena, Montana 59620

RE: MUR 3204

Dear Mr. Gallagher:

The Federal Election Commission has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended, and Chapters 95 and 96 of Title 26, United States Code. The attached Request for Production of Documents are being issued to you in connection with an investigation the Commission is conducting.

Because this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provision of 2 U.S.C. § 437g(a)(12)(A) applies. That section prohibits making public any investigation conducted by the Commission without the express written consent of the person with respect to whom the investigation is made. You are advised that no such consent has been given in this case. Should you find it necessary to submit this request to a state court as part of any proceeding, this request must be submitted in camera or under a protective order in order to preserve the confidentiality of the Commission's investigation.

You are required to submit the requested documents within 15 days of your receipt of this letter.

If you have any questions, please contact Lawrence Parrish, the attorney assigned to this matter, at (202) 219-3400.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosure
Request for Documents

2043583469

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
) MUR 3204
)

REQUEST FOR PRODUCTION OF DOCUMENTS

TO: Leo Gallagher
Special Prosecutor
Office of Political Practices
Capitol Station
Helena, Montana 59620

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

2404358470

INSTRUCTIONS

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 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 time period from January 1, 1988 to December 31, 1989.

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

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DEFINITIONS

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

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

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

REQUEST FOR DOCUMENTS

1. **Produce** any and all documents relating to the Montana Republican State Central Committee (Montana Republican Party) involvement in a "telemarketing survey" for Conrad Burns and the National Republican Senatorial Committee (NRSC) in connection with the 1988 Montana general election.

2. **Produce** any and all documents relating to the Montana Republican Party involvement in the Voter Identification Project.

3. **Produce** any and all documents relating to the Montana Republican Party involvement in mailings on behalf of Conrad Burns' 1988 campaign for the U.S. Senate. **Produce** also any and all documents which reflect any volunteer involvement in the mailing. **Produce** any and all documents relating to payment from the Montana Republican Party for the direct mailing.

4. **Produce** any and all documents relating to funds obtained by the Montana Republican Party from the National Republican Senatorial Committee (NRSC) which were used to pay for all or any portion of the direct mailings for the Burns campaign.

5. **Produce** any and all documents relating to any monetary transfers from the NRSC or any other committee in relationship to the "telemarketing survey" and/or mailings on behalf of Conrad Burns' 1988 campaign for the U.S. Senate.

6. **Produce** any and all documents relating to the above-mentioned request for documents.

2404358347 3

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 3, 1991

CERTIFIED MAIL
RETURN RECEIPT

Donald Miller, Senior V.P.
Fairchild Corporation
300 West Service Road
Chantilly, VA 22021

RE: MUR 3204

Dear Mr. Miller:

The Federal Election Commission has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended, and Chapters 95 and 96 of Title 26, United States Code. The attached Interrogatories and Request for Production of Documents are being issued to you in connection with an investigation the Commission is conducting. The Commission does not consider you a respondent in this matter, but rather a witness only.

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

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

If you have any questions, please contact Lawrence Parrish, the attorney assigned to this matter, at (202) 219-3400.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosure
Interrogatories and Request for Documents

9404358474

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
) MUR 3204
)

INTERROGATORIES AND REQUEST
FOR PRODUCTION OF DOCUMENTS

TO: Donald Miller, Senior V.P.
Fairchild Corporation
300 West Service Road
Chantilly, VA 22021

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

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INSTRUCTIONS

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

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

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

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

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

Unless otherwise indicated, the discovery request shall refer to the time period from January 1, 1988 to December 31, 1989.

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

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DEFINITIONS

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

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

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

INTERROGATORIES AND REQUEST FOR DOCUMENTS

It has come to the Commission's attention that the Rexnord Inc. is now doing business as the Fairchild Corporation. It is this Office's understanding that the Fairchild Corporation, while doing business as Rexnord Inc., provided names and telephone numbers on index cards to Campaign Telecommunications, Inc. (Campaign), which were used by Campaign in its 1988 Montana general election telemarketing survey.

1. Identify all officers of the Fairchild Corporation. Identify any and all subsidiaries and if applicable name the parent company of Fairchild Corporation. State when Rexnord Inc. changed it name to the Fairchild Corporation.

2. State the exact date the above-mentioned information was transmitted to Campaign Telecommunications, Inc.

a. Identify the means of transmittal of this information and who received it.

b. State who requested that this information be transmitted to Campaign Telecommunications, Inc.

c. Produce all records relating to the information transmitted to Campaign.

3. State whether Rexnord Inc. received payment for the transmittal of the names and telephone numbers on index cards to Campaign Telecommunications, Inc.

a. If so, state whether Rexnord Inc. received payments for the above-mentioned information from anyone representing either the Montana Republican Party, National Republican Senatorial Committee or Republican National Committee or any other committee and identify the person.

b. Produce all records relating to the payment for the information transmitted to Campaign.

4. State how Rexnord Inc. obtained the names and telephone numbers provided to Campaign Telecommunications, Inc. State whether Rexnord Inc. paid anyone for this information.

a. If so, identify who Rexnord Inc. made payment to for this information.

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b. Produce all records relating to how Rexnord Inc. obtained the names and telephone numbers provided to Campaign Telecommunications, Inc.

5. Provide copies of all documents relating to the above questions in this matter.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 3, 1991

CERTIFIED MAIL
RETURN RECEIPT

Robert Edd Lee, Esquire
Crowley, Haughey, Hanson,
Toole & Dietrich
490 North 31th Street
P.O. Box 2529
Helena, Montana 59620

RE: MUR 3204
The Montana Republican Party

Dear Mr. Lee:

The Federal Election Commission has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended, and Chapters 95 and 96 of Title 26, United States Code. The attached Request for Production of Documents are being issued to your client in connection with an investigation the Commission is conducting.

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

You are required to submit the requested documents within 15 days of your receipt of this letter.

If you have any questions, please contact Lawrence Parrish, the attorney assigned to this matter, at (202) 219-3400.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosure
Request for Documents

9404358348O

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
) MUR 3204
)

REQUEST FOR PRODUCTION OF DOCUMENTS

TO: The Montana Republican Party
c/o Robert Edd Lee, Esquire
500 Transwestern Plaza II
490 North 31th Street
P.O. Box 2529
Helena, Montana 59620

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

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INSTRUCTIONS

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 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 time period from January 1, 1988 to December 31, 1989.

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

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DEFINITIONS

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

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

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

REQUEST FOR DOCUMENTS

Produce any and all copies of the Montana Republican Party's checks and bank statements for the 1988 calendar year.

2404358344

RECEIVED
F.E.C.
SECRETARIAT
91 NOV 25 PM 4:29

BEFORE THE FEDERAL ELECTION COMMISSION

SENSITIVE

In the Matter of	
National Republican Senatorial Committee and James L. Hagen, as treasurer; Republican National Committee and William J. McManus, as treasurer; Montana Republican State Central Committee and Shirley J. Warehime, as treasurer; Conrad Burns/US Senate and Jim Swain, as treasurer	MUR 3204

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On May 21, 1991, the Commission found reason to believe that the National Republican Senatorial Committee and James L. Hagen, as treasurer, violated 2 U.S.C. §§ 441a(f), 441a(h), 434(b) and 439(a); found reason to believe that the Montana Republican State Central Committee and Shirley J. Warehime, as treasurer, violated 2 U.S.C. §§ 441a(f), 441d, and 434(b); found reason to believe that Conrad Burns/U.S. Senate and Jim Swain, as treasurer, violated 2 U.S.C. § 441a(f); and found reason to believe that the Republican National Committee and William J. McManus, as treasurer, violated 2 U.S.C. §§ 441a(f) and 434(b). See General Counsel's Report dated May 6, 1991. The Office of Political Practices for the state of Montana has been conducting an investigation into many of the same activities that are the subject of our investigation from the standpoint of possible state law violations. This state agency appears willing to provide the Commission with information gained from its investigation, but it seems that parties who have provided

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information to this state agency may be seeking a protective order to prevent the public disclosure of such information. It does not appear that the protective order would preclude the providing of such information to a federal agency as part of the federal agency's investigation. Staff from this Office have arranged a trip to Montana from the 3rd of December through the 6th of December to review and copy records held by not only the state agency but also the Montana Republican Party and the Mericas for the Week of December 2. At the request of the counsel for the state agency we have sent a nonsubpoena request for documents, but we feel that it would be advisable in this instance to also issue a subpoena for the documents.

Based upon the foregoing, the Office of General Counsel recommends that the Commission approve the attached subpoena for documents to the Office of Political Practice for the state of Montana.

II. **RECOMMENDATION**

Approve the attached subpoena and appropriate letter.

Lawrence M. Noble
General Counsel

Date 11/25/91

BY: _____
Lois G. Lerner
Associate General Counsel

Attachments
Subpoena and appropriate letter

Staff Assigned: Lawrence D. Parrish

9404358486

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 6, 1991

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Leo Gallagher
Special Prosecutor
Office of Political Practices
Capitol Station
Helena, Montana 59620

RE: MUR 3204

Dear Mr. Gallagher:

The Federal Election Commission has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended, and Chapters 95 and 96 of Title 26, United States Code. Even though the Office of the General Counsel has previously sent you a Request for Production of Documents, the Commission has decided to issued the attached subpoena pursuant to 2 U.S.C. § 437d(a)(3) to produce the same documents which requires you to provide these documents in connection with an investigation it is conducting. The Commission does not consider you a respondent in this matter, but rather a witness only.

Because this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provision of 2 U.S.C. § 437g(a)(12)(A) applies. That section prohibits making public any investigation conducted by the Commission without the express written consent of the person with respect to whom the investigation is made. You are advised that no such consent has been given in this case. Should you find it necessary to submit this request to a state court as part of any proceeding, this request must be submitted in camera or under a protective order in order to preserve the confidentiality of the Commission's investigation.

You may consult with an attorney and have an attorney assist you in the preparation of this subpoena to produce documents. However, you are required to submit the requested documents within 15 days of your receipt of this subpoena.

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If you have any questions, please contact Lawrence D. Parrish, the attorney assigned to this matter, at (202) 219-3400.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosure
Subpoena to Produce Document

2404358348

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 3204

SUBPOENA TO PRODUCE DOCUMENTS

TO: Leo Gallagher
Special Prosecutor
Office of Political Pratices
Capitol Station
Helena, Montana 59620

Pursuant to 2 U.S.C. § 437d(a)(3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby subpoenas the documents listed on the attachment to this subpoena.

Notice is given that these documents must be 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. Legible copies which, where applicable, show both sides of the documents may be substituted for originals.

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WHEREFORE, the Chairman of the Federal Election Commission has hereunto set his hand in Washington, D.C. on this Fourth day of December, 1991.

John Warren McGarry, Chairman
Federal Election Commission

ATTEST:

Marjorie W. Emmons
Secretary to the Commission

Attachments
Intructions
Definitions
Document Requests

9404358349 0

INSTRUCTIONS

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 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 time period from January 1, 1988 to December 31, 1989.

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

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DEFINITIONS

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"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

REQUEST FOR DOCUMENTS

1. **Produce** any and all documents relating to the Montana Republican State Central Committee (Montana Republican Party) involvement in a "telemarketing survey" for Conrad Burns and the National Republican Senatorial Committee (NRSC) in connection with the 1988 Montana general election.

2. **Produce** any and all documents relating to the Montana Republican Party involvement in the Voter Identification Project.

3. **Produce** any and all documents relating to the Montana Republican Party involvement in mailings on behalf of Conrad Burns' 1988 campaign for the U.S. Senate. **Produce** also any and all documents which reflect any volunteer involvement in the mailing. **Produce** any and all documents relating to payment from the Montana Republican Party for the direct mailing.

4. **Produce** any and all documents relating to funds obtained by the Montana Republican Party from the National Republican Senatorial Committee (NRSC) which were used to pay for all or any portion of the direct mailings for the Burns campaign.

5. **Produce** any and all documents relating to any monetary transfers from the NRSC or any other committee in relationship to the "telemarketing survey" and/or mailings on behalf of Conrad Burns' 1988 campaign for the U.S. Senate.

6. **Produce** any and all documents relating to the above-mentioned request for documents.

9 4 0 4 3 5 8 3 4 9 3

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
National Republican Senatorial Committee and James L. Hagen, as treasurer; Republican National Committee and William J. McManus, as treasurer; Montana Republican State Central Committee and Shirley J. Warehime, as treasurer; Conrad Burns/US Senate and Jim Swain, as treasurer.	)	MUR 3204

9204358349 4

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on November 29, 1991, the Commission decided by a vote of 6-0 to approve the subpoena and appropriate letter, as recommended in the General Counsel's Report dated November 25, 1991.

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

Attest:

11-29-91
Date

Marjorie W. Emmons
Secretary of the Commission

Received in the Secretariat: Mon., Nov. 25, 1991 4:29 p.m.
Circulated to the Commission: Tues., Nov. 26, 1991 11:00 a.m.
Deadline for vote: Fri., Nov. 29, 1991 11:00 a.m.

bjf

The Fairchild Corporation
Washington Dulles International Airport
300 West Service Road
PO Box 10803
Chantilly, Virginia 22021
703/478-5800

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM
91 DEC 16 AM 11:54

MUR 3800

December 11, 1991

Fairchild

VIA CERTIFIED MAIL

Lawrence Parrish, Esq.
Federal Election Commission
Washington, DC 20463

RE: MUR 3204

Dear Mr. Parrish:

Pursuant to our telephone conversation on December 10, it is requested that Rexnord Holdings Inc. be granted an extension to January 13, 1992, in order to reply to Interrogatories and Request for Production of Documents with regard to the above referenced matter. This extension is necessary in order to give Rexnord Holdings sufficient time to answer the interrogatories because our company will be on Christmas vacation beginning December 25, 1991, through January 2, 1992, and I will be on vacation until January 6, 1992.

As mentioned in our telephone conversation, I am presently trying to locate any files that may exist on this subject and have contacted a subsidiary which may have the information to comply with your request.

Sincerely yours,

Bonnie Gullickson
Legal Assistant

bg
375-91

91 DEC 16 PM 4:09
RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

2404358349 5

OGC 3812

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

TRT TELEX: 197780
TELECOPIER: 457-6315

WRITER'S DIRECT DIAL

(202) 457-6523

December 16, 1991 MUR 3204

91 DEC 16 PM 5:06

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

7404358349 96

BY HAND

Lawrence Parrish, Esquire
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Dear Mr. Parrish:

This letter responds to the Commission's request for further information from the Burns Committee and its treasurer, Jim Swain.

Question No. 1: Enclosed please find copies of the partial results of the Gary Lawrence tracking poll found in the committee's files. As far as the committee knows, these results were sent by fax to the committee's Washington political consultants. Those individuals are Eddie Mahe and Ladonna Lee. Their address is 900 Second Street, N.E., Washington, D.C.

Question No. 2: The committee does not know.

Question No. 3: Through my own error, I asked the committee for the wrong information. The correct information will be provided by the end of this week.

Question No. 4: See Question 3.

Thanks for your understanding.

Sincerely,

Rick

Richard E. Messick

REM:crg

Enclosure

DUE TO THEIR BULK, THE "TRACKING POLLS" SUBMITTED WITH THIS RESPONSE HAVE BEEN DELETED.

9404358334997

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 23,1991

Bonnie Gullickson, Legal Assistant
The Fairchild Corporation
300 West Service Road
P.O. Box 10803
Chantilly, Virginia 22021

Re: MUR 3204
Rexnord

Dear Ms. Gullickson:

This is in response to your letter dated December 11, 1991, which we received on December 16, 1991, requesting an extension until January 13, 1992 to respond to the Commission's finding. After considering the circumstances presented in your letter, the Office of the General Counsel has granted the requested extension. Accordingly, your response is due by the close of business on January 13, 1992.

If you have any questions, please contact me at (202) 219-3400.

Sincerely,

Lawrence D. Parrish

Lawrence D. Parrish
Staff Attorney

2404358498

REED & DAVIDSON
ATTORNEYS AT LAW
550 SOUTH FLOWER STREET, 7TH FLOOR
LOS ANGELES, CALIFORNIA 90071
TELEPHONE (213) 624-6200
FACSIMILE (213) 623-1692

DANA W. REED
CARY DAVIDSON
DARRYL R. WOLD
OF COUNSEL

ORANGE COUNTY OFFICE
3151 AIRWAY AVENUE, SUITE M-1
COSTA MESA, CALIFORNIA 92626
TELEPHONE (714) 641-1688
FACSIMILE (714) 546-1003

December 19, 1991

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
91 DEC 27 PM 5:56

Lawrence Parrish, Esq.
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

RE: MUR 3204

Dear Mr. Parrish:

Pursuant to our telephone discussion of December 13, 1991, the Gary Lawrence Company requests a twenty (20) day extension of time to respond to the Interrogatories and Request for Production of Documents submitted with your November 4, 1991 letter. As I mentioned, your letter took some time to reach us because we have relocated our Los Angeles offices. Our new address is the following: 777 So. Figueroa Street, Suite 3400, Los Angeles, CA 90017. Our telephone number is (213) 624-6200.

As I mentioned in our telephone discussion, we have forwarded the interrogatories and document request to our client for his assistance in preparing a response. With the holidays, twenty additional days may prove to be inadequate, but I will remain in touch if we have difficulty meeting the early January deadline.

Thank you for your assistance with this matter.

Sincerely,

Cary Davidson

CD:jp

cc: Dr. Gary Lawrence

CD11219.2

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM
91 DEC 27 AM 11:15

2404358349

GC 3981

CROWLEY, HAUGHEY, HANSON, TOOLE & DIETRICH

BRUCE A. TOOLE
JOHN M. DIETRICH
LOUIS H. MOORE
GARELD F. ERIED
ARTHUR F. LAMEY, JR.
MYLES J. THOMAS
GEORGE C. BALTHORP
DAVID L. JOHNSON
REMP WILSON
ROBERT EDD LEE
HERBERT L. PIERCE, III
RONALD R. LODDERS
CHARLES R. CASHMORE
LAWRENCE S. COZZENS
STEVEN RUFFATTO
ALLAN L. RARELL
JAMES P. SITES
CAROLYN S. OSTBY
STEVEN J. LEHMAN
LAURA A. MITCHELL
SHERRY SCHEEL MATTEUCCI
CHRISTOPHER MANGEN, JR.
MICHAEL E. WEBSTER
DANIEL N. McLEAN
ROBERT G. MICHELOTTI, JR.

ATTORNEYS AT LAW
500 TRANSWESTERN PLAZA II
490 NORTH 31ST STREET
P. O. BOX 2529
BILLINGS, MONTANA 59103-2529
TELEPHONE (406) 252-3441
FAX (406) 256-8526
FAX (406) 259-4159
FAX (406) 256-0277

OF COUNSEL
JAMES M. HAUGHEY
NORMAN HANSON

RETIRED
CALE CROWLEY
STUART W. CONNER

JOHN R. ALEXANDER
DONALD L. HARRIS
WILLIAM D. LANGIN, III
WILLIAM J. MATTIX
PETER F. HABEIN
MICHAEL B. DOCKERY
MALCOLM H. GOODRICH
MARY SCRIM
PATRICIA BELL
JON T. DYRE
DENNIS NETTINSIMMONS
MICHAEL C. WALLER
SHARON ROVAR
ERIC R. ANDERSON
BRUCE A. FREDRICKSON
JEFF W. HEDGER
JOHN E. BOHYER
RENEE L. MOONEY
JANICE L. REHBERG
JOE C. MAYNARD, JR.
MICHAEL J. RIDGEWAY
JOHN R. LEE
STEVEN R. MILCH
MARY E. DUNCAN

January 2, 1992

Lawrence Parrish
Office of the General Counsel
Federal Election Commission,
Room 659
999 E Street, N.W.
Washington, D.C. 20463

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
92 JAN -6 PM 2:42

Re: MUR 3204
The Montana Republican Party

Dear Mr. Parrish:

Pursuant to our telephone conversation this morning, please consider this a request by The Montana Republican Party for an extension of time to respond to the Request for Production of Documents mailed by your office under cover letter of December 3, 1991.

Thank you for your courtesy this morning.

Happy New Year.

Very truly yours,

ROBERT EDD LEE

REL/ajr

cc: Barbara Campbell

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM
92 JAN -6 PM 1:06

2404358500

MUR 3204
OGC 3973

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

TRT TELEX: 197780
TELECOPIER: 457-6315

WRITER'S DIRECT DIAL

(202) 457-6523

January 2, 1992

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
92 JAN -6 PM 1:51

BY HAND

Lawrence Parrish, Esquire
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Dear Mr. Parrish:

This letter further responds to the Commission's request for additional information from the Burns Committee and its treasurer, Jim Swain.

Question No. 3: The Committee received seven checks from the NRSC totaling $132,100. The NRSC also forwarded checks in the amount of $56,228 made out to the Burns Committee from individual donors. Copies of all checks are enclosed.

Question No. 4: With one exception, all documents have been provided. The exception is the list of individual donors whose contributions are reflected in the NRSC checks. This list is very long and is reproduced in full in the reports the Committee has filed with the Commission.

Please call me if you have any questions.

Sincerely,

Richard E. Messick

REM:crg

Enclosure

2043583501

First Bank Southside Missoula

Money Order

145 2134 621

TRAVELERS EXPRESS COMPANY INC.
P.O. BOX 9478, MINNEAPOLIS, MN 55480

PAY TO THE ORDER OF Conrad Burns

DATE 6-27-88

- NOT VALID FOR OVER ONE THOUSAND U.S. DOLLARS -

AMOUNT FIRST BANK-N.A. SOUTHSIDE MSLA 25dol's00cts DOLLARS

SIGNATURE Pat Duncan

ADDRESS Box 2902 Missoula

BY SIGNING YOU AGREE TO THE SERVICE CHARGE AND OTHER TERMS ON THE REVERSE SIDE.

5886

[redacted]

2404358356

Member FDIC

Daniels County Republican Central Committee

F18

PAY TO THE ORDER OF Conrad Burns / U.S. Senate

June 2F 19 88 93-226 621

TWO - HUNDRED $200.00

Contribution 00/100 DOLLARS

CITIZENS STATE BANK
SCOBEY, MONTANA 59263

Joe H. Meggs
Treas.

[redacted]

Pol Contrib.

ALFRED L. LOOMIS, JR.

1393

June 24 19 88 1-131/210

PAY TO THE ORDER OF Burns for Senate $ 1,000.00

One Thousand and----------NO/100----------DOLLARS

U.S. Trust

UNITED STATES TRUST CO. OF NEW YORK
45 Wall Street
New York, N.Y. 10005

A. L. Loomis

[redacted]

9404358350 3

HAZEL B. GROSS 11-73
849 WEST 1ST ST. [redacted]
HARDIN, MT 59034

2834

June 24 1988 19-478/929

PAY TO THE ORDER OF Conrad Burns $ 15.00

Fifteen and no/100 DOLLARS

Little Horn State Bank
P.O. Box 530 Hardin, Montana

MEMO Senate

Hazel B. Gross

[redacted]

WAYNE OR MARCIA EDSALL
3181 MC ILHATTAN ROAD [redacted]
BOZEMAN, MONTANA 59715

5420

June 24 1988 19-61/929

PAY TO THE ORDER OF Conrad Burns Campaign $ 200.00

Two hundred dollars + cents DOLLARS

MEMO

Marcia Edsall

[redacted]

CUSTER COUNTY REPUBLICAN
CENTRAL COMMITTEE

327

6-21 1988 19-524/929

PAY TO THE ORDER OF Conrad Burns $ 100 oc

one hundred and no/100 DOLLARS

FIRST SECURITY BANK
Your Friendly Full Service Bank
P.O. BOX 230 TEL 406-232-5555
MILES CITY, MONTANA 59301

MEMO

[redacted]

[redacted]
FOSTER S. FRIESS
VINNIETTE E. FRIESS, AGENT
P.O. BOX 4186
GREENVILLE, DE 19807

2329

June 15, 1988 25-80/440

TRUST

Pay to the Order of CONRAD BURNS FOR THE SENATE $ 1000.00

one thousand and no/100---------- Dollars

DEAN WITTER REYNOLDS
BANK ONE.

A B C D E F G K L M N P R S T U V W Y Z

For contribution

Foster Friess

[redacted]

MEMBER OF
SENATORIAL
TRUST

ANDREW J. D'ANGELO
MARY R. D'ANGELO
[redacted] HILTON AVE.
GARDEN CITY, NY 11530

971

6/17 19 88 11-1053/214

PAY TO THE ORDER OF Conrad Burns Senate Committee $ 100.00

Two hundred fifty and 00 DOLLARS

Long Island Trust Company, N.A.
98 SEVENTH STREET
GARDEN CITY, NEW YORK 11530

MEMO 5[illegible]

[redacted]

MEMBER OF
SENATORIAL
TRUST

[redacted] WILLIAMS PARKER
P. O. BOX 1011
THOMASVILLE, GA 31799

376

May 15 1988 64-1179/612

PAY TO THE ORDER OF Conrad Burns/U. S. Senate $ 1000.00

One Thousand and no/100---------- DOLLARS

C&S The Citizens and Southern National Bank
Thomasville, Georgia 31792

MEMO 1988

Diane W. Parker

[redacted]

MEMBER OF
SENATORIAL
TRUST

4174

May 11 19 88 19-68/1010

PAY TO THE ORDER OF Burns for Senate $ 1000.00

One Thousand ------ and No/100- ---------- DOLLARS

UNITED MISSOURI BANK
of Kansas City, n.a.
P.O. Box 419226 Kansas City, Missouri 64141-6226

H. SUTHERLAND

0885

FOR [redacted]

[redacted]

8350 4

CHICAGO, IL 60615

PAY TO THE ORDER OF Conrad Burns - Senate (Montana) $ 100.00

One Hundred and no/100 DOLLARS

Hanover State Bank

MEMO AIPAC convention pledge

Harold S. Patinkin

MEMBER OF SENATORIAL TRUST

WAYNE G. BASLER

No. 227

August 10, 19 88

87-270
642

PAY TO THE ORDER OF Conrad Burns for Senate $ 1,000.00

One thousand and no/100---------- DOLLARS

MARYLAND

BT Bank of Tennessee
SERVING UPPER EAST TENNESSEE

FOR General Election

MEMBER OF SENATORIAL TRUST

DATE	ITEM	AMOUNT

4442

64-933
612

W H FLOWERS
P O BOX 1338
THOMASVILLE, GEORGIA 31792

PAY One thousand & no/100 DOLLARS

PAY TO THE ORDER OF	DATE	INVOICES	DISC.	AMOUNT OF CHEC
Conrad Burns for Senate	8-10-88			1,000 00

COMMERCIAL BANK
THOMASVILLE, GA.

W H FLOWERS

W H Flowers

240435835 0-5

25.00 59 40.00

MEMBER OF
SENATORIAL
TRUST

WILLIAM O. BRACHMAN
1008 MONROE
RIVER FOREST, ILL. 60305

385

7/15 1988

2-54/710

PAY TO THE ORDER OF CONRAD BURNS/US SENATE $ 500.00

Five hundred DOLLARS

THE EXCHANGE
National Bank of Chicago
Chicago, Illinois 60603

MEMO

Wm O Brach

[redacted]

3506

MEMBER
SENATORIAL
TRUST

HERBERT D. KATZ
ELEANOR M. KATZ
1100 LINCOLN STREET
HOLLYWOOD, FL 33021

5494

52-817
660

July 21, 1988

PAY TO THE ORDER OF CONRAD BURNS FOR US SENATE $ 1,000.00

THE SUM 1000 DOLS 00 CTS DOLLARS

Southeast Bank, N.A.
HOLLYWOOD HILLS BANKING CENTER 1925
3328 HOLLYWOOD BOULEVARD
HOLLYWOOD, FL 33021

FOR

Herbert D Katz

[redacted]

940

9404358135507

RALPH C. NELLES
P. O. BOX 1144
BILLINGS, MT 59103

156

July 19, 1988

PAY TO THE ORDER OF CONRAD BURNS FOR SENATOR $ 250.00

********* TWO-HUNDRED-FIFTY AND NO/100 ********* DOLLARS

FIRST CITIZENS BANK
[redacted]
BILLINGS, MONTANA 59101

MEMO [redacted]

Ralph C. Nelles

CHARLES [redacted] METZ
1400 POLY DR., APT. [redacted]
BILLINGS, MT [redacted]

1002

7/21 1988

Burns For Senate $ 250.00

Two Hundred Fifty and 00/100 DOLLARS

YELLOWSTONE BANK
BILLINGS, MONTANA 59104

MEMO [redacted]

Charles B. Metz

MEMBER OF SENATORIAL TRUST

RICHARD B CRAY TTEE
RICHARD B CRAY TRUST
920 WEST 47TH SUITE 711
KANSAS CITY MO 64112

5465

Jan 30 1988

PAY TO THE ORDER OF Conrad Burns for Senate $ 1000.00

One Thousand and no/100 DOLLARS

SMITH BARNEY VANTAGE ACCOUNT

FIDELITY NATIONAL BANK
17TH & CHESTNUT STREETS, PHILA., PA

II

MEMO [redacted]

[redacted]

PATRICIA C. PAGE
GEORGE W. PAGE
[redacted]

SENATORIAL TRUST

DEAN WITTER REYNOLDS INC.

582

June 7 1988

PAY TO THE ORDER OF Conrad Burns for U.S. Senate $ 500.00

Five Hundred and 00/100 DOLLARS

A B C D E F G H I J K L M N O P Q R S T U V W Y Z

BANK ONE. 1.
BANK ONE, COLUMBUS, NA
Columbus, Ohio 43271

MEMO Montana

[redacted]

94043583508

AMOUNT

TOTAL OF INVOICES
LESS ___ % DISCOUNT
LESS
TOTAL DEDUCTIONS
AMOUNT OF CHECK

TED H. WILLIAMS
JOINT VENTURE
P. O. BOX 123
BILLINGS, MT 59103

3072

93-132/929

9-16 19 88

PAY TO THE ORDER OF Burns for U.S. Senate $ 25.00

Twenty five & 00/100 DOLLARS

Montana Bank of Billings

Ted H Williams

[redacted]

Dudley N. Schoales

MEMBER OF SENATORIAL TRUST

1507

1-23/210

August 29, 1988

Pay to the order of Conrad Burns for U.S. Senate $ 1000.00

One Thousand and 00/100 Dollars

Morgan Guaranty Trust Company of New York

Memo

Dudley N Schoales

[redacted]

MEMBER OF SENATORIAL TRUST

BRUCE H. HOOPER 2112

3941

September 8 1988

9-8/310

PAY TO THE ORDER OF Burns for Senate $ 1,000.00

One Thousand and 00/100 DOLLARS

Mellon Bank
Mellon Bank (East) N.A.
Philadelphia, PA

MEMO

Bruce H Hooper

[redacted]

5258

THE ARMSTRONG COMMITTEE

23-2/1020

August 12, 1988

Pay to the Order of Conrad Burns for U.S. Senate $1,000.00/100 Dollars

One Thousand & 00/100

COLORADO NATIONAL BANK OF DENVER
Seventeenth and Champa (303) 893-1602
Denver, Colorado 80202

For [redacted]

2 4 0 4 3 5 0 3 5 0 9

96

MEMBER OF SENATORIAL TRUST

A. D. HULINGS
PORT, MINNESOTA 55003

FSB FIRST STATE BANK
DAYPORT, MINNESOTA 55003

August 30, 19 88

X 75-1/91

REGISTERED 18P83760 1000 DOLS 00 CTS DOLLARS $ 1,000.00

PAY

TO THE ORDER OF Burns for Senate

A. D. HULINGS

Kathleen R. Cooler

[redacted]

DELUXE CHECK PRINTERS

2715

ROBERT T. PRIDDY
[redacted]
600 CITY NATIONAL BLDG.
WICHITA FALLS, TEXAS 76301

September 8, 1988

First RepublicBank
First RepublicBank Wichita Falls, N.A.
P.O. Drawer 69
Wichita Falls, Texas 76307

PAY TO THE ORDER OF Conrad Burns for U.S. Senate $ 1,000.00

THE SUM 1 0 0 0 DOLS 0 0 CTS DOLLARS

THIS CHECK IS DELIVERED IN CONNECTION WITH THE FOLLOWING ACCOUNTS

	Political Contribution		

ROBERT T. PRIDDY

Robert T. Priddy

[redacted]

86

AIR CONDITIONING CONTRACTORS OF AMERICA
POLITICAL ACTION COMMITTEE
1513 1611 1330—17TH ST., N.W.
WASHINGTON, D.C. 20036

Sept 23 1988

PAY TO THE ORDER OF Conrad Burns for U.S Senate $ 500.00

Five Hundred Dollars and 00/100 Cents DOLLARS

The RIGGS NATIONAL BANK
of WASHINGTON D.C.
18TH AND M OFFICE
1800 M STREET, N.W.

Ann D. Wainer

FOR General

⑈000862⑈ ⑆054000030⑆ 26⑈08276589⑈

RUDCO 881

⑆240435835⑆ 10

...LIAM G. OR MARGARET DUTTON
JORDAN, MONTANA 59337

2437

9. 5 19 88

PAY TO THE ORDER OF [redacted] Burns / US Senate $ 10 00

[redacted] DOLLARS

GARFIELD COUNTY BANK
P.O. BOX 8 JORDAN, MONTANA 59337

MEMO [redacted]

Wm G Dutton

DON F. OR PEG VALITON
BOX 66 [redacted]
OVANDO, MT 59854

3809

Sept. 6 19 88

PAY TO THE ORDER OF Conrad Burns -- U.S. Senate $ 10/00

Ten and no/00 DOLLARS

[redacted] N.A.

MEMO [redacted]

Peg Valiton

HARRY D. OR SHIRLEY A. LOUCKS
P. O. BOX 145 [redacted]
REDSTONE, MT 59257

1529

9-6 19 88

PAY TO THE ORDER OF Burns for U.S. Senate $ 50 00

Fifty Dollars & no/ DOLLARS

SINCE 1912
SECURITY STATE BANK
PLENTYWOOD, MONTANA

MEMO [redacted]

Harry D Loucks

LEWIS E. TOPPER
LESLIE J. TOPPER

110

8/20 19 88

PAY TO THE ORDER OF Conrad Burns for Senate $ 18 00

Eighteen 00/100 DOLLARS

Citibank, N.A.
734 Third Avenue
New York, N.Y.
10017

CITIBANK

MEMO [redacted]

[redacted]

-?40435835111

DEPOSIT TICKET 93-119/929

CONRAD BURNS/U.S. SENATE
GENERAL ELECTION FUND

FIRST CITIZENS BANK
(406) 259-5531
1ST AVENUE NORTH AT BROADWAY
BILLINGS, MONTANA 59101

DATE July 21/88

	DOLLARS	CENTS
CURRENCY ENGLISH	20	00
COIN PHILLIPS	20	00
CHECKS LIST EACH SEPARATELY		
ANDERSON, C	50	00
BLAKE, G	20	00
BUHMANN, R	10	00
CHEEVER, M	10	00
COX, L	250	00
DANIELS, J	100	00
DORR, K	10	00
DYE, R	50	00
FICEK, S	20	00
FUNK, H	10	00
GALT, L	250	00
GULLINGS, W	5	00
JOHANNSEN, J	100	00
KOEFOD, D	10	00
KOHLMAN, M	25	00
LEFFINGWELL	100	00
MACLAY, N	100	00
METZ, C	250	00
MORTON, J	50	00
MYERS	100	00
NELLES, R	250	00
PHILLIPS, W	20	00
QUINN, T	350	00
ROSCOE, W	200	00
ROWE, A	10	00
SANDERS, K	20	00
SAUNDERS, R	250	00
TOTAL FROM OTHER SIDE OR ATTACHED LIST	2775	00
TOTAL	5415	00

Checks and other items are received for deposit subject to the provisions of the Uniform Commercial Code or any applicable ...

DEPOSIT TICKET 93-119/929

CONRAD BURNS/U.S. SENATE
GENERAL ELECTION FUND

(2)

FIRST CITIZENS BANK
(406) 259-5531
1ST AVENUE NORTH AT BROADWAY
BILLINGS, MONTANA 59101

DATE 7/21

	DOLLARS	CENTS
CURRENCY		
COIN		
CHECKS LIST EACH SEPARATELY		
SCHLATTER, S	5	00
SHUMATE, L	100	00
TAMMINGA, J	50	00
TOBIN, J	50	00
WALLACE, J	10	00
WALTON, F	10	00
YEDLICKA, E	50	00
	2915	00
Sen. Trust		
~~[illegible]~~		
CRAY, Rich.	1000	00
PAGE, GEO	500	00
WILKINS, H	1000	00
	2500	00
TOTAL FROM OTHER SIDE OR ATTACHED LIST	2775	00
TOTAL		

2 1 5 3 3 3 4 9 4 9

Checks and other items are received for deposit subject to the provisions of the Uniform Commercial Code or any applicable collection agreement

13269

40-4/1011

HOWARD WILKINS JR.
INVESTMENT ACCOUNT
P. O. BOX 2817
WICHITA, KS 67201

MEMBER OF
SENATORIAL
TRUST

July 8 19 88

PAY TO THE ORDER OF Burns for Senate $ 1,000.00

One Thousand and no/100 ------------------ DOLLARS

BANK IV WICHITA, N.A.
Wichita, Kansas

[redacted]

[redacted] HARRY LUCAS JR.
INCOME ACCOUNT
P. O. BOX 56467
HOUSTON, TEXAS 77256-6467

[redacted] RIAL
RUST

Allied Bank of Texas
P.O. BOX 3326
HOUSTON, TEXAS 77253-3326

NO 11485

35-106
1130

Sept. 15, 19 88

PAY ****FIVE HUNDRED AND NO/100**** DOLLARS $500.00

TO THE ORDER OF CONRAD BURNS FOR SENATE

HARRY LUCAS JR.
INCOME ACCOUNT

[redacted]

MARTIN MARIETTA POLITICAL
ACTION COMMITTEE
6801 ROCKLEDGE DRIVE
BETHESDA, MD 20817

151

September 27 19 88

PAY TO THE ORDER OF *****Conrad Burns/U.S. Senate***** $ 1,000.00

*****One thousand and 00/100***** DOLLA

SIGNET BANK
Maryland

FOR Conrad Burns, R-MT

[redacted] 0151511 •105200001611 11280-027151

EMMA BALLARD
GOLDEN VALLEY REPUBLICAN [redacted] CLUB
LAVINA, MT 59046

39

Sept 30 19 88

Pay to the Order of Conrad Burns $ 150.00

One hundred fifty & 00/100

NORWEST BANKS
Norwest Bank Billings, N.A.
P.O. Box 30058
Billings, MT 59117

IPC

Memo [redacted]

Emma Ballard

[redacted]

24043503513

SPECIAL ACCOUNT
1700 K STREET, N.W.
WASHINGTON, DC 20006

Sept 20 19 88 201

68-101/540 V

SENATOR TRUST

Pay to the order of Bruce for Senate $ 500 00

Five hundred Dollars

SOVRAN BANK
Sovran Bank, N.A. Arlington, Virginia

Memo

Ronald Crawford

[redacted]

806

LINDA MC CAUSLAND 6-71
P. O. BOX 1584
ASPEN, CO 81612

9-20 1988 82-164/102

Pay to the order of Conrad Burns for US Senate $ 500 00

Five hundred and 00/100 Do

Central Bank
Aspen, N.A.
(303) 925-1400
420 E. Main
Aspen, CO 81611

For

Linda Mc Causland

[redacted]

28

ROBERT M. MUMMA, II 10-72
P.O. BOX 2255
HARRISBURG, PA. 17105

MEMBER RE SENATORIAL TRUST

Sept 15 19 88 60/3

PAY TO THE ORDER OF Conrad Burns for U.S. Senate $ 1000 00

One thousand and 00/100 DOL

CoreStates
Hamilton Bank

FOR

Robert M. Mumma II

[redacted]

DAVID G. PETERSON
MARJORIE M. PETERSON
1110 LENDEL LANE
BILLINGS, MT 59102

8018

Sept. 30, 19 88 — 93-41/929

PAY TO THE ORDER OF Conrad Burns for U.S. Senate — $25.00

twenty-five and no/100 — DOLLARS

First Interstate Bank
First Interstate Bank of Billings, N.A.
(406) 255-5000
401 N. 31st St., P.O. Box 30918
Billings, Montana 59116

FOR [redacted]

[redacted]

PAY TO THE ORDER OF SENATORIAL TRUST

ALLEN D. OHRSTROM
OLD WHITEWOOD
THE PLAINS, VA. 22171

391

Sept. 21 19 88 — 56-225/514

PAY TO THE ORDER OF TRUST Burns for Senate — $ 1000.00

One thousand — DOLLARS

The Fauquier National Bank
10 Courthouse Sq. • P.O. Box 561 • Warrenton, Virginia 22186

MEMO Montana

Allen D. Ohrstrom

[redacted]

9 4 0 4 3 5 8 3 5 1 5

E. LESLIE PETER 65-75
710 OAKFIELD DR, SUITE 220
BRANDON, FL 33511

7364

SENATORIAL TRUST

9/29 88 — 52-182 631

PAY TO THE ORDER OF ***CONRAD BURNS FOR SENATE** — $ 500.00**

***FIVE HUNDRED AND 00/100** — DOLLARS

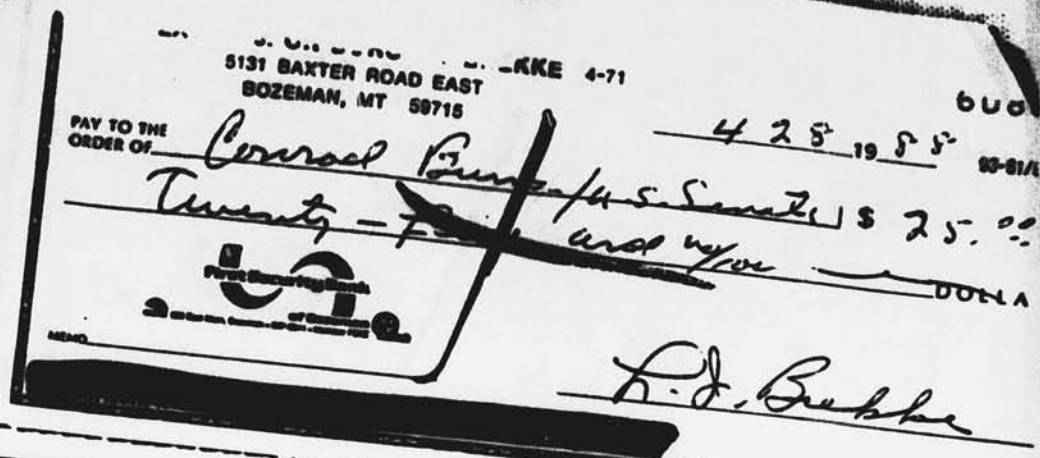
Barnett Bank
300 SOUTH PARSONS AVENUE
BRANDON, FLORIDA 33511

PREMIER

FOR [redacted]

Lorraine LeBoulo

9404358351 6



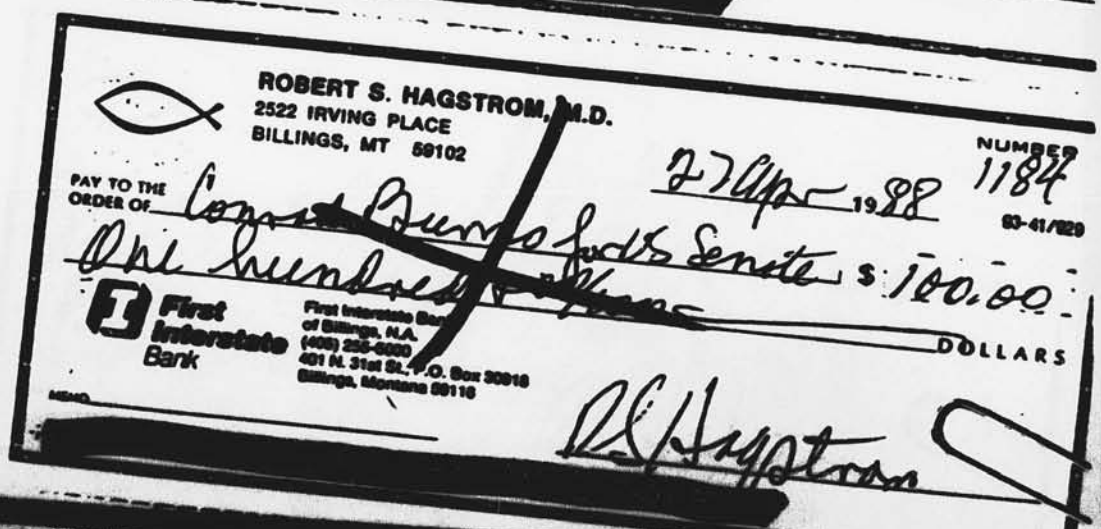
5131 BAXTER ROAD EAST
BOZEMAN, MT 59715

PAY TO THE ORDER OF Conrad Burns/U.S. Senate $ 25.00

Twenty-Five and no/100 DOLLARS

MEMO

L. J. Burke



ROBERT S. HAGSTROM, M.D.
2522 IRVING PLACE
BILLINGS, MT 59102

NUMBER 1184

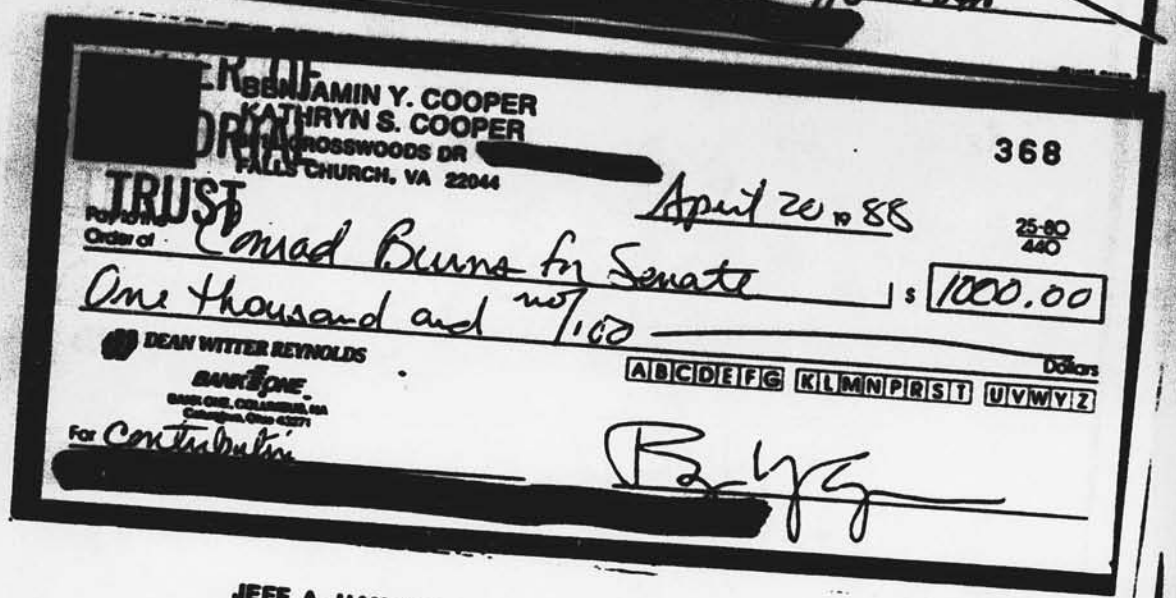
PAY TO THE ORDER OF Conrad Burns for U.S. Senate $ 100.00

One Hundred and no/100 DOLLARS

First Interstate Bank
First Interstate Bank of Billings, N.A.
(406) 256-6900
401 N. 31st St. P.O. Box 30918
Billings, Montana 59116

MEMO

R. C. Hagstrom



BENJAMIN Y. COOPER
KATHRYN S. COOPER
CROSSWOODS DR
FALLS CHURCH, VA 22044

368

TRUST

April 20 19 88

25-80
440

Pay to the Order of Conrad Burns for Senate $ 1000.00

One Thousand and no/100 Dollars

DEAN WITTER REYNOLDS

BANK ONE

ABCDEFG KLMNPRST UVWYZ

For Contribution

JEFF A. HANSEN
1355 CHERYL
BILLINGS, MT 59105

2481

PAY TO THE ORDER OF Conrad Burns/US Senate 4-28 19 88

Twenty Five & no/100 $ 25.00/100

First Bank Billings
First Bank (N.A.) - Billings
P.O. Box 30870
Billings, Montana 59116

DOLLARS

MEMO

MEMBER OF
SENATORIAL
TRUST

JOHN H. FRENCH, 2ND

No.

Apr 20 1988

1-1/210 426

PAY TO THE ORDER OF Conrad Burns for Senate

$ 1000 00/100

One Hundred 00/100 DOLLARS

[redacted]

350 FIFTH AVENUE, NEW YORK, N.Y. 10118

MEMO

[redacted]

[redacted]

⑆043583517⑆

SENATORIAL TRUST

WAYNE G. BASLER

No. 122

2 May 19 88

PAY TO THE ORDER OF Conrad Burns for Senate $1,000.00

One thousand and 00/100 DOLLARS

BT Bank of Tennessee
SERVING UPPER EAST TENNESSEE

FOR [redacted]

GAYLE O. AVERYT

MEMBER OF
SENATORIAL
TRUST

3176

April 28 19 88

67-37
539

PAY TO THE ORDER OF Conrad Burns for Senate $500.00

FIVE HUNDRED AND NO/100---------- DOLLARS

C&S THE CITIZENS & SOUTHERN NATIONAL BANK OF SOUTH CAROLINA COLUMBIA, SOUTH CAROLINA 29202

FOR Political Contribution

[redacted]

WHOLESALER-DISTRIBUTOR
POLITICAL ACTION COMMITTEE
1725 K STREET NORTHWEST
WASHINGTON, D.C. 20006

No 1224

FIRST AMERICAN BANK, N.A.
WASHINGTON, D.C.

154
540

May 2 19 88

PAY EXACTLY $500 AND 00 CTS

DOLLARS $500.00

TO THE ORDER OF
Conrad Burns/U.S. Senate
P.O. Box 3311
Billings, MT 59103

WHOLESALER-DISTRIBUTOR POLITICAL ACTION COMMITTEE

Nicholas E. Calio

[redacted]

⑈00001224⑈ ⑆054000043⑆ 3 199 428⑈

⑆0404358351⑈

a Corporation
Sec. of State
Office (Corp. bureau)
6/9/88 idh

9404358519

BALTRUSCH & PARK PROPERTIES
3734 HERITAGE DR. [redacted]
BILLINGS, MT 59102

1023

6-9-88

93-161/929

Pay to the Order of Conrad Burns US Senate $ 100 00/100

One Hundred & no/100

YELLOWSTONE BANK

[redacted]

Ira L Park

IRA L. OR RUTH PARK
[redacted]
3734 HERITAGE DR.
BILLINGS, MT 59102

4109

6-9-88

93-121/929

Pay to the Order of Conrad Burns Senate Campaign $ 100 00/100

One Hundred & no/100

Western Bank

[redacted]

Ira L Park

MEMBER OF
SENATORIAL
TRUST

CLARA CHAMBERS
[redacted] STANDISH COURT
BLOOMFIELD HILLS, MICH. 48013

2023

May 24 1988

Pay to the order of Conrad Burns $ 1,000.00

One thousand and 00/100 Dollars

Pontiac State Bank
Bloomfield Hills Office
Bloomfield Hills, Michigan 48013

Memo [redacted]

Clara Chambers

MEMBER OF
SENATORIAL
TRUST

GLEN TAYLOR
P. O. BOX 3728
MANKATO, MN 56001

1725

June 1 1988

75-101/919

PAY TO THE ORDER OF Burns for Senate $ 1000 00

One Thousand and no/100 DOLLARS

Valley National Bank
NORTH MANKATO, MINNESOTA 56001

MEMO [redacted]

Glen Taylor

DEPOSIT TICKET

CONRAD BURNS
U. S. SENATE

FIRST CITIZENS BANK

DATE 06/16/88	DOLLARS	CENTS
CURRENCY	50	00
COIN		
CHECKS LIST EACH SEPARATELY		
1 BURRIS, K.	100	00
2 COOK, R.	100	00
3 HAUPTMAN, C	50	00
4 HAUPTMAN, T.	100	00
5 HAVIG, E.	50	00
6 HODGIN, W.	200	00
7 LEMLEY, M.	50	00
8 LENHALDT, E.	50	00
9 TERRETT, E.	100	00
10 WINCHELL, R. (MS)	50	00
11 STONE, W. C.	2000	00
TOTAL FROM OTHER SIDE OR ATTACHED LIST		
TOTAL	$ 2,900	00

YOUR DEPOSIT MAY NOT BE AVAILABLE FOR IMMEDIATE WITHDRAWAL. CONSULT POSTED NOTICES FOR FURTHER INFORMATION.

Checks and other items are received for deposit subject to the provisions of the Uniform Commercial Code or any applicable collection agreement.

[redacted]

MEMBER OF SENATORIAL TRUST

W. CLEMENT STONE Enterprises
401 N. WABASH, SUITE 530, CHICAGO 60611

No. 045721

2-77/710

June 1 19 88

PAY TO THE ORDER OF The sum of 2,000 dol's 00 cts $ 2,000.00

W. CLEMENT STONE

CONRAD BURNS FOR U.S. SENATE
Montana

Maru Bulleck
R. A. Twellaxes

American National Bank of Chicago

[redacted]

4043563520

C. M. HAUPTMAN
440 HART-ALBIN BLDG.
BILLINGS, MT 59101 [redacted]

Montana Bank of Billings

4952

6/15 19 88

93-182/929

PAY TO THE ORDER OF Conrad Burns for U.S. Senate $ 50.00

Fifty and no/100 DOLLARS

FOR Pol. Contrib

C M Hauptman

[redacted]

W. Clement Stone
Post Office Box 619 • Lake Forest, Illinois 60045

August 24, 1988

CONRAD BURNS FOR U.S. SENATE
P.O. Box 3311
Billings, MT 59103

Concerning our contribution of $2,000.00, we verify that:

$1,000.00 check number 047521 dated June 1, 1988 represent my personal funds and my personal contribution to the General Election Fund of Conrad Burns for U.S. Senate.

W. Clement Stone

W. Clement Stone

$1,000.00 check number 047521 dated June 1, 1988 represent my personal funds and my personal contribution to the General Election Fund of Conrad Burns for U.S. Senate.

Jessie Verna Stone

Jessie Verna Stone.

Hopefully this letter will satisfy the requirements of the Federal Election Commission.

Sincerely yours,

Ruth Trillanes

Ruth Trillanes
Accountant

9 2 0 4 3 5 8 3 5 2 1

MEMBER OF SENATORIAL TRUST

MRS. DON GABBERT
[redacted]
MINNEAPOLIS, MN 55416

14340

9-27 1988

17-2/910

PAY TO THE ORDER OF Senator Burns $ 2,000.00

two thousand and no/100 DOLLARS

First Bank National Association
Member First Bank System
Minneapolis Office
First Bank Place
Minneapolis, MN 55480

MEMO MT

Mrs. Don Gabbert

[redacted]

Yes this is okay J.M.

VOUCHER NO. K-12

FIRST NATIONAL BANK & TRUST CO. OF TULSA
POST OFFICE BOX ONE
Tulsa, Oklahoma 74193

HERMAN GEO. KAISER, OIL PRODUCER
P. O. BOX 21468
TULSA, OKLA. 74121-1468

№ 1894

DATE 10-3-88

Pay REGISTERED 23U4271 1.000 dls 00 cts Dollars $1,000.00***

TO THE ORDER OF

Conrad Burns for Senate

Personal-not corporate

HERMAN GEO. KAISER, OIL PRODUCER

Walter Kaiser

[redacted]

2 2 5 3 8 5 3 4 0 4

PERSONAL MONEY ORDER

MANUFACTURERS HANOVER TRUST COMPANY

NEW YORK, N.Y.

1-30
210

9/25 1988

68603970

PAY TO THE ORDER OF Conrad Burns Campaign

MHT $1,000 AND 00 CTS

NOT VALID OVER $1000.00

AL GINSBURG
SIGNATURE OF DRAWER

7846 Afton Villa Ct
ADDRESS
Boca Raton FL 33433

[redacted]

Savings Bank Money Order

Crossland

33-062357

CrossLand Savings FSB
271 Montague Street
Brooklyn, NY 11201

SEP24-88 033133 MANHASSET

Pay #1000.00## Only #1000.00##

(Not good for amounts over one thousand dollars)

Pay To The Order Of Conrad Burns Campaign
(Remitter must insert payee's name on above line)

Pearl Ginsberg
Remitter's Signature

Savings Bank Trust Company
New York, NY

To Hickory Dr. Roslyn
Address

[redacted]

PERSONAL MONEY ORDER — PERSONAL MONEY ORDER

MANUFACTURERS HANOVER TRUST COMPANY

1-30
210

NEW YORK, N.Y.

Sept. 26, 1988 68603969

PAY TO THE ORDER OF CAMPAIGN TO ELECT CONRAD BURNS

=MHT $1,000 AND 00 CTS

NOT VALID OVER $1000 00

71 W. 83rd St/P.C. Ginsberg
SIGNATURE OF DRAWER

N.Y.C., N.Y.
ADDRESS

[redacted]

9 4 0 4 3 5 8 3 5 2 3

CHEMICALBANK

55 Water Street
New York, N.Y. 10041

Personal Money Order
Not Valid Over $1,000.00

1-12
210

No. 14591977

9/26 1988

Pay to the Order of Campaign to Elect Conrad Burns

CHEMICAL BANK 120 BANK $1,000 AND 00 CTS

Address 138 Crescent Rd Lyn NY 11577 Signature Leone Ginsberg

[redacted]

THE BANK OF NEW YORK, WHITE PLAINS, NEW YORK

9/26 19 88

Pay to the C.der of CONTRIBUTION TO ELECT CONRAD BURNS $1000.00

ONE THOUSAND DOLLARS & NO CENTS Dollars

MINIMUM OF $100

LARRY T GINSBERG &
LISA C GINSBERG JT TEN
28 E 22ND ST 8G
NEW YORK NY 10010

ONLY ONE SIGNATURE REQUIRED

MICR DATA, NEW YORK, N.Y.

MEMBER OF SENATORIAL TRUST

ROBERT S. COIT
INVESTMENT ACCOUNT
10280 GAYWOOD
DALLAS, TEXAS 75229

1000

32-104/1110

September 13, 19 88

PAY TO THE ORDER OF Conrad Burns for Senate $ 1,000.00

One thousand and no/100 DOLLARS

THIS CHECK IS DELIVERED FOR PAYMENT ON THE ACCOUNTS LISTED

MEMBER OF SENATORIAL TRUST

L. O. WARD
OIL OPERATIONS
P. O. BOX 1187
ENID, OK 73702

2848

FOREIGN OIL IMPORTS
DID NOT MAKE
THIS TRANSACTION POSSIBLE

89-17/1031

CHECK NO.	DATE	AMOUNT
	9/28/88	$1,000.00

PAY *******One thousand and 00/100**********

TO THE ORDER OF Conrad Burns for Senate

SECURITY NATIONAL BANK, ENID, OKLAHOMA 73701

TWO SIGNATURES REQUIRED
IF OVER $5,000.00
L. O. WARD OIL OPERATIONS

DELUXE CHECK PRINTERS

[redacted]
4637 E. Lake Harriet Pkwy.
Minneapolis, Mn 55409

12075

Sept. 26, 19 88 17-1/910

Pay to the Order of Burns for Senate $ 1000 00

One Thousand and no/100 Dollars

NORWEST BANKS
Norwest Bank Minneapolis, N.A.
8th Street and Marquette Avenue
Minneapolis, MN 55479

Memo 1K Re-Investment Shelley Lieberman

[redacted]

PAUL ARNESON
ATTORNEY AT LAW
[redacted]
1701 PENNSYLVANIA AVE., N.W., SUITE 940
WASHINGTON, D.C. 20006

984

9-26 19 88 154/540 11

PAY TO THE ORDER OF Conrad Burns for Senate $ 500.00

Five-Hundred and no/100 DOLLARS

1st AMERICAN
FIRST AMERICAN BANK, NA, WASHINGTON, DC

FOR [redacted]

LOUIS E. KEMP 9/62
3700 LONDON ROAD
P.O. BOX 16147
DULUTH, MN 55816-0147

4938

Sept. 26 88 75-1/919

PAY TO THE ORDER OF Burns for Senate $ 1,000 00

One Thousand and no/100 Dollars

NORWEST BANKS
Norwest Bank Duluth, N.A.
Phone (218) 723-2744
P.O. Box 488
Duluth, MN 55801

[redacted]

RAVALLI COUNTY WOMEN'S
REPUBLICAN CLUB

705

10/3 1988 93-83/929

PAY TO THE ORDER OF Conrad Burns for U.S. Senate $ 100 00

One Hundred and no/100 DOLLARS

Citizens State Bank

Campaign contribution [redacted]

940435835525

BELL ATLANTIC CORP.
POLITICAL ACTION COMMITTEE

1235

Sept. 29 19 88

3-3/310 121

PAY TO THE ORDER OF Conrad Burns/U.S. Senate $ 1,500.00

One thousand five hundred and 00/00 DOLLARS

THE PROVIDENT®
PROVIDENT NATIONAL BANK
Philadelphia, PA 19101

FOR 1988 General Election

William G. Freeman

[redacted]

---

9 4 0 4 3 5 8 3 5 2 6

THOMAS R. JOHNSON M.D.
or JUDY G. JOHNSON
212 EMERALD HILLS DRIVE
BILLINGS, MONTANA 59101

NORWEST BANK BILLINGS, N.A.
P.O. BOX 30058
BILLINGS, MONTANA 59117

[redacted]

0852

10-6

PAY TO THE ORDER OF Conrod Burns US Senate $ 100 00/

One hundred & no/100 DOLLARS

MEMO

Thomas Johnson

[redacted]

STEWART BAINUM
JANE BAINUM
[illegible]

Political Contribution from Stewart Bainum

No. 9137

10 1 88

PAY EXACTLY [illegible] 1,000 [illegible] DOLLARS AND 00 CENTS $1,000.00

TO THE ORDER OF

Conrad Burns/U. S. Senate

[illegible]

STEWART BAINUM
JANE BAINUM
10800 LOCKWOOD DRIVE
SILVER SPRING, MD 20901

Political Contribution from Jane Bainum

MO.	DA.	YR.
10	7	88

No. 3138

PAY EXACTLY ****1,000**** DOLLARS AND 00 CENTS $1,000.00

TO THE ORDER OF

Conrad Burns/U.S. Senate

SOVRAN BANK/MARYLAND

[redacted]

FIRST BANK SYSTEM BANKS
MONTANA REGION
POLITICAL PARTICIPATION PROGRAM
P. O. BOX 31718
BILLINGS, MT 59107

1204

93-38/929

October 4 19 88

PAY TO THE ORDER OF Conrad Burns for U.S. Senate $ 150.00

One hundred fifty and no/100---------- DOLLARS

First Bank Billings
Member First Bank System
First Bank (N.A.)- Billings
P.O. Box 30678
Billings, Montana 59115

FOR Donation from Barry M. Edward

Marguerite E. Dahl

[redacted]

FIRST BANK SYSTEM BANKS
MONTANA REGION
POLITICAL PARTICIPATION PROGRAM
P. O. BOX 31718
BILLINGS, MT 59107

1216

93-38/929

October 7 19 88

PAY TO THE ORDER OF Conrad Burns for U. S. Senate $ 59.00

Fifty-nine and no/100---------- DOLLARS

First Bank Billings
Member First Bank System
First Bank (N.A.)- Billings
P.O. Box 30678
Billings, Montana 59115

FOR Donation from John Stott

Marguerite E Dahl

[redacted]

9404358352 8

ROBERT H. HURLBUT
BARBARA A. HURLBUT
200 SHELDON RD.
HONEOYE FALLS, NY 14472

1216

Sept. 27 1988

50-18
223

PAY TO THE ORDER OF Bruno Senate Campaign $ 500.00

Five Hundred 00/100 DOLLARS

CHARLOTTE OFFICE
MARINE MIDLAND BANK, N.A.
ROCHESTER, NEW YORK 14612

FOR [redacted]

Robert H. Hurlbut

LESTER EBER

563

Sept 19, 1988

50-18
223

PAY TO THE ORDER OF Bruno Sen. Campaign $ 50 00/100

Fifty Dollars 00/100 DOLLARS

FOUR CORNERS OFFICE
MARINE MIDLAND BANK, N.A.
ROCHESTER, NEW YORK 14614

FOR [redacted]

Lester Eber

RICHARD A. BERNSTEIN
444 MADISON AVENUE
NEW YORK, NY 10022

13695

Sept 23 1988

1-12
210 40

PAY TO THE ORDER OF Bruno Senate Campaign $ 500 00/100

Five Hundred and 00/100 DOLLARS

CHEMICAL BANK
[illegible]

MEMO [redacted]

ROBERT B. WEGMAN
1500 BROOKS AVE.
ROCHESTER, NY 14624

1245

9/12 19 88

50-18/223

PAY TO THE ORDER OF Comm. to elect Conrad Bruno $ 500 00/100

Five Hundred 00/100 DOLLARS

NORSTAR BANK, N.A.
[illegible]

MEMO [redacted]

Robert B. Wegman

FOREST POLITICAL ACTION COMMITTEE
1500 COLORADO NATIONAL BUILDING
950 - 17TH STREET [redacted]
DENVER, COLORADO 80202

1043

23-2
1020

October 7, 19 88

Pay to the order of **********Conrad Burns for U. S. Senate $ 1,500.00

One thousand five hundred and no/100 Dollars

COLORADO NATIONAL BANK
Denver, Colorado 80217

For PAC contribution

[redacted]

1567

THE RIGHT TO WORK POLITICAL ACTION COMMITTEE
5240 PORT ROYAL ROAD, SUITE 211
SPRINGFIELD, VA. 22151

Oct 4 19 88

PAY TO THE ORDER OF Conrad Burns/U.S. Senate $ 500.00

five hundred dollars and xx/100 DOLLARS

Hallmark Bank and Trust Company
6810 Commerce Street
Springfield, Virginia 22150

FOR

Paul Laurence

⑈00001567⑈ ⑆056004885⑆ ⑆10⑆2002⑈12

ROBERT A. GORDON
REYNOLDS ARCADE BUILDING
ROCHESTER, N.Y. 14614

IN PAYMENT FOR

50-1
223

3729

PAY THE SUM OF 500 DOLS 00 CTS DOLLARS

CHECK NO.	TO THE ORDER OF	DATE	DESCRIPTION	CHECK AMOUNT
3749	Burns Senate Campaign	9-27-88		500 00

CENTRAL TRUST COMPANY
ROCHESTER, N.Y.

[redacted]

DUANE R. ROBERTS
P.O. BOX 2447
RIVERSIDE, CA 92516

ERIS NATIONAL BANK Sunnymead, CA

90-3975
1222

U03314

Check No
3374

DATE
10-07-88

AMOUNT
$500.00****

PAY TO THE ORDER OF
Conrad Burns for U.S. Senate

Duane Roberts

[redacted]

BREAD POLITICAL ACTION COMMITTEE
1111 14th Street, NW
Washington, D.C. 20005

1047

October 14, 1988

15-47
540

PAY TO THE ORDER OF CONRAD BURNS/U.S. SENATE $ 1,500.00

ONE-THOUSAND AND FIVE-HUNDRED ----------00/100 DOLLARS

1ST AMERICAN
FIRST AMERICAN BANK, NA, WASHINGTON, DC
20TH AND K OFFICE 20006

For 10/11/88 fundraiser

Paul E. Blewett

⑈001047⑈ ⑆054000043⑆ 8522 253⑈

THE REPUBLICAN MAJORITY FUND
CANDIDATE ACCOUNT
503 CAPITOL COURT, N.E., SUITE 100
WASHINGTON, D.C. 20002

20532

Oct 6 1988

15-51
540

PAY TO THE ORDER OF Conrad Burns for U. S. Senate $ 4,000.00

Four thousand dollars and 00/100----------DOLLARS

THE NATIONAL CAPITAL BANK
OF WASHINGTON
ON CAPITOL HILL
WASHINGTON, D.C. 20003

Donna F. Peters

⑈020532⑈ ⑆054000056⑆ 100496460⑈

9404358353 1

HAZEL H. FAIRLESS
P. O. BOX 370
HANALEI, HI 96714

2400

Oct. 13 19 88 59-102/1213

PAY TO THE ORDER OF Conrad Burns $ 500.00

Five Hundred and 00/100 DOLLARS

Bank of Hawaii
PRINCEVILLE BRANCH
KUHIO HWY AND KAHAKU STREET
HANALEI, HAWAII 96714

MEMO [redacted]

Hazel H. Fairless

MARGARET E. BLASKE
825 RYAN AVE. [redacted]
SUMNER, WA 98390

4010

Oct. 9 19 88 98-726/1251

PAY TO THE ORDER OF Conrad Burns/U.S. Senate $ 500.00

Five hundred and 00/100 DOLLARS

BANK of SUMNER
SUMNER WASHINGTON 98390

MEMO [redacted]

Margaret E. Blaske

L. D. COVELL
P. O. BOX 22222 [redacted]
LOS ANGELES, CA 90022

1488

MEMBER OF SENATORIAL TRUST 19 88 16-77/1220

PAY TO THE ORDER OF Conrad Burns for U.S. Senate $ 1,000.00

One thousand and 00/100 DOLLARS

City of Commerce Regional Office
Union Bank
5701 S. Eastern Ave., City of Commerce, CA 90040

FOR Donation [redacted]

L Covell

CLIFFORD L. MICHEL

6625

10/11/88 19 1-23/210

Pay to the order of Conrad Burns/U.S Senate $ 1000 XX/100

one thousand XX/100 Dollars

JPMorgan Morgan Guaranty Trust Company of New York

Memo [redacted]

Clifford L. Michel

94043583532

FRED R. SACHER
RUTH F. SACHER
P.O. BOX 2676
GRASS VALLEY, CA 95945

3092

Oct. 13 1988

11-57/1210

Pay to the order of Conrad Burns/U.S. Senate $ 1000 00/100

One thousand and — — 00/100 Dollars

First Interstate Bank

First Interstate Bank of California #735
10428 Brunswick Road
P.O. Box 1428
Grass Valley, CA 95945

For ______ Fred R. Sacher

[redacted]

Rocky Mountain Bank Note DP-3

1213

Oct 7, 1988

J. S. SURFLUH
P.O. BOX 666
MORRO BAY, CA 93442

11-35/1210

National Republican Senatorial Committee

PAY TO THE ORDER OF Conrad Burns $ 10 00

Ten & 00/100 DOLLARS

Bank of America
Morro Bay Branch 0439
P.O. Box 1500
Morro Bay, CA 93442

MEMO ______ J S Surfluh

[redacted]

FULLER COMPANY
POLITICAL ACTION COMMITTEE
2040 AVENUE C
BETHLEHEM, PA. 18001

127

October 18, 1988

60-46/313 0070

PAY TO THE ORDER OF Conrad Burns/U.S. Senate $ 1250.00

One thousand two hundred fifty and 00/100 DOLLARS

Meridian Bank

MEMO General Election

⑆031300465⑆ ⑈1516⑉354 2⑈ 0127

813

MON-DAK PAC
400 NORTH 4TH ST.
BISMARCK, ND 58501

September 16 19 88

77-29/913

PAY TO THE ORDER OF Conrad Burns for U.S. Senate $ 250.00

Two hundred fifty and 00/100 DOLLARS

First Bank Bismarck
Member First Bank System
First National Bank And Trust Company of Bismarck
Box 5515
Bismarck, ND 58502-5515

McCLADECAANI

MEMO ______

⑆091300380⑆ ⑈6312765487⑈ 0813

Bank of Hawaii
MAIN BRANCH, HONOLULU, HAWAII

No. 01341 59-102/1213

Oct. 14, 1988

PAY TO THE ORDER OF Conrad Burns/U.S. Senate $100.00

One hundred and 00 DOLLARS

CHARLES C. SPALDING
SUITE 1911
FINANCIAL PLAZA OF THE PACIFIC
HONOLULU, HAWAII 96813

For [redacted] charles c Spalding

P-126

MARGARET W. HARMON
(MRS. REUEL D. HARMON)
W-2191 FIRST NATIONAL BANK BLDG.
SAINT PAUL, MINNESOTA 55101

971

Oct 10 1988 22-1/960

PAY TO THE ORDER OF Connad Burns for U.S. Senate $1.000 00

One Thousand 00 DOLLARS

First Bank Saint Paul
Member First Bank System
First National Bank of Saint Paul
332 Minnesota St.
St. Paul, MN 55101

FOR [redacted] Margaret W. Harmon

0 4 0 3 5 8 3 6 3 7

GEORGE S. PILLSBURY
1300 TCF TOWER
MINNEAPOLIS, MN 55402-2872

4413

Norwest Banks
Norwest Bank Minneapolis, N.A.
6th Street and Marquette Avenue
Minneapolis, MN 55479

October 11 19 88 17-1/910

PAY Five Hundred and no/100---------- DOLLARS $500.00

TO THE ORDER OF THE CONRAD BURNS VOLUNTEER COMMITTEE

GEORGE S. PILLSBURY

[redacted] G S Pillsbury

DELUXE CHECK PRINTERS

4727

ROBERT J. POND
14800 - 21ST AVE. N.
PLYMOUTH, MN 55441-3408

17-2/810

October 10 1988

PAY TO THE ORDER OF Burns for Senate $ 1,000.00

One thousand and no/100---------- DOLLARS

First Bank National Association — Minneapolis Office, First Bank Place, Minneapolis, MN 55480

FOR [redacted]

Robert J. Pond

1361

CATERPILLAR COMMITTEE
FOR EFFECTIVE GOVERNMENT 5-86
100 NE. ADAMS ST.
PEORIA, IL 61629-1465

70-7309-2711

Oct 20 1988

PAY TO THE ORDER OF Conrad Burns for U.S. Senate $ 1,000 00

One thousand and 00/100 DOLLARS

NOW ACCOUNT

PEORIA SAVINGS

FOR 1988 Genl. Election [redacted]

Barton C. Rockman

1156

CONSERVATIVES ACTING FOR
TEXAS POLITICAL ACTION COMMITTEE
CATPAC
P. O. BOX 2158 PH. 214-969-0508
DALLAS, TEXAS 75221

88-362
1119

Oct. 19 1988

PAY TO THE ORDER OF Burns for Senate $ 2500.00

Two thousand, five hundred and 00/100 DOLLARS

THE FIRST NATIONAL BANK
JEFFERSON, TEXAS 75657

FOR contribution

Richard Collins

⑈001156⑈ ⑆111903627⑆ 0120472⑈

9404358335

GALEN G. OR PATRICIA A. WEABER
R.D. 4
LEBANON, PA. 17042

610

19 [illegible] 60-46/313 0177

PAY TO THE ORDER OF [illegible] $ [illegible]

[illegible] DOLLARS

Meridian Bank

MEMO [illegible]

[redacted]

WILLIAM R. CAPE
3425 PATZKE LANE
RACINE, WI 53406

No. 1080

Oct 5 19 88 79-1185/753

Pay to the order of Conrad Burns for US Senate $ 50.00

Five Hundred and 00/100 DOLLARS

Heritage Bank AND TRUST
RACINE WISCONSIN 53401-1693

MEMO [illegible]

William R Cape

[redacted]

JULIE LEVY
EDWARD C. LEVY, JR.
625 LONE PINE HILL
BLOOMFIELD HILLS, MI 48013

396

[illegible] 19 [illegible] 9-33/720

PAY TO THE ORDER OF Conrad Burns for Senate $ [illegible]

[illegible] DOLLARS

MANUFACTURERS NATIONAL BANK
OF DETROIT
MAPLE - TELEGRAPH OFFICE
4057 W MAPLE ROAD
BIRMINGHAM, MICHIGAN 48010

MEMO [illegible]

Julie Levy

[redacted]

THE RESERVE FUND · SHAREHOLDER ACCOUN

HENRY B.R. BR N
111-13-138

549

1-12/210

DATE 10/24 19 88

PAY TO THE ORDER OF Conrad Burns for Senate $ 500—

Five hundred and 00/100 DOLLARS

PAYABLE THROUGH
CHEMICAL BANK
11 West 51st Street
New York, N.Y. 10019

NOT VALID IF DRAWN FOR LESS THAN $500

[redacted]

L. E. "TOMMY" THOMAS
P. O. BOX 490 [redacted]
PANAMA CITY, FL 32401

1613

10-27 19 88

63-102/632

PAY TO THE ORDER OF CONRAD BURNS for SENATE $ 1,000.00

ONE THOUSAND XX/XX DOLLARS

FIRST NATIONAL BANK

FOR CAMP. CONT.

[redacted]

RICHARD N. SCHAFER, CIC
1212 WEST 12TH ST. [redacted]
HAVRE, MT 59501

7286

10-22 19 88

93-134/929

PAY TO THE ORDER OF Conrad Burns $ 25 00

Twenty-five and 00/100 DOLLARS

FIRST SECURITY BANK OF HAVRE
HAVRE, MONTANA 59501

MEMO

[redacted]

Bradley G. Pieper 7-84
[redacted]
10333 Colorado Rd. [redacted]
Minneapolis, Mn 55438

1365

10/28 19 88

17-63/910

Pay to the Order of Conrad Burns for Senate Comm. $ 100.00

One hundred & no/100 Dollars

NORWEST BANKS
Norwest Bank Minneapolis, N.A.
3030 Nicollet Avenue
Minneapolis, MN 55408

Memo Campaign CONT.

[redacted]

94043583536

9404358353 7

JOSE L. PATINO
17350 [redacted] AVE.
CERRITOS, CA 90701

442

Oct 14 19 88

PAY TO THE ORDER OF CONRAD BURNS FOR US SENATE $ 200.00

Two Hundred Only DOLLARS

[redacted]

MEMO [redacted]

DAVID C. GUILLERMO
FAUSTINA P. GUILLERMO
217 S. VIRGIL AVE.
LOS ANGELES, CA 90004

708

Oct 14 19 88

16-3231/1221

PAY TO THE ORDER OF CONRAD BURNS FOR US SENATE $ 100.00

ONE HUNDRED and no/100 DOLLAR

[redacted]

David C. Guillermo

HERBERT E. FLETCHER 6/77

Oct 27 19 88 1562

54-7087/2114

PAY TO THE ORDER OF Conrad Burns - U.S. Senate $ 1000 00

One thousand and no/100 DOLLARS

Nashua Federal Savings

MEMO Burns - Montana

Herbert E. Fletcher

[redacted]

SAMUEL ZELL
ATTORNEY AT LAW
TWO NORTH RIVERSIDE PLAZA
CHICAGO, ILL. 60606

2993

10/17 19 88

PAY TO THE ORDER OF Barnes for Senate Committee $ 1,000.00

One thousand + 00/100 DOLLARS

American National Bank
Chicago, Illinois 60690

FOR Contribution [redacted] Nancy J Ligas

GLACIER COUNTY REP. WOMENS CLUB
CUT BANK, MONTANA 59427

449

Nov 1 19 88 93-539/921

PAY TO THE ORDER OF Conrad Burns for U.S. Senate $ 50 00

Fifty and no/100 DOLLARS

FIRST NATIONAL BANK
of Cut Bank • Cut Bank, Montana 59427

MEMO [redacted] Louise H. Nelson
Treasurer

A. B. PAGDAN, M.D.
[redacted] VINTON AVE.
POMONA, CA 91767

573

10-11 19 88 33-1/1220

PAY TO THE ORDER OF Conrad Burns for US Senate $ 200.00

Two hundred Dollars and no/100 DOLLARS

SECURITY PACIFIC NATIONAL BANK
Claremont Office 00133
203 Yale Ave.
Claremont, CA 91711

MEMO Contribution [redacted] A Pagdan MD

9404358353538

THE FUND FOR AMERICA'S FUTURE
1200 18th Street, N.W., Washington, D.C. 20036

[redacted] NATIONAL BANK

009886

15-3/540 CHECK NO.

Five Thousand Dollars and 00/100

DATE 10/31/88

AMOUNT $5,000.00

PAY TO THE ORDER OF
Conrad Burns for U.S. Senate
Federal Election
P.O. Box 3311
Billings, MT 59103

[redacted]
AUTHORIZED SIGNATURE

⑈009886⑈ ⑆054000030⑆ 23-084 7916 7⑈

MEMBER

AL HILDE, JR.
JAYNE C. HILDE
P.O. BOX 884 [redacted]
JACKSON, WY 83001

SENATORIAL TRUST

FIRST WYOMING BANK
JACKSON HOLE, WY
88-132-1023

3017

⑆043588399

PAY THREE HUNDRED AND NO/100---------- DOLLARS

DATE October 28, 1988

AMOUNT $300.00

TO THE ORDER OF

BURNS, FOR U.S. SENATE

[redacted]

[redacted]

CONSERVATIVE VICTORY FUND
[redacted]
422 FIRST STREET, S.E.
WASHINGTON, D.C. 20003

3500

Nov 1, 19 88

15-52/540

PAY TO THE ORDER OF Conrad Burns/U.S. Senate $ 1,000.00

One Thousand and no/100 DOLLARS

CRESTAR
Crestar Bank N.A.
Washington, DC

Ronald W. Pearson

FOR Contribution

⑈003500⑈ ⑆054000522⑆ 025 25 6517⑈

M & N COMMITTEE
440 FIRST ST., N.W., SUITE 600
WASHINGTON, D.C. 20001

132

11-8 19 88

PAY TO THE ORDER OF Conrad Burns for U.S. Senate $ 3,500.00

Three thousand five hundred and no/100 DOLLARS

SIGNET BANK
Virginia

FOR Transfer of Proceeds Gina Marone

⑈00000132⑈ ⑆056004089⑆ 652⑈0161032⑈

LAUREN A. COX 8-86
ESTHER COX
630 SUNSET DRIVE
ANDERSON, INDIANA 46011

12936

Oct 27 19 88

71-71/749

PAY TO THE ORDER OF Conrd Burns/US Senate $ 100.00

One hundred & No/100 DOLLARS

ANDERSON BANKING COMPANY

MEMO

Lauren A Cox

⑆043583540⑆

HOUPAC
3434 LOCKE LANE
HOUSTON, TEXAS 77027

1690

11/6 19 88

Pay to the Order of Conrad Burns for Senate $ 500.00

Five hundred Dollars

Charter Bank
Westheimer
P.O. Box 27252
Houston, Texas 77227

Jack McWebb

For Diane McWebb

⑈001690⑈ ⑆113001268⑆ 106036278⑈

JACK B. GISEBURT
A. GAIL GISEBURT
22215 BRIER RD. [redacted]
BRIER, WA 98036

252

Pay to the order of Conrad Burns/U.S. Senate Mar. 24 1988 25-80/440

One Hundred & no/100 $100.00

BANK ONE.
BANK ONE OF COLUMBUS, NA
Columbus, Ohio 43271

Dollars

Memo [redacted]

Jack B Gisburt

MARION OR LOUISE WATERS
WAGNER ROUTE
MALTA, MT 59538

2280

Mar 25 19 88 63-130/921

PAY TO THE ORDER OF Burns for US Senate $1/00 00

One Hundred DOLLARS

THE FIRST STATE BANK
PH: (406) 654-2340
P.O. BOX 910 • MALTA, MT 59538

MEMO [redacted]

Marion Waters

MEMBER

SENATORIAL TRUST

FRANKLIN P. PERDUE
P.O. BOX 1537
SALISBURY, MD 21801

4295

PAY TO THE ORDER OF Burns for Senate 3-15 1988 65-40/321 31

One Hundred no/100 $ 400 00

First National Bank
SALISBURY, MARYLAND

DOLLARS

FOR [redacted]

Franklin P. Perdue

MR. OR MRS. C. R. THIESSEN
BOX 198
LAMBERT, MONT. 59243

3477

3-23 1988 83-511/929

PAY TO THE ORDER OF Conrad Burns For US Senate $ 100 00

One Hundred & no/100 DOLLARS

Richland
NATIONAL BANK & TRUST

⑈ 9 4 0 4 5 5 8 3 3 5 ⑈ [redacted]

C R Thiessen

JAN 02 '92 15:21 THE MAIL DROP P.1

NATIONAL REPUBLICAN SENATORIAL COMMITTEE
440 FIRST ST. N.W., SUITE 600
WASHINGTON, DC 20001

01-CONRAD

BANK OF VIRGINIA
ARLINGTON, VA
68-400/560

DATE 11/04/88 CONTROL NO. 027859 AMOUNT ********

********100 DOLLARS AND 00 CENTS

PAY TO THE ORDER OF

CONRAD BURNS FOR US SENATE
P.O. BOX 3311
BILLINGS MT 59103

⑈00027859⑈ ⑆056004089⑆ 651⑉7172927⑈

NATIONAL REPUBLICAN SENATORIAL COMMITTEE
440 FIRST STREET, NW, 6TH FLOOR
WASHINGTON, D. C. 20001

№ 304

68-400/560

October 21 19

PAY *Fifty thousand and 00/00****** DOLLARS $*50,000.

TO THE ORDER OF

Conrad Burns for U.S. Senate
P.O. Box 3311
Billings, MT 59103

BANK OF VIRGINIA
CRYSTAL CITY OFFICE
ARLINGTON, VIRGINIA

Jim Mamone

⑈00030412⑈ ⑆056004089⑆ 651⑉7172927⑈

NATIONAL REPUBLICAN SENATORIAL COMMITTEE
440 FIRST ST. N.W., SUITE 600
WASHINGTON, DC 20001

01-CONRAD

BANK OF VIRGINIA
ARLINGTON, VA
68-400/560

DATE 11/02/88 CONTROL NO. 027797 AMOUNT *******5

*******500 DOLLARS AND 00 CENTS

PAY TO THE ORDER OF

CONRAD BURNS FOR US SENATE
P.O. BOX 3311
BILLINGS MT 59103

NATIONAL REPUBLICAN SENATORIAL COMMITTEE
440 FIRST STREET, NW, 6TH FLOOR
WASHINGTON, D. C. 20001

No 3045

68-408/560 47

OCTOBER 25 19

PAY *FORTY THOUSAND AND 00/00****** DOLLARS $*40,000.

TO THE ORDER OF
CONRAD BURNS FOR U.S. SENATE
P.O. BOX 3311
BILLINGS, MT 59103

BANK OF VIRGINIA
CRYSTAL CITY OFFICE
ARLINGTON, VIRGINIA

⑈00030454⑈ ⑆056004089⑆ 651⑈7172927⑈

NATIONAL REPUBLICAN SENATORIAL COMMITTEE
440 FIRST STREET, NW, 6TH FLOOR
WASHINGTON, D. C. 20001

No 304

68-408/560

October 19 19

PAY **One Thousand and 00/100** DOLLARS $**1,000

TO THE ORDER OF
Conrad Burns for US Senate
Post Office Box 3311
Billings, MT 59103

BANK OF VIRGINIA
CRYSTAL CITY OFFICE
ARLINGTON, VIRGINIA

⑈00030402⑈ ⑆056004089⑆ 651⑈7172927⑈

50.00

Mr. Eugene LaLonde 50.00

JAN 02 '92 15:13 THE MAIL DROP P.3

NATIONAL REPUBLICAN SENATORIAL COMMITTEE
440 FIRST STREET, NW, 6TH FLOOR
WASHINGTON, D. C. 20001

№ 3

NOVEMBER 4

PAY *FIVE HUNDRED AND 00/00****** DOLLARS $

CONRAD BURNS FOR U.S. SENATE
P.O. BOX 3311
BILLINGS, MT 59103

⑈000305 2⑈ ⑆056004089⑆ 651⑈7 1 7 2 9 2 7⑈

NATIONAL REPUBLICAN SENATORIAL COMMITTEE
440 FIRST STREET, NW, 6TH FLOOR
WASHINGTON, D. C. 20001

№ 3

NOVEMBER 4

PAY *FORTY THOUSAND AND 00/00****** DOLLARS $*40,

CONRAD BURNS FOR U.S. SENATE
P.O. BOX 3311
BILLINGS, MT 59103

BANK OF VIRGINIA
CRYSTAL CITY OFFICE
ARLINGTON, VIRGINIA

⑈000305 2⑈ ⑆056004089⑆ 651⑈7 1 7 2 9 2 7⑈

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 8, 1992

Robert Edd Lee, Esquire
Crowley, Haughey, Hanson,
Toole & Dietrich
490 North 31st Street
P.O. Box 2529
Billings, Montana 59103-2529

Re: MUR 3204
The Montana Republican Party

Dear Mr. Lee:

This is in response to your letter dated January 2, 1992, which we received on January 6, 1992, requesting an extension until January 15, 1992 to respond to the Commission's Request for Production of Documents. After considering the circumstances presented in your letter, the Office of the General Counsel has granted the requested extension. Accordingly, your response is due by the close of business on January 15, 1992.

If you have any questions, please contact me at (202) 219-3400.

Sincerely,

Lawrence D. Parrish

Lawrence D. Parrish
Staff Attorney

9404358545

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 8, 1992

Cary Davidson, Esquire
Reed & Davidson
777 So. Figueroa Street
Suite 3400
Los Angeles, CA 90017

Re: MUR 3204
Gary Lawrence Co.

Dear Mr. Davidson:

This is in response to your letter dated December 19, 1991, which we received on December 27, 1991, requesting an extension until January 8, 1992 to respond to the Commission's Interrogatories and Request for Production of Documents. After considering the circumstances presented in your letter, the Office of the General Counsel has granted the requested extension. Accordingly, your response is due by the close of business on January 8, 1992.

If you have any questions, please contact me at (202) 219-3400.

Sincerely,

Lawrence D. Parrish

Lawrence D. Parrish
Staff Attorney

9404358354 6

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 8, 1992

Leo J. Gallagher, Esquire
310 Broadway
Helena, Montana 59601

Dear Mr. Gallegher:

On behalf of the Federal Election Commission Office of the General Counsel, I wish to thank you and Commissioner Colburg for the vast amount of pertinent information you have provided toward our investigation. I also appreciate your willingness to cooperate while understanding that unfortunately that cooperation can not always be reciprocated.

Additionally, on behalf of Jeffrey Long and myself, I want to thank you and your wife for the exceptional hospitality that you extended to us during our short but memorable trip to Helena. We both look forward to a mutually productive working relationship and the possibility of another visit to Montana.

Sincerely,

Lawrence D. Parrish

Lawrence D. Parrish
Staff Attorney

9404358547

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 8, 1992

Delores Colburg
Commissioner of Political Practices
Capitol Station
Helena, Montana 59620

Dear Commissioner Colburg:

On behalf of the Federal Election Commission, Office of the General Counsel, I wish to thank you and Leo Gallagher for the vast amount of pertinent information you have provided toward our investigation. I also appreciate your willingness to cooperate while understanding that unfortunately that cooperation can not always be reciprocated.

Additionally, on behalf of Jeffrey Long and myself, I want to thank you and Leo Gallagher for the exceptional hospitality that you extended to us during our short but memorable trip to Helena. We both look forward to a mutually productive working relationship and the possibility of another visit to Montana.

Sincerely,

Lawrence D. Parrish

Lawrence D. Parrish
Staff Attorney

9404358548

Fairchild Industries, Inc.
300 West Service Road
PO Box 10803
Chantilly, Virginia 22021
703/478-5800

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

92 JAN 13 PM12:29

Fairchild

January 8, 1992

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

92 JAN 14 AM11:22

VIA CERTIFIED MAIL

Lawrence Parrish, Esq.
Federal Election Commission
Washington, DC 20463

RE: MUR 3204

Dear Mr. Parrish:

Enclosed herewith is Rexnord Holdings Inc.'s answers to the interrogatories and request for production of documents enclosed with your letter dated December 3, 1991.

If I can be of any further assistance, please let me know.

Sincerely yours,

Bonnie Gullickson
Legal Assistant

bg
004-92

Enclosure

2404358549

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 3204

ANSWERS TO INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS

Answer #1 to Interrogatory #1

Rexnord Holdings Inc. is the successor in interest to Rexnord Inc. In August 1988, Rexnord Inc. was merged into Rexnord Holdings Inc. See Exhibit "A".

Rexnord Holdings Inc. is an existing company and has not changed its name to The Fairchild Corporation. Rexnord Holdings Inc. is a wholly-owned direct subsidiary of The Fairchild Corporation.

The following individuals are officers of Rexnord Holdings Inc.:

Jeffrey J. Steiner	Chairman, President & Chief Executive Officer
Michael T. Alcox	Vice President, Chief Financial Officer & Treasurer
John D. Jackson	Vice President & Secretary
John L. Flynn	Vice President & Secretary
Donald E. Miller	Vice President

The following individuals are officers of The Fairchild Corporation:

Jeffrey J. Steiner	Chairman, Chief Executive Officer, President and Chief Operating Officer
Michael T. Alcox	Senior Vice President and Chief Financial Officer
John D. Jackson	Senior Vice President & Secretary
Harold R. Johnson	Senior Vice President, Business Development
Donald E. Miller	Senior Vice President & General Counsel
Eric I. Steiner	Vice President, Business Planning
John L. Flynn	Vice President, Tax & Assistant Secretary
Deborah M. Tucker	Vice President, Communications
Karen L. Schneckenburger	Treasurer
Christopher Colavito	Vice President, Controller &

2043583550

Rexnord Holdings Inc. Subsidiaries:

Banner Capital Ventures, Inc.
Fairchild France, Inc.
Rexnord, Ltd.
Shelf Properties, Inc.
Banner Investments, Inc.
Fairchild Industries, Inc.
Recycling Investments, Inc.
Sovereign Air Limited
Northking Insurance Company Limited

The following is the address, with the exception of Northking, for Rexnord Holdings Inc. and its subsidiaries:

300 West Service Road
P.O. Box 10803
Chantilly, VA 22021

Northking Insurance Company Limited
Bellvedere Building
Pitts Bay Road
P.O. Box 660
Hamilton HM CX
Bermuda

Answer #2 to Interrogatory #2

a. Unknown.
b. Unknown.
c. Unavailable.

The company which may have provided the names and phone number information to Campaign Telecommunications, Inc. is Rexnord Data Systems, a division of Rexnord Holdings Inc. On January 5, 1990, Rexnord Data Systems was sold to Creative Automation Company. Any records or files on this transaction may have been transferred to Creative Automation. Rexnord Holdings Inc. is unaware of any existing files in its possession pertaining to this investigation.

On December 16, 1991, Rexnord Holdings Inc. by copy of your letter dated December 3, 1991, with enclosures notified Creative Automation, the buyer of Rexnord Data Systems, that the Federal Election Commission was conducting an investigation into the production of names and telephone numbers to Campaign Telecommunications, Inc. Please see letter dated December 23, 1991, from Creative Automation of Wisconsin -- Exhibit "B".

Answer #3 to Interrogatory #3

a. Unknown. Please see answer #2.
b. Unavailable.

2 4 0 4 3 5 8 3 5 5 1

Answer #4 to Interrogatory #4

a. Unknown. Please see answer #2
b. Unavailable.

Answer #5 to Interrogatory #5

Unavailable. Please see answer #2.

STATE OF VIRGINIA)
) s.s.
COUNTY OF LOUDOUN)

Donald E. Miller, being duly sworn, deposes and says that he is Vice President of Rexnord Holdings Inc., that he has read the foregoing and knows the contents thereof, and that the same are true to the best of his knowledge, information and belief.

Donald E. Miller
Vice President, Rexnord Holdings Inc.

Subscribed and sworn to before me
this 8th day of January, 1992.

Notary Public
My Commission Expires: September 30, 1994

2404358355 2

EXHIBIT A

Form 32—Sec. State
Foreign

United States of America

State of Wisconsin
OFFICE OF THE SECRETARY OF STATE

To All to Whom These Presents Shall Come:

I, DOUGLAS La FOLLETTE, Secretary of State of the State of Wisconsin, do hereby certify that a certified copy of articles of incorporation of

REXNORD HOLDINGS INC.

a corporation of the state of Delaware was duly filed in this office on August 4, 1988 and that thereupon a license to transact business and to acquire, hold and dispose of property in this state as a foreign corporation was duly issued under the hand and seal of the Secretary of State of the State of Wisconsin, as provided by law.

I further certify that a certified copy of a Certificate of Ownership and Merger was filed with this office on August 30, 1988, merging REXNORD INC., a Wisconsin corporation, into the aforesaid REXNORD HOLDINGS INC., a Delaware corporation and the survivor corporation; and that the authentication certificate attached to said certified copy states that the Certificate of Ownership and Merger was filed in the office of the Secretary of State of Delaware on the sixteenth day of August, A.D., 1988, at 9:30 O'Clock A.M.

I further certify that it appears from the records of this office that said corporation continued and now is duly licensed to transact business in this state as a foreign corporation, and is in good standing.

2404358353

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal, at Madison, on NOV 08 1988

Douglas La Follette

DOUGLAS La FOLLETTE
Secretary of State

BY: Doris Seim

State of Delaware

24664

Office of Secretary of State

I, MICHAEL HARKINS, SECRETARY OF STATE OF THE STATE OF DELAWARE DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF OWNERSHIP OF REXNORD HOLDINGS INC., A CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF DELAWARE, MERGING REXNORD INC. A CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF WISCONSIN, PURSUANT TO SECTION 253 OF THE GENERAL CORPORATION LAW OF THE STATE OF DELAWARE, AS RECEIVED AND FILED IN THIS OFFICE THE SIXTEENTH DAY OF AUGUST, A.D. 1988, AT 9:30 O'CLOCK A.M.

AND I DO HEREBY FURTHER CERTIFY THAT THE AFORESAID CORPORATION SHALL BE GOVERNED BY THE LAWS OF THE STATE OF DELAWARE.

: : : : : : : : : : :

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Michael Harkins, Secretary of State

AUTHENTICATION: 1829297

DATE: 08/16/1988

888229822

EXHIBIT B

CREATIVE AUTOMATION OF WISCONSIN
4601 W. GREENFIELD AVE. / MILWAUKEE, WI 53214-5308 / (414) 643-2001

December 23, 1991

Ms. Bonnie Gullickson
FAIRCHILD CORPORATION
300 West Service Road
Chantilly, VA 22021

Dear Bonnie:

On December 16, 1991 I received a fax regarding Interrogatories and Request for Production of Documents in connection with an investigation being conducted by The Federal Election Commission.

After a thorough search I am confident that we do not have any of the information requested in our possession.

CREATIVE AUTOMATION COMPANY had purchased Rexnord Data Systems on January 5, 1990 and has operated as a separate company. Therefore all information being requested should be directed to Rexnord.

I'm sorry we could not have been of more help to you. Please let me know if you have any additional questions.

Sincerely,

Kim Poetzl

Kim Poetzl
Office Manager

KTP/ktp

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LAWRENCE RESEARCH

Politics · Public Affairs

March 30, 1992

Laurence D. Parrish, Esq.
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

RE: MUR 3204

Dear Mr. Parrish:

Enclosed are my responses to the Interrogatories and Request for Production of Documents propounded to me in connection with the above-referenced MUR. I apologize for the delay in replying, but I needed time to review my records to find the relevant documents.

I hope this response will complete my involvement with this matter.

Should you have further questions, please contact my counsel, Cary Davidson.

Sincerely,

Gary C. Lawrence
President

/c
Enclosures

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1450 North Tustin Avenue, Suite 150, Santa Ana, California 92701 · 714 / 558-3725 · FAX 714 / 558-0403

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LAWRENCE RESEARCH

Politics · Public Affairs

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Response to
Interrogatories and Request for Documents

1. Question: Identify the person(s) who contacted GLC about conducting the above-mentioned poll. State whether this person(s) was representing the NRSC, RGA, Conrad Burns or any other persons or organizations.

Answer: I do not recall who exactly initiated the contact. I had been trying to sell the Burns campaign my services since the previous winter and initially contacted Elwood English of that campaign. When it came time to conduct tracking polls, I cannot recall whether I initiated a call to the campaign, the NRSC or any other group, or whether the first call came from the NRSC, the RGA or someone else. As the project evolved, it was to be a dual-candidate effort for both the senatorial and gubernatorial races. Throughout the weeks of the tracking project, I was in contact (to the best of my recollection) with Jeff Willis of the NRSC, with Michele Davis of the RGA, with Eddie Mahe and Ladonna Lee, paid consultants to the Burns campaign in Washington, D.C., and with Bill Lee, paid consultant to the Stephens campaign in Washington D.C.

2. Question: State who determined what questions would be asked in this poll and identify how these questions were composed.

Answer: It is impossible to determine at this point who suggested asking which questions. The questions were composed by Gary Lawrence triggered by ongoing discussions with the above-named people.

2.a. Question: Identify the questions attributed to Conrad Burns payment of $450 to GLC. Provide copies of any and all of these questions.

Answer: The Burns campaign desired to have one additional question added for a couple of tracking days toward the end of the tracking period. I do not remember which question was the added one. A copy of the total tracking questionnaire is attached.

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1450 North Tustin Avenue, Suite 150, Santa Ana, California 92701 · 714 / 558-3725 · FAX 714 / 558-0403

2.b. Question: Produce copies of all questions asked in the above-mentioned poll.

Answer: Attached is the master questionnaire of all questions asked in the senatorial portion of the tracking project.

3. Question: In GLC's response, GLC stated that the RNC paid $49,650 and the Burns campaign paid $450 for the results of the poll. Identify all persons, committees or any other parties who received the results of the above-mentioned poll.

Answer: The people and committees who received results of the tracking poll are the same people and committees mentioned in the answer to Question 1 above. Each entity received results only for those questions pertaining to the particular race in which that person or committee was involved.

3.a. Question: Identify the means of transmittal of the poll results and who actually received copies.

Answer: Transmittal was by fax. To the best of my recollection, results pertaining to the senatorial campaign were faxed to Eddie Mahe and Ladonna Lee and to Jeff Willis of the NRSC. Results pertaining to the gubernatorial campaign were faxed to Bill Lee and to Michele Davis of the RGA. A hard summary copy of the results was mailed to each entity after the election.

3.b. Question: State the date of the transmittal of the poll results.

Answer: Results were faxed to each of the named entities the morning after the completion of each evening's track.

4. Question: Provide copies of all documents relating to the above questions in this matter.

Answer: With this response, we have now submitted to the FEC copies of our invoices, copies of the checks and copies of the questionnaire. Other documents in this matter are the actual computer printout of the tracking results including aggregate survey percentages, crosstabulations and verbatim responses to open-ended questions. These documents are proprietary and are not needed by the FEC in its investigation of this matter.

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PRE-MUR 263

COMPLAINT - JUNE 10, 1992

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BEFORE THE FEDERAL ELECTION COMMISSION

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Pre-MUR 263

In the Matter of:

DOLORES COLBURG, in her capacity as Montana Commissioner of Political Practices,

****

COMPLAINT

****

Dolores Colburg, in her capacity as the Commissioner of Political Practices for the State of Montana, files this complaint with the Federal Election Commission (FEC) and states as follows:

1. Complainant (hereinafter referred to as the Commissioner) is the duly appointed Commissioner of Political Practices for the State of Montana and in that capacity she has the duty to investigate and prosecute actions for intentional or negligent violations of Montana's election laws by those persons who make or receive a contribution or expenditure in violation of Title 13, chapter 37 of the Montana Code Annotated.

2. The Commissioner is also the Montana official who is charged by Montana law with maintaining state election campaign reports and, therefore, is the appropriate "state officer" for receiving copies of statements and reports filed with the FEC with respect to expenditures made in Montana by federally-filing committees in support of or in opposition to Presidential and Vice-Presidential candidates and Montana candidates for federal

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office, all as required by 2 U.S.C. §439(a) and 11 CFR 108.1.

3. During the 1988 election cycle the Republican National Committee, the National Republican Senatorial Committee, the Conrad Burns/U.S. Senate Committee, and the Montana Republican Party were all political committees as contemplated by 2 U.S.C 431(4).

4. Pursuant to 2 U.S.C. §433, each of these committees filed statements of organization with the FEC and thereafter filed periodic reports with the FEC pursuant to 2 U.S.C. §434(a).

5. During 1988 each of these committees made expenditures and contributions in the State of Montana in connection with the campaign for the election of a candidate for the office of President or Vice President and for the election of Montana candidates to the Congress.

6. That pursuant to the provisions of 2 U.S.C §453, the Federal Election Campaign Act (FECA) of 1971, as amended, and as codified at 2 U.S.C. §431, et seq., and the rules prescribed under the FECA, "supersede and preempt any provision of State law with respect to election to Federal Office." The Commissioner also is familiar with the provisions of 11 CFR §108.7(b)(2), which states that the FECA supersedes state law concerning the disclosure of receipts and expenditures by federal candidates and political committees. Based on the advice of counsel, the Commissioner has elected to forego

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prosecution of Montana's election laws by federally-filing committees because her ability to enforce these laws in state court may be preempted by the FECA's provisions.

7. That the Commissioner has conducted an investigation in response to a complaint received by her on or about September 5, 1990, from Montana State Representative Kelly Addy relative to the activities of the named committees and others making contributions and expenditures in the State of Montana during the 1988 election cycle. A related complaint was filed with the FEC by Representative Addy by a letter dated July 10, 1990, a copy of which was provided to the Commissioner by Representative Addy. (MUR 3204.)

8. As the result of the Commissioner's investigation, she believes that the FECA may have been violated in the following respects:

A. The Republican National Committee and the National Republican Senatorial Committee did not file with the Commissioner copies of the relevant statements and reports filed with the FEC "at the same time" the originals were filed with the FEC as required by 2 U.S.C. §434(a)(2) and 11 CFR §108.5. Instead, the National Republican Senatorial Committee delayed filing copies of its reports for the 1988 election cycle with the Commissioner until April 27, 1990, over two years after some of the reports should have been filed, and these reports were filed only after repeated demands were made by the Commissioner.

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The Republican National Committee never has filed any statements or reports with the Commissioner.

B. 2 U.S.C. §431(8)(B) contemplates that "contributions" that should be reported to the FEC include payments for material and services used by committees in direct mail and other non-volunteer activities in support of candidates for public office. Similarly, 2 U.S.C. §431(9)(B) contemplates that "expenditures" that should be reported to the FEC include payments for material and services used by committees in direct mail and other non-volunteer activities in support of candidates for public office.

11 CFR §106 requires committees to allocate in reports filed with the FEC expenditures made in support of more than one candidate, including state candidates, who benefit from the expenditure so that an expenditure in support of several clearly identified candidates must be pro-rated in a reasonable fashion among the different candidates.

2 U.S.C. 441(a) places a limit on the amount of money a national or state party committee may expend in support of various federal candidates. To avoid the circumvention of these spending limits and to assure the integrity of the reports filed with the FEC, 2 U.S.C. §441(a)(8) provides:

> For purposes of the limitations imposed by this section, [441(a)] all contributions made by a person, either directly or indirectly, on behalf of a particular candidate, including contributions which are in any way earmarked or otherwise directed through an intermediary or conduit to such candidate, shall be treated as contributions from such person to such

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> candidate. The intermediary or conduit shall report the original source and the intended recipient of such contribution to the [FEC] and to the intended recipient.

11 CFR 110.6(b) defines the term "earmarked" as a "designation, instruction or encumbrance, whether direct or indirect, express or implied, oral or written which results in all or any part of a contribution or expenditure being made to, or expended on behalf of, a clearly identified candidate or candidate's authorized committee."

2 U.S.C. §441(f) goes on to prohibit deceptive contributions by stating:

> No person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such contribution, and no person shall knowingly accept a contribution made by one person in the name of another person.

The Commissioner's investigation reveals a pattern of conduct existing during the 1988 election cycle that suggests the vast majority of contributions made by the National Republican Senatorial Committee to the Montana Republican Party was "earmarked" as that term is defined herein and that the pattern of incoming funds to the Montana Republican Party from the National Republican Senatorial Committee and subsequent outgoing funds in the form of expenditures made by the Montana Republican Party suggests that the Montana Republican Party was used simply as a conduit for earmarked funds and therefore may have been a device used by the involved committees to avoid the

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spending limits set forth in 2 U.S.C. §441(a).

By way of example, according to the delinquent reports filed with the Commissioner, the National Republican Senatorial Committee contributed $205,283.02 to the Montana Republican Party during the period between January 26, 1988, and November 15, 1988. The majority of these contributions was made by the National Republican Senatorial Committee in October and November 1988 as the following table indicates:

Report Period	Date	Amount
01/01 - 01/31/88	01/26/88	$ 853.83
03/01 - 03/31/88	03/15/88	534.19
	03/21/88	750.00
04/01 - 04/30/88	04/29/88	5,000.00
06/01 - 06/30/88	06/01/88	6,000.00
	06/16/88	5,000.00
07/01 - 07/31/88	07/21/88	4,000.00
08/01 - 08/31/88	08/05/88	10,000.00
	08/30/88	10,000.00
09/01 - 09/30/88	09/13/88	10,000.00
	09/23/88	5,000.00
10/01 - 10/19/88	10/05/88	15,000.00
	10/07/88	6,879.00
	10/18/88	16,000.00
10/20 - 11/28/88	10/24/88	4,956.00
	10/25/88	49,000.00
	10/31/88	32,110.00
	11/03/88	19,000.00
	11/15/88	5,200.00
TOTAL		$205,283.02

Significantly, during October and November 1988, the Montana Republican Party began making payments to James R. Foster and Associates, a Texas company involved in the direct mailing of campaign material that was accomplished, by and large, without volunteer labor and advocated support of a number of clearly

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identified candidates. The emphasis of these direct mailings was in support of Senatorial candidate Conrad Burns. The following list details these expenditures as they were reported on the relevant Reports of Receipts and Disbursements filed with the FEC and the Commissioner during these periods:

10/07/88	$ 6,879.01
10/15/88	3,145.00
10/21/88	1,930.00
10/22/88	60,533.00
10/25/88	4,956.00
11/01/88	32,110.00
12/12/88	9,604.85
	$119,157.86

A comparison of the dates of expenditures made by the Montana Republican Party for direct mailings with the dates of contributions to the Montana Republican Party from the National Republican Senatorial Committee indicates that at least some of these contributions must have been "earmarked" for the direct mailing efforts. For example, on October 7, 1988, the Montana Republican Party disbursed $6,879.01 to James R. Foster and Associates while on the same date it received $6,879.00 from the National Republican Senatorial Committee. This particular direct mailing by James R. Foster and Associates directed recipients to apply for absentee ballots and advocated support for certain clearly identified federal and state Republican candidates, including Conrad Burns. A similar correlation is evident by comparing the October 24, 1988, contribution of $4,956.00 to the Montana Republican Party with the same amount

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being paid by the Montana Republican Party to James R. Foster and Associates the next day. And, on October 31, 1988, the National Republican Senatorial Committee transferred $32,110.00 to the Montana Republican Party; the Montana Republican Party disbursed this exact amount to James R. Foster and Associates the following day.

The absentee voter direct mail piece, as with practically all of the direct mailings, was the product of National Republican Senatorial Committee negotiations with J.R. Foster and Associates with little or no involvement by the Montana Republican Party. Contrary to federal and Montana law, these expenditures were not allocated among the various candidates supported nor were any of these expenditures reported as "earmarked" contributions by any involved committee or candidate.

C. As previously noted, 2 U.S.C. §441(f) prohibits deceptive contributions by stating:

> No person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such contribution, and no person shall knowingly accept a contribution made by one person in the name of another person.

The Commissioner's investigation indicates that an entity calling itself the Republican Governors Association did not file as a committee with either the FEC or with the Commissioner and was expending money and making contributions in the State of Montana in support of Montana gubernatorial candidate Stan

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Stephens, including expenditures for the creation of a voter identification list designed to benefit state and federal candidates. Through her investigation, the Commissioner has reason to believe that the Republican National Committee knowingly made payments on behalf of the true contributor, the Republican Governors Association, in the following respects:

i. In the latter part of July 1988, the Republican Governors Association commissioned and then supplied to Montana gubernatorial candidate Stan Stephens the results of a poll conducted by "Lawrence Research" of Santa Ana, California. Lawrence Research documented the results of its questioning of 400 Montana voters about their preferences for governor, their opinions about certain political issues involved in the campaign, and the demographics of those questioned. The Commissioner believes that the true contributor of this poll was the Republican Governors Association and that the Republican National Committee knowingly permitted its name to be used to effect this contribution.

ii. In September 1988, the Republican Governors Association commissioned and then supplied to Montana gubernatorial candidate Stan Stephens the results of a poll conducted by "Lawrence Research" of Santa Ana, California. Lawrence Research documented the results of its questioning of 400 Montana voters about their preferences for governor, their opinions about certain political issues involved in the

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campaign, and the demographics of those questioned. The Commissioner believes that the true contributor of this poll was the Republican Governors Association and the Republican National Committee knowingly permitted its name to be used to effect this contribution.

iii. That on or about August 24, 1988, and in support of the candidacy of gubernatorial candidate Stan Stephens, the Republican Governors Association acting through the Republican National Committee made a contribution in the amount of $8,000.00 to the Stephens for Governor campaign.

iv. That on or about October 28, 1988, and in support of the candidacy of gubernatorial candidate Stan Stephens, the Republican Governors Association expended the sum of $8,000.00 by making a contribution to Stephens for Governor by authorizing the Republican National Committee to send $8,000.00 to the Montana Republican Committee as an intended "earmarked" contribution for the Stephens for Governor campaign.

v. That during 1988, the Republican Governors Association acting in concert with the Montana Republican Party, the National Republican Senatorial Committee, and the Republican National Committee made expenditures in support of gubernatorial candidate Stan Stephens and Montana federal candidates by funding a voter identification project, accomplished without volunteer labor, from which was generated a computerized list of registered Montana voters who were inclined to vote in support

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of Republican candidates and issues. That the exact amount of these expenditures is not yet ascertainable, but it includes an expenditure on or about October 12, 1988, to Elwood English in the amount of $3,200.00 from the Republican Governors Association through the Republican National Committee for his assistance in one aspect of the voter identification project. The exact amount of these expenditures is not known to the Commissioner because no federally-registered committee allocated these expenses among the benefitted candidates nor was the amount of expenditures reported to the Commissioner as "in-kind" contributions or expenditures by any political candidate or committee.

The Commissioner hereby requests the Federal Election Commission to conduct an appropriate investigation into these matters to determine whether and to what extent the Federal Election Campaign Act may have been violated by the activities of these committees during the 1988 election cycle.

Dated this 5th day of June, 1992.

Dolores Colburg

Dolores Colburg
Montana Commissioner of Political Practices
1205 Eighth Avenue
Helena, Montana 59620-2401

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92 JUN 30 PM 2:37

DOROTHY COLBURG
COMMISSIONER OF POLITICAL PRACTICES

STATE OF MONTANA

(406) 444-2942

CAPITOL STATION
HELENA, MONTANA 59620

26 June 1992

Lois--

Here are the clippings that I promised to send and then forgot until your letter reminded me. As you see, one (June 7) is pretty much about the "complaint," now a referral, to the FEC. The others treat the lawsuit filed here against incumbent Gov. Stan Stephens and the Republican Governors' Association.

Also, Mark Allen called me yesterday to talk about the manner in which this office treats complaints we receive--that is, the priority given to them. In our discussion, I mentioned these current actions and the associated press clippings I would be sending to you. He expressed interest in seeing them as well.

Hope that the matter designated Pre-MUR 263 will advance to a full-fledged MUR and that the commission determines to go forward with it. See you in Toronto I trust.

Dolores

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Commissioner takes GOP complaints to feds

Republicans deny Colburg's money-funneling allegations

By CHARLES S. JOHNSON
Tribune Capitol Bureau

HELENA – State Political Practices Commissioner Dolores Colburg has asked the Federal Election Commission to investigate possible violations of the law by national and state Republican committees helping elect Sen. Conrad Burns and Gov. Stan Stephens in 1988.

Colburg's formal complaint, sent to the FEC Friday, is the second filed before the agency over similar allegations.

Still pending is a complaint filed July 10, 1990, by former Rep. Kelly Addy, D-Billings, an attorney who is vice chairman of the Montana Democratic Party.

Addy accused the Montana Republican Party and National Republican Senatorial Committee of breaking numerous campaign spending laws in 1988 in helping Burns defeat incumbent Sen. John Melcher, D-Mont. Lt. Gov. Dennis Rehberg was the manager of Burns' campaign.

Republican officials have denied the allegations in the past, and GOP officials could not be reached for comment Saturday.

Colburg's complaint was filed the same day she asked a Helena judge to fine the now-defunct campaign of Stephens and his running mate, former Lt. Gov. Allen Kolstad, at least $48,000 for violating state election laws.

She also asked District Judge Jeffrey Sherlock to fine the Republican Governors Association at least $24,000 for breaking election laws in 1988.

In her FEC complaint, Colburg cited actions by the Republican National Committee, the National Republican Senatorial Committee, the Conrad Burns.S. Senate Committee, Republican Governors Association and the Montana Republican Party.

Burns

Following legal advice, Colburg said she was turning the matters over to the FEC because federal laws may pre-empt state law, she said.

Colburg said the Republican National Committee and National Republican Senatorial Committee failed to file simultaneously with her office copies of reports filed with the FEC, as required by law. They didn't submit the documents to her until April 27, 1990, more than two years after some of the reports were due and filed them only after she made "repeated demands," she said.

The Republican Governors Association has never filed any reports with her, Colburg said.

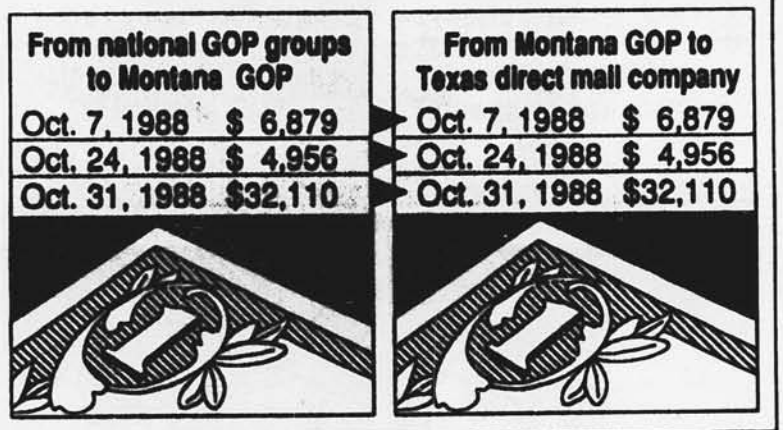
Federal law requires political committees to report donations, allocate expenses made in support of more than one candidate and limit how much national and state party committees can spend on behalf of federal candidates.

Her investigation found that the National Republican Senatorial Committee gave money to the Montana Republican Party that was "earmarked" to be spent on behalf of Burns' campaign.

Campaign charges against Republican groups

The Montana Republican Party "was used simply as a conduit for earmarked funds and therefore may have been a device used by the involved committees to avoid the spending limits set forth" in federal law.

– State Political Practices Commissioner Dolores Colburg



Tribune graphic

She concluded that the Montana Republican Party "was used simply as a conduit for earmarked funds and therefore may have been a device used by the involved committees to avoid the spending limits set forth" in federal law, she said.

The delinquent reports from the National Republican Senatorial Committee showed it gave $205,283 to the Montana Republican Party between Jan. 26 and Nov. 15, 1988, she said, with the bulk of the money donated in October and November.

During October and November 1988, the Montana GOP began making payments to James R. Foster and Associates, a Texas direct mail company that sent letters to people urging them to support Burns. This company received $119,158 from the Montana GOP from Oct. 7 through Dec. 12, 1988, she said.

A comparison of the dates of the donations from the National Republican Senatorial Committee and the expenses paid to Foster's firm by the Montana GOP indicates at least some of these donations must have been earmarked for the direct mail, she said.

For example, On Oct. 7, 1988, the Montana GOP paid James R. Foster and Associates $6,879, after receiving, on the same date, $6,879 from the National Republican Senatorial Committee. This particular direct mail piece urged recipients to apply for absentee ballots and advocated supporting several federal and state candidates, including Burns, Colburg said.

Similar transactions among the national GOP group, the state Republican Party and the Texas firm for $4,956 took place on Oct. 24, 1988, and for $32,110 on Oct. 31, 1988, she said.

"The absentee voter direct mail piece, as with practically all of the direct mailings, was the product of the National Republican Senatorial Committee negotiations with J.R. Foster and Associates, with little or no involvement by the Montana Republican Party," Colburg said.

Contrary to federal and state law, these expenses weren't allocated among different candidates nor reported as being earmarked donations by any committee or candidate, she said.

She also cited efforts of the Republican Governors Association, which never filed with her office or the FEC, making contributions on behalf of Stephens' election by providing it with polls and voter lists. These were in-kind expenses never reported by the association or the campaign, she said.

The Republican Governors Association, acting through the Republican National Committee, also donated $8,000 to Stephens' campaign on Aug. 24, 1988. The campaign failed to report it until nearly three years later, July 23, 1991, after Colburg began her investigation.

The governors' group also gave Stephens' campaign $8,000 on Oct. 28, 1988, she said. It authorized the Republican National Committee to send the money to the Stephens campaign as an intended earmarked donation, the commissioner said.

Great Falls Tribune
Tuesday, June 9, 1992

Stephens, Burns mum of GOP campaign allegations

By CHARLES S. JOHNSON
Tribune Capitol Bureau

HELENA — Gov. Stan Stephens and U.S. Sen. Conrad Burns declined comment Monday on allegations by the state political practices commissioner that their 1988 campaigns violated election laws.

But John Larson, the Missoula attorney who has represented Stephens' 1988 campaign, said he was disappointed that state Political Practices Commissioner Dolores Colburg filed a complaint in Helena district court late Friday.

Stephens

Colburg said Stephens' 1988 campaign should be fined at least $48,000 and the Republican Governors Association should be fined at least $24,000 for violating state election laws.

"I was surprised and shocked that a lawsuit was filed and we got an 11th hour notice when we were cooperating fully with this investigation," Larson said in a telephone interview.

Asked if the now-defunct Stephens campaign intends to fight the charges in court, Larson replied: "I guess we have no choice."

> "None of these are fail-safe. Anyone can make a mistake. Once we found out about it, we reported it to the commissioner."
>
> — John Larson
> Attorney for 1988 Stephens' campaign

He said Stephens' campaign discovered and voluntarily disclosed to Colburg in July 1991 its inadvertent failure to report an $8,000 donation made nearly three years earlier to the campaign made by the Republican Governors Association through the Republican National Committee.

"My concern is that when you've got an enforcement situation and you have a person that voluntarily cooperates and acknowledges an error, there doesn't seem to be any reason to file a lawsuit," Larson said.

He said one treasurer had left the campaign and another was joining it when some of the mistakes took place.

"None of these are fail-safe," Larson said. "Anyone can make a mistake. Once we found out about it, we reported it to the commissioner."

Larson said he last met with Colburg and her attorney Oct. 29, 1991, at what he called a "very cordial" meeting. The campaign indicated it would be open to any further discussions, but "eight months later, you get a lawsuit," he said.

"The net result, unfortunately, is going to be a lot of unnecessary expense and delay," Larson said.

He denied that any earmarking of donations occurred, saying all of the money in question came from the Republican National Committee, which is a registered federal political committee. The Republican Governors Association is a bureau of the Republican National Committee, he said.

Larson said the campaign would take issue with allegations concerning in-kind services donated by the Republican Governors Association.

The association took polls on the governor's race in July and September 1988 but didn't provide them to the campaign until weeks later, Larson said.

"They didn't have any value to us," he said, although the campaign put a price tag of $500 apiece on them for the purpose of reporting.

Instead, the campaign relied on current polls it was paying for or having done by volunteers, Larson said.

Similarly, Larson raised questions over Colburg's concerns about expenditures by national and state Republican committees preparing a computerized voter identification list for use by the Stephens' campaign.

"The in-kind and other issues certainly are unsettled issues," Larson said.

Even the Federal Election Commission hasn't decided if a campaign must pay for the development and maintenance of a voter mailing list, he said.

Colburg also filed a separate complaint before the FEC over possible violations of federal election laws by national and state GOP committees to help elect Stephens and Burns in 1988.

Burns had not seen the complaint and had no comment, according to his press secretary, Bryce Dustman.

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OFFICE OF GENERAL COUNSEL

92 JUN 30 PM 3:00

Democratic official stirs political pot over Rehberg's role in '88 fund raising

By CHARLES S. JOHNSON
Tribune Capitol Bureau

HELENA — Allegations of election-law violations by Republican political committees in 1988 will be an issue in the 1992 governor's race, the vice chairman of the Montana Democratic Party contends.

Former Rep. Kelly Addy, a Billings lawyer, said Democrats intend to demand answers about the role played by Lt. Gov. Dennis Rehberg in managing U.S. Sen. Conrad Burns' 1988 campaign. Rehberg is running on the gubernatorial ticket headed by Attorney General Marc Racicot this year.

Addy's comments followed actions taken Friday by state Political Practices Commissioner Dolores Colburg in response to a complaint he filed in July 1990.

Colburg filed a complaint in Helena district court asking that Gov. Stan Stephens' now-defunct 1988 campaign be fined at least $48,000 for election-law violations. She also asked that the Republican Governors Association be fined at least $24,000 for breaking election laws.

In a separate but related action, Colburg filed a formal complaint before the Federal Election Commission seeking an investigation of possible violations of federal law by the national and state GOP committees helping to elect Stephens and Burns in 1988. Addy and Common Cause, a national group, have pending separate complaints before the FEC on similar grounds.

"A lot of Marc Racicot's attractiveness as a candidate is because people think he's squeaky clean," Addy said. "When he has someone who plays hardball like Dennis as his running mate and when there are some real questions about what happened in 1988 with the campaign, and he's not saying, 'Dennis, I want you to find out, get the documents and document the expenditures ... and disclose it,' I think he's in an awkward position."

Although any problems with Burns' 1988 campaign are not Racicot's fault, the attorney general should be insisting that Rehberg fully disclose what happened, Addy said.

"Here he is the top law-enforcement officer of the state, and we're talking about the integrity of the election process," Addy said.

Rehberg was out of state and unavailable for comment, and Racicot said Wednesday he has not talked to his running mate since Colburg filed the complaints Friday. Racicot said he already planned to meet with Rehberg Thursday afternoon.

But Racicot said he has never questioned Rehberg about the 1988 Senate campaign and believes it would be improper to do so now. "I don't think it would be appropriate for me to quiz potential witnesses-ses when there is an investigation going on," Racicot said.

The attorney general said he has no knowledge of what happened in Burns and Stephens' 1988 campaigns.

Racicot said his own 1992 campaign for governor will scrupulously follow all election laws at all times, just as his 1988 race for attorney general did.

Addy also criticized as "limp and lame" the responses by John Larson, the Missoula lawyer representing Stephens' 1988 campaign, to Colburg's complaint.

Larson had expressed surprise that Colburg filed the complaint because the campaign had voluntarily disclosed an inadvertent failure to disclose an $8,000 donation made by the Republican Governors Association.

The disclosure was made in July 1991, nearly three years after the donation was made and nearly a year after Addy filed the complaint. His complaint included a letter that said the money was to be reported as a donation from the Republican National Committee, even though it was from the GOP governors, he said.

"A more blatant, a more conscientious, a more premediated violation cannot be imagined than is stated point-blank in that letter." Addy said.

Addy predicted the national and Montana Republican Party organizations would keep silent about the allegations.

"I think the Republican Party is in this too far to come clean, and they're just going to have to stonewall it," Addy said. "And that's what we're seeing now."

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FEDERAL ELECTION COMMISSION
92 JUN 30 PM 3:00

Great Falls Tribune
Saturday, June 30, 1990

Stan's '88 campaign may face big fines

by CHARLES S. JOHNSON
Tribune Capitol Bureau

HELENA — Gov. Stan Stephens' [illegible] campaign should be fined at least $[illegible],000 for violating state election laws, state Political Practices Commissioner Dolores Colburg said in complaint documents filed Friday.

She also asked Helena District Judge Jeffrey Sherlock to fine the Republican Governors Association at least $24,000 for breaking election laws in the Stephens' successful gubernatorial race and other 1988 Republican campaigns in Montana.

In separate action, Colburg filed a [illegible] complaint before the Federal Election Commission over possible violations of election laws. She asked the FEC to investigate possible illegal shuffling of money between various Republican committees to help Stephens and his running mate, former Lt. Gov. Allen Kolstad, as well as U.S. Sen. Conrad Burns and other Montana Republicans in 1988.

In the federal complaint, Colburg said her investigation suggests the Montana GOP "was used simply as a conduit for earmarked funds and therefore may have been a device used by the involved committees to avoid the (federal) spending limits."

There was no immediate response to the civil lawsuit from the now-defunct Stephens-Kolstad campaign. John Larson, a Missoula lawyer who has represented the campaign in the investigation, said Friday he had no comment because he hadn't seen the formal complaint.

The civil complaint over alleged election law violations is unprecedented in the 17-year history of the office of the state's political practices commissioner.

Colburg retained Lee Gallagher, a Helena lawyer, to help investigate and file the complaint after Lewis and Clark County Attorney Mike McGrath, an unsuccessful Democratic candidate for governor in Tuesday's primary election, declined to get involved last year because of his own political plans.

She was responding to a complaint filed in September 1990 by Holly Addy, a Billings lawyer and former Democratic legislator who is now vice chairman of the Montana Democratic Party.

See CAMPAIGN, 2A

Campaign: Financial improprieties alleged

FROM 1A

Addy charged that illegal campaign contributions were funneled through the Montana GOP in 1988. He based the charges on allegations raised in a pending lawsuit filed by former Montana Republican Executive Director Terry Merica.

Merica and his wife, Neida, sued the GOP in December 1989. They contended they were wrongfully fired after the 1988 election for questioning financial transactions between the state party and the National Republican Senatorial Committee. State GOP officials have denied the allegations.

In her complaint, Colburg said the Republican Governors Association violated state law by failing to file as a political committee with either her office or the FEC. Any group of two or more individuals donating or spending money to help a candidate or committee must register.

In July and September of 1988, the association made "in-kind" donations to the Stephens-Kolstad campaign by providing results of polls taken by a California firm, she said. Colburg was unable to determine the value of these unreported donations.

On Aug. 24, 1988, the Republican Governors Association, acting through the Republican National Committee, donated $8,000 to the Stephens-Kolstad campaign, she said.

Yet the campaign didn't report this donation until July 23, 1991, nearly three years later, after Colburg's investigation had begun. The campaign said the donation hadn't been reported because of an "oversight" for which there was no apparent explanation, according to Colburg.

On Oct. 28, 1988, the Republican Governors' Association made an $8,000 donation to the Stephens-Kolstad campaign by authorizing the Republican National Committee to send $8,000 to the Montana Republican Committee and specifying it was earmarked as a gift to Stephens-Kolstad, the complaint said.

In 1988, Colburg said, the Republican Governors Association, working in concert with the Montana GOP, the National Republican Senatorial Committee and the Republican National Committee, spent money on behalf of Stephens to prepare a computerized voter identification list. It listed registered voters likely to vote for Republican candidates.

Despite making all of these expenditures, the Republican Governors Association never registered with Colburg's office nor filed the required reports listing its expenses, the complaint said. Colburg was unable to determine the value of the lists.

The association broke the law by exceeding the $8,000 donation limit, the complaint said, and the Stephens-Kolstad violated the law by accepting donations that topped the legal limit.

The complaint also accused the Stephens-Kolstad campaign of failing to report the in-kind contributions.

In addition, it accused the campaign and Republican Governors Association of breaking another law by failing to report donations in the name of the actual contributor.

On Oct. 28, 1988, the association, as authorized by its executive director, Michelle Davis, told the Republican National Committee to send $8,000 to the Montana Republican Party Committee for the Stephens-Kolstad campaign, the complaint said.

Davis wrote a letter instructing the Montana GOP committee to report the donation in the name of the Republican National Committee instead of the true contributor, the Republican Governors Association, the complaint said.

The Montana GOP deducted $353.28 for an alleged debt owed to the state party by the Stephens-Kolstad campaign and forwarded the remaining $7,646.72 to the campaign, Colburg said.

The charges

State Political Practices Commissioner Dolores Colburg Friday accused the 1988 campaign of Gov. Stan Stephens and former Lt. Gov. Allen Kolstad of:

- Failing to properly report until nearly three years later $8,000 in donations from the Republican Governors Association in August 1988. It was finally reported in an amended report in July 1991, several months after Colburg began her investigation. She is seeking three times that amount or $24,000 in a civil fine.
- Failing to report $8,000 as an earmarked campaign contribution from the Republican Governors Association through the Republican National Committee and the Montana Republican Party in late October or early November 1988. She is seeking three times this amount or $24,000 as a civil fine.
- Failing to report an as yet undetermined amount of in-kind contributions from the Republican Governors Association, National Republican Senatorial Committee and Republican National Committee for polls and other help from June to November 1988. The fine sought has not yet been determined until a pricetag can be put on the services donated.

Colburg also is accusing the Republican Governors Association of:

- Making an $8,000 donation to the Stephens-Kolstad campaign in the name of an undisclosed principal. She is seeking a $24,000 fine.
- Illegally exceeding the $8,000 limit that political committees may make in donations to a team running for governor and lieutenant governor. She has not yet determined how much in excess of the limit the association gave and thus how much the fine should be.
- Making unspecified donations from June through November 1988 to support Montana Republican candidates or committees organized to help candidates. No fine amount was specified.

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92 NOV -2 PM 3:11

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

FIRST GENERAL COUNSEL'S REPORT **SENSITIVE**

PRE-MUR # 263
STAFF MEMBER: Lawrence D. Parrish

SOURCE: INTERNALLY GENERATED

RESPONDENTS: National Republican Senatorial Committee and James L. Hagen, as treasurer

Republican National Committee and William J. McManus, as treasurer

Montana Republican State Central Committee and Shirley J. Warehime, as treasurer

Conrad Burns/U.S. Senate and Jim Swain, as treasurer

RELEVANT STATUTES:
2 U.S.C. § 431
2 U.S.C. § 431(4)
2 U.S.C. § 431(8)(B)
2 U.S.C. § 431(9)(B)
2 U.S.C. § 433
2 U.S.C. § 434(a)
2 U.S.C. § 439(a)
2 U.S.C. § 441(a)
2 U.S.C. § 441(f)
2 U.S.C. § 453
11 C.F.R. § 106
11 C.F.R. § 108.1
11 C.F.R. § 108.5
11 C.F.R. § 108.7(b)(2)
11 C.F.R. § 110.6(b)

INTERNAL REPORTS CHECKED: Disclosure Reports

FEDERAL AGENCIES CHECKED: None

9404358576

I. GENERATION OF MATTER

This matter was generated by a referral received from Dolores Colburg, Montana Commissioner of Political Practices ("Commissioner Colburg"). The Commissioner has conducted an investigation in response to a complaint filed with her office on or about September 5, 1990, by Montana State Representative Kelly Addy relating to the activities of the Respondents listed above and to others during the 1988 election cycle. Representative Addy also filed a complaint regarding the same issues with the Federal Election Commission on July 13, 1990. See First General Counsel's Report in MUR 3204, dated May 6, 1991.

Commissioner Colburg states that her investigation has revealed "a pattern of conduct existing during the 1988 election cycle that suggests that the vast majority of the contributions" received by the Montana Republican Party from the National Republican Senatorial Committee were "earmarked." According to Commissioner Colburg, the pattern of incoming funds to the Montana Republican Party from the National Republican Senatorial Committee and "expenditures made by the Montana Republican Party suggests that the Montana Republican Party was used simply as a conduit for earmarked funds and therefore may have been a device used by the involved committees to avoid the spending limits set forth in 2 U.S.C. § 441(a)."

The allegations made in Commissioner Colburg's referral are the same as the allegations made in Representative Addy's complaint filed with the Commission. In MUR 3204, the

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Commission on May 21, 1991, found reason to believe that the National Republican Senatorial Committee and James L. Hagen, as treasurer, violated 2 U.S.C. §§ 441a(f), 441a(h), 434(b) and 439(a); found reason to believe that the Montana Republican State Central Committee and Shirley J. Warehime, as treasurer, violated 2 U.S.C. §§ 441a(f), 441d, and 434(b); found reason to believe that Conrad Burns/U.S. Senate and Jim Swain, as treasurer, violated 2 U.S.C. § 441a(f); and found reason to believe that the Republican National Committee and William J. McManus, as treasurer, violated 2 U.S.C. §§ 441a(f) and 434(b).

Commissioner Colburg has been conducting an investigation into many of the same activities that are the subject of our ongoing investigation. Therefore, this Office recommends that this new referral filed by Commissioner Colburg be merged into MUR 3204.

Staff from this Office made a trip to Montana at the end of last year to review and copy records held by the Montana Office of Political Practices. Commissioner Colburg provided staff with information from her investigation at that time. During this visit staff from this Office was also able to speak with Terry and Neida Merica and to obtain information and copies of some of their records.[1] The copies of documents obtained from this visit to Montana were very numerous and are being examined to separate the information concerning violations of the Federal

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1. Terry and Neida Merica are both former employees of the Montana Republican Committee. Terry Merica was employed as Executive Director of the Montana Republican Party and Neida Merica was employed as administrative secretary.

Election Campaign Act of 1971, as amended ("the Act") from that information which is strictly pertinent to Montana state law. A report summarizing the information obtained from this visit, along with that included in Commissioner Colburg's complaint and other information obtained from other sources in this matter, will be forwarded to the Commission soon.

II. **RECOMMENDATION**

Merge Pre-MUR 263 with MUR 3204.

11/2/92
Date

Lawrence M. Noble
General Counsel

Attachment
Complaint

9404358579

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

National Republican Senatorial Committee and James L. Hagen, as treasurer;	)	Pre-MUR 263
Republican National Committee and William J. McManus, as treasurer;	)	
Montana Republican State Central Committee and Shirley J. Warehime, as treasurer;	)	
Conrad Burns/U.S. Senate and Jim Swain as treasurer.	)	

2404358380

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on November 5, 1992, the Commission decided by a vote of 5-0 to merge Pre-MUR 263 with MUR 3204, as recommended in the General Counsel's Report dated November 2, 1992.

Commissioners Aikens, Elliott, McDonald, McGarry and Thomas voted affirmatively for the decision; Commissioner Potter recused himself from this matter.

Attest:

11-6-92
Date

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

Received in the Secretariat: Mon., Nov. 2, 1992 3:11 p.m.
Circulated to the Commission: Mon., Nov. 2, 1992 4:00 p.m.
Deadline for vote: Thurs., Nov. 5, 1992 4:00 p.m.

dr

COMMISSIONER OF
POLITICAL PRACTICES

STATE OF MONTANA

DOLORES COLBURG
COMMISSIONER
TELEPHONE (406) 444-2942
FAX (406) 444-1643

CAPITOL STATION
1205 EIGHTH AVENUE
HELENA, MONTANA 59620-2401

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Nov 5 11 03 AM '92

November 2, 1992

Larry Parrish
Office of the General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Dear Larry Parrish: MUR 3204

92 NOV -5 PM 3:21

Enclosed are indexes to various documents that we obtained in conjunction with our investigation of Kelly Addy's complaint against the Montana Republican Party, the National Republican Senatorial Committee, the Stephens/Kolstad 1988 campaign, the Republican Governors Association, et al.

The numbers in the reference columns are those that we assigned to documents. All of the referenced documents remain at the law offices of Leo Gallagher, my retained counsel in this matter. They would be available to you or your designee for on-site inspection.

You mentioned the possibility of early December as a time to come to Helena to inspect the records we have. That should work out all right with both Leo and me.

Sincerely,

Dolores Colburg

DOLORES COLBURG

Enclosures

2 4 0 4 3 5 8 3 5 8 1

REF N	REF 1	REF 2	REF 3	DATE	THRU	DESCRIPTION	Amount	COMMENT
			610	2/20/97		Covel ltr to Yeakel offering research/polling svcs of AM Viewpoint		American Viewpoint has RNC, RGA, RNCC, RNSC, etc. as clients
			573	11/15/97		IR article re poll: Stephens @ 21%, Wessner @ 33%, Waltermire @ 50%, yet Stephens highest confidence @ 33%		poll sponsored by Lee newspapers, conducted by Economic Consultants Northwest (Dick Dodge)
			620	12/3/97		Andrews letter w/memo w/Prestige (@ RNSC) ltr to Yeakel re polling svcs		Andrews @ Arthur J. Finkelstein & Assoc. w/GOP clients
			480-61	1/16/98		Stephens campaign CPP filings being [illegible] to [illegible], Yeakel [illegible]		
	87*			3/1/98		Meeting re. VID w/Payton, Chuck Brown, Yeakel, English, Campbell and Morse		
			160	3/1/98		Yeakel notes re. VID mtg + [illegible] RNC/NRSC [illegible] GOP [illegible]		
			161	3/1/98		Yeakel notes re. VID [illegible] by RNC/NRCC/GOP [illegible]		
			770	3/1/98	<>	Marketing Research Institute survey instrument for Stephens; 500 call re calls completed?		see Yeakel's notes re. same at 30010-11
			480-62	3/6/98		Colburg opinion to Yeakel re. Condition [illegible] (campaign, [illegible], etc.)		
			650	3/6/98		Marketing Research Institute invoice 8970 to Stephens for Arbuthnot March 6-7 travel	477.35	
			630	3/14/98		Stephens ltr to Yeakel re outdoor signs, BR Arbuthnot, poll		
			720	3/23/98		Arbuthnot ltr to Yeakel w/[illegible] & instructions for field interviews		
			620	3/30/98	3/31/98	Stephens survey transmittals		
			630	3/31/98		Marketing Research Institute invoice for "Stephens Study"	710.00	
			800	3/31/98		Stephens for Governor survey questionnaire		conducted? results?
			740	4/6/98		Stephens campaign releases rebuttal to Pub. Op. Polling/[illegible] survey results		
			640	4/30/98		Marketing Research Institute invoice 8979/[illegible] to Stephens for consulting	1,200.00	
			710	4/30/98		Marketing Research Institute invoice 8121 to Stephens for "Phone #s from Survey Sampling Inc."	700.00	
			1	4/30/98		R.A. Howard & Assoc Report/results of "Market Survey" for Stephens		
			8	5/1/98	<>	Marketing Research Institute "Confidential Report for ... Stephens" based on sampling 500 voters in 4/98		
			630	5/5/98		Arbuthnot ltr to Yeakel w/"tracking survey" proposal & costs		Arbuthnot w/Marketing Research Institute
			180	6/8/98		Lane ("Finance Director") ltr to Stephens asking $17,000 for VID; "every Rep. cand. will benefit from the VID ..."		
			170	6/10/98	<>	(3 months before gen'l) Lane drafts VID $ solicitation for Stephens' sig not approved. Also, VID = Project '98		
			4	6/10/98		[illegible] information research prepared to Stephens and 1/98 data re Judge		
			560	6/6/98		Helena [illegible] local poll showed Judge @ 45%, Stephens @ 31%		
			554 557	6/24/98		RNC/RGA ch. # 8707 to Stephens (not reported until 7/8/98)	5,000.00	
			510	6/29/98		Sample Stephens contribution ledger w/photocopies of checks attached		
			480-1	8/14/98		Yeakel notes re. "Phone Results" organization (for Cert?), est. 10/10 @ 10/17 "Phone Bank"		Note both Bob Swanson (bus) and Prestidge's names. Pr appear
	18	68	202 380	8/18/98		Polling instrument attch to Morse memo re. poll prof. Stephens/Judge, [illegible] level		Note "Morse's", see 30013 for results Phase 2
		65		8/23/98		Campbell ltr to CC Exec Brd re Larson's objections to appt. of Salomon as Dep. Treas for VID, alerting transfer w/Salomon as 2nd signer		copies to Harrington, Stephens, Racicot, Story, Burns. Larson suggested Campbell's original action "unethical and
			280	8/29/98		Yeakel memo w/"60 Days to Victory" Plan [illegible] phone bank [illegible]		see also VID/telephone banks started by RNC @ 30000
			310	8/30/98		Prestige FAX to Yeakel attch RNSC VID protocol by co. 3rd phase #s for MT survey & "I've got a deal for you"		
			5	10/3/98		"MT Survey Number 1" results from Stephens campaign		

Amount	COMMENT
	ref: to Bush/Q; V'88, "mass" mlgs, coord. exp., RNSC, VID, Burns, F vs. B skeds
	Payees include Bush/Burns ads, mlg; Rexnord labels; CO Media Group bulk mail prep.
9,604.85	Shanahan wouldn't sign? See 10014 note re: "Prestidge's idea"
	copies to Letson, Campbell
	copies to Letson, Merica
	copies Letson, Campbell
	Merica's did not confer w/counsel re: "release" as per 1015?
9,604.85	
1,201.52	
	WS (don't have ltr): "I'll stay. . .to see that she gets what's coming to her."
78.24	
	--
94.54	
1,737.49	N647 duplicates?

94043583583

(MASTER DATA BASE) CHRONOLOGY OF EVENTS/TRANSACTIONS a/o 2/21/92

REF N	REF 1	REF 2	REF 3	DATE	THRU	DESCRIPTION
	201			4/3/91		Copy of Aetna insurance claim covering James Marica
			851	7/23/91		Yeakel ltr to Colburg w/amended C-5 for 6/23/88 to 9/5/88
			860	8/30/91		Yeakel ltr to Colburg inquiring about delay in investigation
	193					
				12/16/92		Marica ltr to Leo re: E. English & RNSC/RGA, Stephens & Fentason, Payton & VID links
344						
680						UNDATED DOCUMENTATION
	23				date?timing	Prestidge note to Foster & Kay re: 'postage needs in Elgo P.O. account'
	31				date?timing	unsigned ltr to English (& Allen?) re: Burns 'thank yous' for checks, Trust mtg, May Jenkins funeral
	41-66				date?timing	"1988 Sources of Funds" rets mtgs, cmmtns, V88, committee transfers
	132*				date?timing	standard codes/data display options
					date?timing	somewhat illegible ledgers: source unknown, basically '88
			150		date?timing	CC payments to Tom Hannah, Kari Knudsen, Elwood English (Burns) transferred by Prestidge (RNSC)
			380		date?timing	(?Spring '88/after JW's death) Stephens' VID instruction/script issued
			410, 420		date?timing	printouts: "1988 Phone Bank Results" from Billings re: Stephens, Burns, Marienee, Racicot
			440		date?timing	Yeakel MT map by zip codes
			450,460		date?timing	Yeakel MT map w/top 17 counties
			470		date?timing	Stephens campaign phone script
			500		date?timing	Yeakel instructions for handling Stephens campaign mail
		88			date?timing	unsigned description of VID, "RNSC in unable, due to FEC, to provide direct $ toward this project"; attch'm't= MT GOP goals & objectives
		152-154			date?timing	"Voter Registration Lists Rec'd" by counties, costs noted
		207			date?timing	Lane VID proposal= ". . .raise desired monies for the Senatorial Committee. . ."
		218			date?timing	(6/8/88<>7/28)Porter ltr to Lane w/budget estimate, disappointment re: celebrity speaker for VID FR
		252			date?timing	unsigned "Post V88" budget notes
		256			date?timing	(10/21/88 FR @ Hns) Schasnen notes re: V'88 "unpaid & estimated bills"
		357			date?timing	RNC contribution slip to CC for "party building"
		376			date?timing	unsigned "accounting" of "Corey Bills" (VID?); several deposits; ck #s to Hannah, Knudson; Foster transfers; etc.
	222	207-8			date?timing	Summary from '88 FEC RNSC filing identifying folks/firms involved in Burns' election
	241-43				date?timing	unsigned "Challenge '88 VID FR Program" (but filed w/Lane resume, etc.)
	104*				date?timing	Hodel function in Great Falls; Corey Lane involved
	140*, 264*				date?timing	(after filing 12/6/88 FEC report?) Naida claims to have telecon w/Ginsberg, NRSC counsel, re: Sted F or S

REFERENCES TO [redacted] page 1 of 1

88 NOV -5 PM 3:21

REF #	REF 1	REF 2	REF 3	DATE	THRU	DESCRIPTION	Amount	COMMENT
43				12/3/87	11/30/88	Tony Payton Travel in Montana (240 pgs of claims)		Allocable to Burns campaign as per 102657
703				1/30/88		Timothy Butler memo to Tony Payton re: "MT Cross-site Analysis" (Melcher vs. Burns data)		copies to Brookover, Prestidge
783				2/21/88		Prestidge memos Carol Whitney, Payton re: Burns PAC fundraising, Melcher research		ref ProPAC, AIPAC, NRA, AGC
655				3/11/88		Gerald Bauer (Burns) ltr to Mike Winn, NRSC, thanking him for sending Geoghegan into MT		
681				4/5/88		Prestidge memos Englan re: his accompanying Burns 4/6/88 for DC contacts, i.d. Melcher ag/88 weaknesses		mention "talk to Carol and John"
719				4/20/88		Mason memos Payton & Prestidge re: Burns press, research, fundraising, Jewish $ plan		
646				5/4/88		Brookover fax memo to Englan (Burns) re: 5/19 campaign seminar in D.C.		
717				5/16/88		Prestidge memos Brookover & Payton re: Burns' "hit" at AIPAC, possible nat'l events, Jewish $		copies to Mason, Winn, Olsen, Jill Jackson N 724-28 dups?
		8*		6/1/88		Campbell ltr to Boschwitz (NRSC Chair) w/authorization re: "coordinated expenditures" for Burns campaign	45 100.00	
665				7/12/88		Englan (Burns) FAX to Prestidge re: Dud Lutton invitation for campaign fundraising		
676				7/19/88		Allen ? (Burns) FAX to Prestidge w/"Rudy 8" response summary & rep. responses		
668				7/21/88		Mark Peterson (Burns) FAX to Prestidge w/Bob Zimmer memo on Congressional salaries under Melcher		
671				8/21/88		Dean Dynamo (Burns) FAX to Prestidge w/Melcher "shadow" commercial scripts/ideas		
653				8/18/88		Thomson (Burns) memos Prestidge re: "Friends" campaign plan/dated		
654				8/22/88		Draft Burns' "Friends Steering Comm" letter w/questionnaire		
		65		8/23/88		Campbell ltr to CC Exec Brd re: Lobson's objections to appt. of Schoonen as Dep. Treas for VSS, ... transfer w/Schoonen as 2nd signer		copies to Heringer, Stephens, Ragsdale, Story, Burns. Lobson suggested Campbell's original action "unethi
680				10/6/88		"Dave" (Burns) FAX to Prestidge + att w/Market Opinion Research "MT '88 Minimum Winning Analysis"		
629				10/14/88		Lonhardt (Burns) FAX to Prestidge re: 10/13 "weekly finance report" & county chairman list		many cc's
648				10/17/88		"Dave" (Burns) FAX Prestidge re: draft to Dynamo on Melcher's wilderness bill		Prestidge hand copies to Brookover, Payton & others?
		390		10/21/88		Prestidge called (CC?) after talking w/Campbell, "wrote 3 postage checks @ $12,000, $1,830, and $8,916		Carla Turk handwritten message, refs to Burns, Foster, Rehberg
		392		10/21/88		Tina (Burns) FAX to Marco w/"Friends" ltr sticker samples		
		384		10/28/88		Foster invoice #342, Job 333 to CC for 102,000 "Pro Burns Piece"	10 772.00	
	169			10/31/88		Nada FedEx receipt to Burns (contents?)		
749				11/2/88		Jeff Willis memos Brookover, Olsen, Mason, Payton, Prestidge w/Lawrence Research results - Burns win		
620	10, 20			11/3/88		Shanahan FAX to Prestidge c/o Burns re: "don't issue directives" to ED		copies to Campbell, Schoonen, Marco
	16	404		11/3/88		USPS permit mailing by CC of 70,004 pieces, signed by Marco	4 160.38	Burns/Bush vs. Melcher/Dukakis compts @ 10017
623	11, 226*	402		11/3/88		Foster invoice #379, Job 335 to CC re: MT Tabloid/Burns & Bush	34 151.07	compts @ 20420-4087 @ 10230-7 Marco claims FEC violation
622	8 11 21	400-1		11/4/88		Shanahan FAX to Prestidge re: "caution" Foster invoice #379, Job #335 (Tabloid/Burns & Bush)		copies to Campbell, Schoonen
637				11/8/88		NRSC Comptroller (Sommers) ltr to Jim Swain (Burns) re: "earmarked contributions" check dated 10/31	50 000.00	
644				11/10/88		NRSC invoice to Burns for "Airfare for Fly Around"	267.50	
311				11/20/88		Foster invoice #382 to Burns Committee for 115,000 tabloids	14 632.12	
	169			12/6/88		Marco memos Shanahan re: Year End FEC Report w/items needing completion, clarification		ref to Bush/Q VSS, "mass" mlgs coord exp RNSC VID Burns F vs S ...
		291		12/9/88		Schoonen FAX to Shanahan w/"est. recap of major mailings" for VSS		Payees include Bush/Burns ads mlg, Rannard labels, CO Media Group bulk mail prep
643				1/5/89		NRSC invoice to Burns for "check processing fees"	78.24	
642				1/10/89		NRSC invoice to Burns for "check processing fees"	84.84	
645				1/26/89		NRSC invoice to Burns for "Direct Mail Expenses"	1 737.49	N647 duplicates?
		35		11/9/88		CC Meeting: May thanks Burns, Ramirez, Rehberg for "donor list" (VID?)		
660					date/timing	unsigned ltr to Englan (& Allen?) re: Burns "thank yous" for checks, Trust mtg, May Jenkins funeral		ref Ben Cooper @ Pro-PAC, Gracie Barker-Cross, Rick Nelson
	127				date/timing	CC payments to Tom Hannah, Ken Knudson, Elwood English (Burns) transferred by Prestidge (RNSC)		
			380		date/timing	"1988 Phone Bank Results" from Billings re: Stephens, Burns, Marlenee, Rasmus		
	291 43				date/timing	Summary from 88 FEC RNSC filing identifying tabloids involved in Burns' election		

9 4 0 4 3 5 8 3 5 8 5

REFERENCES TO BARBARA CAMPBELL page 1 of 1

REF #	REF 1	REF 2	REF 3	DATE	THRU	DESCRIPTION	Amount	COMMENT
	244*			12/15/87	<>	Marzo claims Campbell hired him as ED then (but see 1/8/88)		
		138		1/06/88		Baran (RNSC) memos Marzo w/check "to cover MT GOP etc" & "for future". mtg w/ Powell to discuss plan for MT, will send	650.63	copies Campbell, Prestidge
582	109*	139		1/07/88		Bisson memos Marzo re: overview VID needs, chart		copies Campbell, Powell, Prestidge, Grotz
583				2/16/88		Campbell mailgrams Prestidge re: "impossible" Rudy (Boschwitz) scheduling requests		
584	110*	157		2/16/88		Bisson memos Marzo re: missing VID deadlines, "if problem w/$ can get check out in 2 days"		copies to Campbell, Payton, Prestidge, Powell, Grotz
	87*			3/1/88		Meeting re: VID w/Payton, Chuck Brock, Yoshai, English, Campbell and Marzo		
585	111*	158		3/16/88		Bisson memos Marzo re: VID status (28 of 56 cos), bills, Big Sky Data work, missed deadlines; see 20154 for list of 28 co's?	534.19	ck enclosed, ref to $1,200.00; copies to Campbell, Payton, Prestidge, Powell, Grotz
	100*			4/18/88	<>	Lane gives Marzo proposal, Campbell & Prestidge refused to sign		
	100*			4/18/88	<>	Initially, Lane gave $ claims to Marzo & Campbell and ED signed etc. Marzo "fed travel, so eliminated from process		Shanahan told Marzo to comply w/Campbell's instructions re: Lane/travel/payments
	209-216			4/26/88	5/24/88	several ltrs from Campbell & Lane to/out-state asking $, speakers for VID FR		
	164 97*	212		5/16/88		Marzo memos Campbell re: understandings from March 1 VID mtg & "drifting from original intent"		
		108-113		5/30/88	<>	Campbell newsletter claims "VID a reality." lists from all counties collected a/o mid-May, being converted to master computer tape, asking $		
		61		6/1/88		Campbell ltr to Boschwitz (NRSC Chair) w/authorization re: "coordinated expenditures" for Burns campaign	45,100.00	
		84 213		6/1/88		Campbell memos several re: same day mtg @ Colonial for VID update by Payton		
	91* 102*	214		6/6/88		Lane ltr to Porter Gilford re: VID, proposed Grouse Mtn event July 29-30, RNSC underwriting, etc., signed "Finance Director"		if Lane reference needed call "Prestidge or Campbell" proposed agenda @ 20217
		214		6/6/88	<>	Marzo's copy of Lane/Porter ltr sent to "Barb" (Campbell?) o/fe		
	150*			7/15/88	<>	or mid-July, Campbell advises Marzo of complaints about his performance, suggests resignation		
	152*			8/2/88		After CC mtg, Jack Moore briefs Marzo; Campbell, Briggs inform Marzo of committee re: ED		Marzo's also claim (@ 10156) talk w/Bob Marks, Jack Galt re: employment situation
		66		8/2/88	<>	Bennett memos Campbell re: convention problems, ED "mismanagement"		
		74*		8/8/88		Lane telcon w/Campbell re: "understanding" not to harm MT CC, Lane's work concluded then?		
		74		8/15/88		Lane ltr to Campbell re: "balance due," ads $ to follow; Marzo's "quest to destroy me"	3,386.31	
		62-63		8/16/88		Vander Jagt ltr to Campbell re: coordinated party expenditures in district 2 (Marlenee?)	23,050.00	no Campbell response/request in same file
		104		8/31/88		Campbell ltr to Lane with #683 as balance on expenses less advance of $2,000; won't pay Rainbow @ $237 since complimentary @ Quality Inn	3,150.01	
	224			9/16/88		Campbell memos CC Exec. Comm. re: appt of Scheeran as Dep. Treas of V88 (a MT VID and mailing campaign for Bush-Quayle)		
		172+		9/19/88		Lane ltr to Campbell w/late receipts, says $303.32 balance due		
	220			9/20/88		Letson ltr to Campbell re: proposed Scheeran appt. places CC "in jeopardy", also good campaign laws		copies to many party officials
	154*			9/22/88		Shanahan couriers "Memo of Terms of Employment" to Marzo w/brief cover letter to review w/Campbell		MoTofE @ 20098-102?w/ty dated Aug.; see 10168; Campbell claims "despite several requests, never sig
		65		9/23/88		Campbell ltr to CC Exec Bd re: Letson's objections to appt. of Scheeran as Dep. Treas for V88, acting transfer w/Scheeran as 2nd signer		copies to Harringer, Stephens, Racicot, Story, Burns; Letson suggested Campbell's original action "unautho
	226			9/26/88		Scheeran ltr to Marzo re: CC/V88 accounting responsibilities, Campbell attests		copy to Shanahan
		183		10/4/88		Campbell ltr to Lane saying CC overpaid him by $177.68		20165-20170 bills relate to Campbell's 10/4/88 ltr
	160			10/6/88		Shanahan memos Campbell re: V88 Situation Report		copies Tillie Pierce, Shirley Harrin, info Chuck Harringer, Mona Teigen
	160 114*			10/6/88		Shanahan's memo to Campbell claims VID lists "promised by [RNSC] are being held for ransom."		
	161			10/6/88		Shanahan's memo to Campbell also claims nat'l HQ going to make 65,000 calls to MT each; conflicts w/local phone banks?		
	230			10/10/88		Shanahan ltr to Campbell re: Greyhlock bank @ CC		WS "Requesting Marzo to use in distribution of current VID mat'ls"
		389		10/21/88		Prestidge called (CC?) after talking w/Campbell: "write 3 postage checks @ $12,000, $1,699, and $2,618		Carla Turk handwritten message; refs to Burns, Foster, Rehberg
		353		10/24/88		RNC ltr to Campbell with. to CC "reimbursement for FR expenses" not for specific candidates)	15,000.00	Scheeran note to Campbell: "Must go to V88 account" crossed out
	202 65*			10/26/88		Michelle Davis (RGA) ltr to Campbell w/contr. "for candidates" to be reported as RNC	8,000.00	Marzo claims Yoshai said to report $ as "earmarked" also see 10136-37
420	10 20			11/3/88		Shanahan FAX to Prestidge c/o Burns re: "don't issue directives" to ED		copies to Campbell, Scheeran, Marzo
422	6 11 2*	400-1		11/4/88		Shanahan FAX to Prestidge re: "sexism" Foster invoice #[illegible] Job #[illegible] (Tabonsi/Burns & Bush)		copies to Campbell, Scheeran
	22	374		11/6/88		Marzo memos Campbell, Shanahan re: "balance due on RNSC commitments"	16,133.08	
	189			11/10/88		Campbell discusses possible resignation date w/Marzo		
	189			11/21/88		Campbell visits Marzo @ office, provides MOU, 11/23 deadline		
	83-85	380-389		11/27/88		Prestidge phones Nada to wire $ to Foster, Nada informs Marzo, Shanahan	60,533.00	Nada claims Campbell concurred it was "her [Prestidge's] money"
	234	105		11/29/88		Marzo memos Campbell refusing to sign 11/21/88 resignation request		copy to Erdman
	188			11/29/88		Campbell ltr to Marzo terminating him as ED a/o 12/10/88		copies Shanahan, Jack Galt, Iona Brownson
	239			12/9/88		Marzo ltr to Shanahan re: wrongful discharge, Campbell unqualified; MOU to continue thru 6/30/89		
	14			12/13/88		Marzo & Campbell sign Ck #1015 to Foster for Invoice #578 (add'l pieces)	8,604.55	Shanahan wouldn't sign? See 10014 note re: "Prestidge's idea"
	184 146*			12/12/88		Marzo memos Shanahan re: Letson's FEC request, difficult, suggested meeting		copies to Letson, Campbell
	160 146*			12/13/88		Shanahan ltr to Campbell re: Marzo, Letson FEC exchange, "fed up/fired up" ... and suggesting "sane, sensible" meeting		copies to Letson, Marzo
	147 148*			12/13/88	<>	or 12/14? mtg w/Marzo, Nada, Shanahan, Letson, Kellison, Campbell re: FEC		
	238	108		12/14/88		Shanahan memos Marzo re: Campbell refused to sign payroll and vacation checks, wants "release"		copies Letson, Campbell
	237			12/14/88		Marzo memos Shanahan objecting to Campbell's no-check stance and "release" notion		
		107		12/20/88		Marzo news release commending volunteers; Campbell and he have each other's phone numbers, can talk		
		400		12/29/88		Campbell note to Kellison on Marzo claim "make sure no checks written"	1,201.52	
	207*			12/31/88		Shanahan to resign as counsel a/o this date; in resign ltr, states Prestidge accuses Campbell "of private deals"; says he "can't be part of th		WS (don't have ltr): "I'll stay to see that she gets what's coming to her."
		562		1/6/89		L&C Rep. Woman ltr (Harris) to Campbell w/concerns re: Marzo termination		
		560		1/21/89		Kellison recommends to CC Campbell bookkeeping continue after analysis		

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REFERENCES TO ELWOOD ENGLISH page 1 of 1

REF #	REF 1	REF 2	REF 3	DATE	THRU	DESCRIPTION	Amount	COMMENT
002				2/23/90		Jeff Larson (NRSC) ltr to English re: Mitchell/Philipson		ref: Tom Mason
	67*			3/1/90		Meeting re: VID w/Peyton, Chuck Brain, Yeutter, English, Campbell and Morse		
001				4/5/90		Prestidge memo to English re: his accompanying Burns 4/6/90 for CC events, i.e. Malcher ag/GB week...		mention "talk to Carol and John"
030				4/26/90		Breakover fund invite to English re: 5/10 campaign seminar in D.C.		
046				6/4/90		Breakover fund invite to English (Burns) re: 5/10 campaign seminar in D.C.		
053				7/12/90		English (Burns) FAX to Prestidge re: Dan Lutton invitation for campaign fundraising		
090				8/23/90		English ltr to Michelle Davis (RGA) re: "Mary Ingram Rule" for VID project w/ bill	3,500.00	copy to Ann Prestidge see also 10160 (Morse memo to Gallagher 10/16/90)333
	183			12/16/92		Morse ltr to Lee re: E. English & NRSC/RGA, Stephens & Ferguson, Peyton & VID ...		
029					date?/wrong	unsigned ltr to English (& Allen?) re: Burns "thank you" for checks, Trust mtg, May Jenkins funeral		ref: Ben Cooper @ Pro-PAC, Grace Barber-Cross, Rick Nelson
	132*				date?/wrong	CC payments to Tom Hannah, Ron Knudsen, Elwood English (Burns) considered by Prestidge (NRSC)		

"MINI" FILES, alphabetically by TITLE/DESCRIPTION

9 4 0 4 3 5 8 3 5 8 8

FILE DESCRIPTION	CODE #	TIME PERIOD	COMMENT
CC "Bank Deposits: 1988" File	20634-648		
CC "Direct Mail" File	20365-499	1988	many Foster invoices
CC "FEC Documentation" Files	20697-21137	1/88-11/88	
CC "Income/Expense Statements"	20571-579	1988	includes Irby's "Hannibal Listing"
CC "Insurance" File	20534-536	12/12/88	only one Aetna check copied
CC "National Convention" travel receipts	20470-479	6/28/88-7/11/88	Jack Galt coordinating, evidently
CC "Postage" File	20409-457	1988	
CC "Printing" File	20458-464	1988	all re: Foster
CC "Project '88" = VID file	20114-230		Also called "Challenge '88" occasionally
CC "Telephone" File	20480-533	11/19/87-9/16/88	
CC "Travel" File	20465-479		contains Merica's payroll/tax records
CC "Victory '88" file	20231-363		Bush/Quayle supposedly, but not exclusively
CC cancelled checks from "'88 FEC Acc't"	20592-633	3/88-12/88	several Aetna/Merica; endorsed by Merica?
CC Exec Brd minutes	20001-059	1/9/88-9/28/90	
CC ledgers for "First Bank--FEC Acc't--1988"	20647-687		less legible copies @ 10042-10061
CC/Campbell's Correspondence File	20060-113		
CC/RNSC "Ck request/Party Transfers"	NOOO751-791	1/25/88-11/15/88	
Irby's "Hannibal Listings" re: CC 1988 $	20580-591		
RNC re: FEC Guidelines	20688-696		
RNSC FedEx bills re: MT	NOOO345-450	1/4/88-12/6/88	
RNSC phone bills to MT (Bell & Sprint)	NOOO451-591	5/28/88-1/30/89	why so sparse & not earlier?
RNSC staff/consultants MT travel	NOOOOO1-305	12/3/87-11/23/88	started w/Payton; ended w/Reberger
VICTORY '88 (Bush-Quayle) ledgers	20235-240	9/30/88-1/13/89	less legible copies @ 10062-10066
VICTORY '88 art auction records	20329-336		
VICTORY '88 receipts for "Pd Bills"	20289-289		some dates, etc. re: mass mailings
VICTORY '88 receipts w/o check #s	20290-302		
VICTORY '88 telephone bills	20303-317	9/19/88-11/15/88	
NOTE: CC = Central Committee for			
MT REPUBLICAN PARTY generally			

ACTORS AND ACRONYMS by LAST name a/o 2/20/92 a.m. page 1 of 4

LAST	FIRST or CONTACT	TITLE or ADDRESS	SOURCE	TELEPHONE	FAX NUMBER	COMMENT
AGC			NOOO793			
AIPAC	Liz Schrayer		NOOO730			
Akey	Larry	staffer for Sc9 Wattenmire	N000714			
Allen	Ed	733 15th St NW, Suite 800, Wash. D.C.	20857			sponsored guests @ Quayle GF function
American Viewpoint, Inc.	Jim Covell	300 N. Washington St, Alexandria VA 22314	30610	703/684-3325		
Amsberry	Jeanne	Stephens' Helena Office	30091	406/443-5444		
Andrews	Jaye	see Arthur Finkelstein & Assoc.				
Arbuthnot	BR	see Market Research Institute				
Arthur J. Finkelstein & Assoc.	Jaye C. Andrews	19 N. Astor, Irvington, NY 10533	30630	914/591-8142		
Baran	Jan	Counsel, Bush/Quayle '88 Campaign	20070			
Barker-Cross	Gracia	NRSC? Trust Director	NOOO680			
Bauer	Darold	Burns' Exploratory Comm. Fin. Dir.	N000852, 20002			
Beaumont	Dina	NRSC, CFA section	N000001			
Bennett	Andrea	MT State Auditor	20095			
Benson	Roger	Stephens Treasurer a/o 1/18/89	30480			
Benman	Craig	NRSC "Finance"	N00004			
Big Sky Data Systems	Gary Orser	1201 Grand Ave. Suite 7, Bige 59102	20139	406/252-2290		
Bissen	Bob	NRSC Special Projects Coord; later, US Dept. of Energy	N00306	202/347-0202		220 Century Pl. #3322, Alexandria,VA 22304
Boschwitz	Rudy (Sen.)	Chair, NRSC	20061			
Braden	E. Mark	Chief Counsel, Repub. Nat' Committee	20070			
Brendan	John	'83 Chairman, MT Rep. Party	30310			
Breum	Arlene	Stephens' Missoula Co. Chair	30650			
Briggs	Joe		20011+			
Brook	Chuck	w/Wattenmire campaign 3/1/88	10087			now Dir. MT Dept. of Commerce
Brookover	Edward	NRSC '88 Political Director	N000799			hm?: 9712 Harr Ct, Burke, VA 22015
Brookover	Edward or Ed	hm: 9537 Crosspointe Dr., Fairfax Station, VA 22039	N000730			
Brownson	Ione	CC Exec Brd	20009			
Bureau of Business and Economic Research =	BBER	Missoula, U of M campus	30560			
Burns	Conrad	U.S. Senate candidate				
Bush	Fred	RNC	20049			
Butler	Timothy P.	? no letterhead on memo to Peyton	N000703			
Campaign Finance Area in NRSC =	CFA		NOOO793			
Campaign Mail & Data, Inc.	John Simms	7700 Leesburg Pike, Falls Church, VA 22043	30220 & 231	703/790-8676	703/790-9389	see 30360 for brochure
Campaign Mail & Data, Inc. =	CMDI					
Campaign Mail & Data, Inc. =	CMDI					
Campbell	Barbara	MT Rep. Party CC Chair				
Christian	Cliff	LCC staff	20012			(later became CC acting ED after Merica)
Colorado Media Group		6990 ? Blvd, Englewood, CO 80111	20099	303/779-3090		also, 303/796-1363
Colorado Republican Campaign Comm.		1275 Tremont Place, Denver 80204	20344			
Commissioner of Political Practices =	CPP	Helena				
Cooper	Ben	PrinePAC Director	NOOO793			
Covell	Jim	see American Viewpoint, Inc.				
Davis	Michelle	Exec Dir, RGA	10002			
Decision/Making/Information	Bill	1363 Beverly Rd. McLean, VA 22101	30630	703/556-0001		
Diversified Computing	Wanda	P.O. Box 2339, Kalispell 59903	20135			

LAST	FIRST or CONTACT	TITLE or ADDRESS	SOURCE	TELEPHONE	FAX NUMBER	COMMENT
Dodge	Dick	see Economic Consultants Northwest				
Dykema	Dean	w/Burns campaign	N000871			
Economic Consultants Northwest =	ECN; Dick Dodge	Helena (pollsters)	30575			
Eddie Mahe & Assoc		900 2nd St NE, Suite 200, Wash, DC 20002	N000720			also, 300 Eye St. NE, Suite 400, Wash, DC
English	Elwood	CC Secy 88-90; w/Burns campaign 3/1/89	10087			
Erdman	Charles/Chip	CC atn'y @ time of Merica's termination	10034			
Estrada	Sharon	recommended Hutchins for ED	10052			
Floyd	Joe	see Public Opinion Polling				
Foster & Associates	James	2828 East Trinity Mills Rd. Carrollton, TX 75006	20397	214/416-0133		
Fundraiser/Fundraising =	FR					
Fundraising and Financial Management	Rodney Smith	5085 Lowell St NW, Wash, DC 20016	N000087-8			
Gall	Jack	MT Nat'l Committeeman, CC Exec Brd	20004			
Gann-Hart Strategic Research Group		1724 Conn. Ave., NW; Washington DC 20009	30680	202/234-5570		
Geoghegan	Mary Lee	NSRC staffer ("CFA" section)	N000021-23			hm? 3210 38th St NW, Wash DC
GOTV =	GOTV					
[illegible]ord	Porter	POB 1300, Whitefish, MT 59937	20214			wife's name = Marsha
Ginsberg	Ben	NRSC (Counsel)	N17-18, 20070			hm? 7529 Faraday, Wash, DC
GRC Cook Political Report			30520			
Grotta	John	NRSC (re: VID?)	20041			
Gubbels	Marty	Stephens' Helena Office	30291	406/443-5444		
Gustafson	Mike	potential Melcher opponent	N000738			
Hannah	Tom	Burns campaign?	10132*			
Heringer Energy Resources Co.		POB 486, Billings 59103	30362	406/252-6821		w/MT "Bush for Pres" campaign?
Heringer, Jr.	Charles J.	MT Bush/Q Chair	20015			
Herrin	Shirley	w/V '88; Pres., L & C Rep. Womens Club	10190 & 20562			
Hill	Rick	VID '89+; now CC Chair	20044			
Holcomb	Richard D.	Counsel, NRCC	20070			
Howard	Bob	R.A. Howard & Associates (Helena?)	30530, 640, 660	2-2107 or 3-1213		
Hutchins	Christy	applied for ED of CC	10052			
Independent Record =	IR	Helena				
Irby	Jacque	succeeded Merica as ED	20021			
[illegible]son	Jill	NRSC Dep. Exec. Dir.; later RNC	N000306+			
Javits	Eric	assoc. w/Fred Sullivan	20041			
Jim Waltermire =	JW					
Jim Waltermire =	JW					
Kellicut	Helen	CC Ass't Treas ('88), then Treas ('89)	20008+			
Kay	Ben	see Foster & Associates	N000318			
Klein	Barbara	NRSC?	N000717			
Knudsen	Ken	Burns campaign?	10132*			
Kolstad	Allen	Lt. Gov/Stephens cand.				
Kraft	Don	NRSC Research Dept.	N000031			?hm. 217 N Taft #14, Arlington VA 22201
Lane	Corey	POB 2012, Boise, ID 83701	20074	208/459-7653		
Larroca	Jeff	NRSC Dir, Campaign Media Relations	N000582			
Larson	John	RNSC or RNC?	20041			
Lawrence Research	Gary Lawrence	1900 E 4th St, Santa Ana, CA 92705	30003	714/558-3725		

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LAST	FIRST or CONTACT	TITLE or ADDRESS	SOURCE	TELEPHONE	FAX NUMBER	COMMENT
Lee	Ladonna	Pres. Eddie Mahe & Assoc.	N000734			
Legislative Campaign Committee =	LCC		20012			
Lenhardt	Allan	w/Burns' campaign	N000679			
Letson	Mike	MT GOP Treas.	10226			
Lutton	Dud	Resource Dev. Officer for ?	N000695			made bid on Burns' fundraising
MacKay	Dwight	CC Vice-Chair; later Sen. Burns	20007			
Mahe	Eddie	Chrm, Eddie Mahe & Assoc.	N000734			
Mankin	Margaret	now w/NRSC PAC staff; formerly NRC	N000794			
Market Research Institute	BR Arbuthnot	POB 13866, Jackson, MS 39236; later, Ridgeland MS?	30630	601/957-7555		
Marlenee	Ron	U.S. Congressman				
Mason	Tom	NRSC?	N000719			
McGinnis	Timothy	NRSC Research Dept., later NRC	N0034, N324	703/873-7461		hm: 4430 Taney Ave, Alexandria, VA 22304
Merica	Neida	MT CC Adm. Secty				
Merica	Terry	MT CC ED				
...k	Joseph	81-19 Roosevelt Ave., Jackson Heights, NY 11372	20356			
...sk	Nasrallah		100188			
Moore Information	Alan Robertson	1133 SW Market St, Portland OR 97201	30004	503/222-4611		
MT Group =		Brookover, Payton, Winn, Lee, Mahe	N000734			
National Republican Congressional Committee =	NRCC		20070			
National Republican Senatorial Committee =	NRSC	440 First St, NW, Suite 600, Wash, DC 20001	20139	202/347-0202		
Nehring	John	"Information Management," 604 Arnold, Bzm	20079	406/586-0127		
Nelson	Rick	NSRC staffer ("CFA" section)	N000036-48			hm: 1633 1/2 19th St NW, No. B, Wash, DC
NFIB			N000780			
Nickles	Don	U.S. Senator, trvl for RNSC	N00048			
NRA			N000780			
Olsten	Jann L.	NRSC Exec Director	20139			
Orser	Gary	see Big Sky Data Systems				
Payton	Tony	Political Consultant to NRSC (see Tony. . .)	N000730			
Payton	Tony	2639 S Lynn St, Arlington VA 22202	N000730			
Peterson	Mark	w/Burns campaign	N000670			
Pierce	Tillie	w/V'88?	100190			
...vell	Cam	NRC (computer section)	20139			
Prestidge	Ann	NRSC Political Division, Field Coord.	N750, N324		202/628-2475	later, Inter-Am Foundation, Arlington VA
PrintPAC	Ben Cooper		N000780			
Public Opinion Polling	Craig Wilson & Joe Floyd	2204 Spruce St, Billings 59101	30730			
Racicot	Marc	MT Atty Gen'l candidate				
Rayl	Greg	'87 Exec Director MT Rep. Party	20137			
Reberger	Phil	Sen. Steve Symms (ID) Chief of Staff	N000060			
Rehberg	Dennis	Burns campaign manager	N000332			now Lt. Governor
Republican Governors Assn =	RGA; Michelle Davis					
Republican National Committee =	RNC		20070			
Rexford Political Services Group			20251			
Robertson	Alan	see Moore Information				
Schaenen	Dave	V'88 Gen. Fin. Chair	20065			
Schaenen	David	Box 2343, Billings MT 59103	20073			

LAST	FIRST or CONTACT	TITLE or ADDRESS	SOURCE	TELEPHONE	FAX NUMBER	COMMENT
Schrayer	Liz	see AIPAC	N000730			
Schrayer	Liz	w/AIPAC	N000730			
Shanahan	Ward	CC legal counsel and V'88 Chair				
Sheehan			N000717			
Sems	Marge	Stephens' Billings Office	30891	406/259-5601		
Semms	John	see Campaign Mail & Data, Inc.	30830			
Smith	Rodney	NRSC consultant; see "Fundraising. . ."	N00007-9			
Sommers	David	NRSC Comptroller	N000687			
Stewart	David	see Campaign Mail & Data, Inc.	30830			
Sullivan	Fred	Pres. Interim Systems Corp., NJ	20039			home address: NY
Swan	Jim	Burns campaign	N000687			
Thomson	Tina	w/Burns campaign	N000653			
Tiegen	Mons	w/V'88?	100150			
Tony Payton & Associates		107 13th St. SE, Wash. DC 20003	N000084			
[illegible]	Carla	MT CC staff or volunteer?	20089			
[illegible]ence	Lee	NRSC Admin Ass't; later, Agency for Int'l Dev.	N000308+			4727 W. Braddock Rd. Apt. 201, Alexandria, V.
Vander Jagt	Guy	Chair, NRCC	20062			
Victory '88 =	V'88					
Voter Information Project =	VID					
Ward Shanahan =	WS					
Whitney	Carol	NRSC?	N000793			
Willis	w/Gary Lawrence Research?		N000749			
Wilson	Craig	see Public Opinion Polling; also EMC Ph.D.				
Winn	Mike	NRSC PAC, Director of Campaign Finance	N000793			
Yeskel	Steve	Stephens' Campaign Manager, Helena	30831	406/443-5444	406/442-3987	
Ziemer	Bob	researcher w/ ?	N000669			providing info to Burns campaign
	David	w/Burns campaign	N000664			

REFERENCES TO FOSTER [redacted] page 1 of 1

94043583593

REF N	REF 1	REF 2	REF 3	DATE	THRU	DESCRIPTION	Amount	COMMENT
314				10/7/88		Foster & Kay FAX to Prestige 4-pg "MT Candidate ... Mail Plan"		
	35			10/7/88		Foster invoice #527 Job #515 for "Absentee Ballot Mailing" @ $0400 + (see 10040) for $1471.81 Sign USPS +	6,679.01	Sample @10030-10039 shows FAX to NRSC Pol Div (Prestige?)
332				10/8/88		Foster & Kay FAX to Los, Rothberg, Thomson, Prestige 8-pg drafts re "Friend/Drugs/Pro-Life"		
338				10/14/88		Foster FAX to Los, Rothberg, Prestige "Mailer/Outside" draft		
310		393		10/18/88		Foster FAX to Prestige 4 pg "Special Report to MT Taxpayers"		N339-343 duplicates?
		389		10/21/88		Prestige called (CC?) after talking w/Campbell "with 3 postage checks @ $18,000 $1,600 and $2,518		Cora Tuh handwritten message, refs to Burns Foster Rothberg
		378		10/22/88		Foster invoice #547, Job 341 to CC for "Friends GOTV Piece"	2,480.00	
		379		10/22/88		Foster invoice #537, Job 330 to CC for 20,000 "Hannah Letter"	2,900.00	
		380		10/22/88		Foster invoice #538, Job 330 to CC for 48,600 "Drugs Piece"	5,713.00	
		381		10/22/88		Foster invoice #539, Job 330 to CC for 48,600 "Taxes Piece"	6,609.00	
		382		10/22/88		Foster invoice #540, Job 337 to CC for 34,000 "Ult/Duke Piece"	6,600.00	
		383		10/22/88		Foster invoice #541, Job 338 to CC for 50,000 "Wilderness Piece"	6,810.00	
		384		10/22/88		Foster invoice #542, Job 329 to CC for 109,000 "Pro Burns Piece"	10,772.00	
		385		10/22/88		Foster invoice #543, Job 330 to CC for 15,000 "Gallatin Piece"	2,670.00	
		386		10/22/88		Foster invoice #544, Job 329 to CC for 38,000 "Yellowstone Piece"	5,250.00	
		387		10/22/88		Foster invoice #545, Job 323 to CC for 25,000 "Friends Bumpersticker & Postcards"	4,946.00	sample @ 20300-
		388		10/22/88		Foster invoice #546, Job 340 to CC for 17,000 "Friends Callus Postage"	3,600.00	total for above 11 Foster invoices is $55,677
	129*, 283			10/27/88		Foster invoice #584 Job 341 re: Reagan GOTV Lt Prod. sent to CC	10,453.00	w/note from "Ann" to please Fed Ex check today
	129* 284			10/27/88		Foster invoice #575 Job 349 re: Gun Control Piece sent to CC	11,353.00	w/note from "Ann" to please Fed Ex check today
	129* 283			10/27/88		Foster invoice #574 Job 380 re: Wilderness Add'l quantity sent to CC	4,629.00	w/note from "Ann" to please Fed Ex check today
	168			11/2/88		Nada FedEx receipt to Foster (contents?)		
312	14			11/3/88		Foster invoice #576 to CC for add'l printing on 10 mail pieces	9,604.63	
623	11 256*	402		11/3/88		Foster invoice #578 Job 350 to CC re: MT Tabloid/Burns & Bush	24,151.67	sample @ 20400-403? @ 10230-7 Marica claims FEC violation
	129*	372		11/3/88	<>	(FedEx?) Handwritten memo from Leo Vance (NRSC?) to Marica w/accounting of $ for Foster bills, Victory '88, misc. ck. ens.	10,000.00	
622	8, 11, 21	400-1		11/4/88		Shanahan FAX to Prestige re: "explain" Foster invoice #578, Job #350 (Tabloid/Burns & Bush)		copies to Campbell, Schooren
	12	397		11/22/88		Nada tr to Foster requesting sample printing job w/invoices		
	83-85	389-390		11/27/88		Prestige phones Nada to wire $ to Foster; Nada informs Marica, Shanahan	60,533.00	Nada claims Campbell concurred, it was "her (Prestige's) money"
311				11/30/88		Foster invoice #593 to Burns Committee for 110,000 tabloids	14,638.12	
	13	398		12/1/88		Marica tr to Foster repeating request for samples/invoices		
	14			12/12/88		Marica & Campbell sign Ck #1013 to Foster for Invoice #576 (add'l pieces)	9,604.63	Shanahan wouldn't sign? See 10014 note re: "Prestige's idea"
313				12/16/88		Foster FAX to Prestige Invoices #576, 593		
312				12/16/88		Handwritten note Foster Invoice #576 paid (by w/note?)	9,604.63	
344					date?/timing	Prestige note to Foster & Kay re: "postage needs in Bigs P.O. account"	15,412.00	
		379			date?/timing	unsigned "accounting" of "Corey Bills" (VCT?), several deposits, ck #s to Hannah, Knudsen, Foster transfers, etc.		addressed to "Ann" (Prestige?)

REFERENCES TO COREY LANE page 1 of 1

94043583594

REF #	REF 1	REF 2	REF 3	DATE	THRU	DESCRIPTION	Amount	COMMENT
	77*			3/1/88	<>	Marcs claims unaware w/[illegible] Lane's corporate fundraising re: VID		
	68-69*			3/1/88		Marcs claims @ VID meeting that day, Cliff Christian recommended Corey Lane to Payton for fundraising		20205=Lane resume, 20207=Lane FR proposal, 20208= Lane VID plan
		223*		4/10/88		Lane arrives in Helena, same day CC asked to assist w/[illegible] event in [illegible]		
	100*			4/10/88	<>	Lane gives Marcs proposal; Campbell & Prestidge refused to sign		
	100*			4/10/88	<>	Marcs called Prestidge when "NRSC pats of budget" couldn't cover Lane expenses; Prestidge [illegible] on site		
	100*			4/10/88	<>	Initially, Lane gave $ claims to Marcs & Campbell and ED signed ok. Marcs had [illegible] from prestige		Stephen told Marcs to comply w/Campbell's instructions re: Lane/travel/payments
709				4/20/88		Prestidge memo Brookover "Lane ... starts tomorrow," "we've committed $[illegible] for salary," need to send $3,000		copies Les Vance, JB Jackson
714				4/20/88		Payton memo Clinton recommending Corey Lane, Larry Akey as "MT fundraiser" (... "small commission for us to fund")		715 duplicates w/o [illegible] note
	209-216			4/25/88	5/24/88	several ltrs from Campbell & Lane w/out-state asking $, speakers for VID FR		
		7		4/30/88		CC Meeting, Corey Lane/VID project introduced		
	211			5/2/88		Lane ltr to Briggs "NRSC committed seed money" for VID FR, "eliminating any $ burden on Party"		
	91* 102*	214		6/6/88		Lane ltr to Porter Gifford re: VID, proposed [illegible] film event July 28-29; NRSC underwriting, etc.; signed "Finance Director"		if Lane reference needed, call "Prestidge or Campbell" proposed agenda @ 20217
		214		6/6/88	<>	Marcs's copy of Lane/Porter ltr sent to "Barb" (Campbell?) w/[illegible]		
			180	6/6/88		Lane ("Finance Director") ltr to Stephens asking $17,000 for VID, "every Rep. cand. will benefit from this info. . ."		
			170	6/15/88	<>	(3 mths before gov't) Lane drafts VID $ solicitation for Stephens' sig. not approved. Also, VID = Project '88		
	210			6/15/88	<>	(after June 7 primary) Lane ltrs to leg. candidates seeking VID $		HQ 5180, SQ 5320 response form @ 10221
		656		7/1/88		Sample "payment" by leg. cand. for VID in reply to Lane solicitation		HQ 5180, SQ 5320 response form @ 10221
	91* 254*	223		7/11/88		Lane ltr to Prestidge summarizing VID activities, recalling "original plan"		1st page only; others missing?
	65*	76 220		7/11/88		Lane "addendum to report" to Prestidge = "efforts in MT seriously hampered" by ED Marcs; some examples		
		74*		8/8/88		Lane telcon w/Campbell re: "understanding" not to harm MT CC; Lane's work concluded then?		
		74		8/15/88		Lane ltr to Campbell re: "balance due," info $ to follow; Marcs's "quest to destroy me."	3,288.31	
		194		8/31/88		Campbell ltr to Lane with $[illegible] as balance on expenses less advance of $2,500; won't pay Rainbow @ $[illegible] since complimentary @ Quality Inn	3,150.01	
		172+		9/19/88		Lane ltr to Campbell w/[illegible] receipts, says $[illegible] balance due		
		183		10/4/88		Campbell ltr to Lane saying CC overpaid him by $177.[illegible]		20169-20170 bills relate to Campbell's 10/4/88 ltr
		207			date?/timing	Lane VID proposal: "... raise desired monies for the Senatorial Committee. . ."		
		219			date?/timing	(6/6/88<>7/88) Porter ltr to Lane w/budget estimate, disappointment re: celebrity speaker for VID FR		
	222	207-8			date?/timing	unsigned "Challenge '88 VID FR Program" (but filed w/Lane resume, etc.)		
	104*				date?/timing	[illegible] function in Great Falls; Corey Lane involved		

REFERENCES TO MERIDA page 1 of 4

2 4 0 4 3 5 8 3 5 9 5

REF N	REF 1	REF 2	REF 3	DATE	THRU	DESCRIPTION	Amount	COMMENT
						NOTE: THIS PRINT CONTAINS MORE THAN "MERIDA" MATERIAL because the computer picks up things like "Americ" and words that end in "-rid" (or similar combinations thereof).		
			7	[redacted]		Comparison/Background/information report ... Mer[illegible] non-election data on the mountain states" by RNC		
			610	[redacted]		Covell ltr to Yoakel offering research/software tools of AM Viewpoint		[illegible] Viewpoint has RNC, RGA, RNCC, NRSC etc as clients
750				[redacted]		Prestidge [illegible] to NRSC		
			580	[redacted]		BBER poll shows large undecided re potential gubernatorial candidates		BBER=Bureau of Business and Economic Research @ UM, Mslo
			573	[redacted]		IR photo w/poll: Stephens @ 21%, Winslow @ 20%, Williamson @ 18%, yet Stephens highest confidence @ 59%		poll sponsored by Lee newspapers, conducted by Economic Consultants Northwest (Dick Dodge)
		137		[redacted]		ED Gregory Ryel ltr to co's requesting voter registration lists (VID?)		
	244*			12/15/87	<>	Marco claims Campbell hired him as ED then (but see 10050)		
		2		1/8/88		CC Meeting: Marco approved as ED		
	109*			1/10/88		Marco telecon w/Prestidge re: VID, 1st of many conversations		Marco depicts nature of calls w/Prestidge @ 10109
		138		1/20/88		Bason (NRSC) memo Marco w/check "to cover MT GOP dis" & "for future": mtg w/ Powell to discuss plan for MT, will send	833.83	copies Campbell, Prestidge
582	109*	139		1/27/88		Bason memo Marco re overview VID needs, sked		copies Campbell, Powell, Prestidge, Grote
785				1/27/88		Bason memo Cam Powell w/paper or tape lists by MT county; says Marco to send		copy to Ann Prestidge
	250*			2/1/88		Rods Marco hired as Administrative Secretary		
583				[redacted]		Campbell mailgrams Prestidge re "impossible" Rudy (Boschwitz) soliciting requests		
		129		2/12/88		Greer (Big Sky Data Systems) ltr to Marco w/custom software estimate, will accept order only prepaid, VID?		
584	110*	107		2/16/88		Bason memo Marco re missing VID deadlines, "I problem w/$ .. can get check out in 2 days"		copies to Campbell, Payton, Prestidge, Powell, Grote
		135		2/22/88		Marco ltr to co's requesting lists on diskette as per vendor, Diversified, and Ying & for VID?		
	77*			3/1/88	<>	Marco claims telecons w/Shanahan re Lena's corporate fundraising re VID		
	87*			3/1/88		Meeting re VID w/Payton, Chuck Brosh, Yoakel, English, Campbell and Marco		
	88-89*			3/1/88		Marco claims @ VID meeting that day, CIP Christian recommended Corey Lena to Payton for fundraising		20203=Lena resume, 20207=Lena FR proposal, 20208= Lena VID plan
			160	[redacted]		Yoakel notes re VID mtg + new list RNC-NRSC own MT GOP maintenance (6 months cycle)		
			730	3/1/88	<>	Public Opinion Polling released Cal Winslow Nov & March survey results		
			770	[redacted]		Marketing Research Institute survey instrument for Stephens; 500 calls re calls completed		see Yoakel's notes re same as 20810-11
585	111*	158		3/10/88		Bason memo Marco re VID status (28 of 56 co's bills, Big Sky Data work, missed deadlines, see 20134 for list of 28 co's?	834.16	ck enclosed, ref to $1368.02 copies to Campbell, Payton, Prestidge, Powell, Grote
		159		3/24/88		Bason sends Marco ck for Big Sky "deposit" now has 28 co's, what co's are Big Sky?	750.00	copy to Prestidge
			800	3/31/88		Stephens for Governor survey questionnaire		conducted? results?
		143		4/6/88		(really 2/6/88?--see 20140 or 3/10/88) Marco signs request to Missoula Co. for computer tape (VID)		
		223*		[redacted]		Lena arrives in Helena, same day CC ... to assist w/Bush event in Bigs		
	100*			4/10/88	<>	Lena gives Marco proposal; Campbell & Prestidge refused to sign		
	100*			4/10/88	<>	Marco called Prestidge when "NRSC cuts of budget" couldn't cover Lena expenses; Prestidge FedEx-ed cks		
	100*			4/10/88	<>	Initially, Lena gave $ claims to Marco & Campbell and ED signed cks. Marco Fed travel, so eliminated from process		Shanahan told Marco to comply w/Campbell's instructions re Lena/travel/payments
788				[redacted]		Prestidge signs Brookover "Lena ... starts tomorrow," "we've committed $30,000 for salary," n... to send $5,000		copies Lee Vance, Jill Jackson
		85		4/25/88		Marco ltr to "Fellow Republ" re log Bngs, cand. trng, need $		
586		124 141 156		4/29/88		Prestidge memo Marco re co's "we haven't reimbursed you for" on VID		19930 & 19 797 duplicates? 20124 has amounts by each county in handwriting, as does 20141
		7		[redacted]		CC Meeting: Corey Lena/VID project introduced		
			700	5/1/88	<>	(After JW's death/94 primary) R.A. Howard survey instrument		conducted? results?
			9	[redacted]		Marketing Research Institute "Confidential Report for ... (Stephens)" based on sampling 500 voters in 4/88		
	211			[redacted]		Lena ltr to Briggs: "NRSC committed seed money" for VID FR, "eliminating any $ burden on Party"		
	184 87*	212		5/16/88		Marco memo Campbell re understandings from March 1 VID mtg & "drifting from original intent"		
		108-113		5/20/88	<>	Campbell newsletter claims "VID a reality," lists from all counties collected as of mid-May, being converted to master computer tape, asking $		
		81		[redacted]		Campbell ltr to Boschwitz (NRSC Chair) w/authorization re "coordinated expenditures" for Burns campaign	43 100.00	
	81* 100*	214		[redacted]		Lena ltr to Porter Gifford re VID proposed Grouse Mtn event July 29-30; NRSC underwriting, etc., signed "Finance Director"		if Lena reference needed call "Prestidge or Campbell" proposed agenda @ 20217
		214		6/8/88	<>	Marco's copy of Lena/Porter ltr sent to "Barb" (Campbell?) w/?s		
610		121		6/15/88		Marco memo Prestidge re VID data acquisition costs (bill?)	609.06	plus "Big Sky receipt enclosed as per your request" 20121 strikes out Yellowstone Co. reducing bill to $460.54
			170	[redacted]		(8 months before gen'l) Lena drafts VID $ solicitation for Stephens' sig, not approved. Also, VID = Project '88		
587		155		6/26/88		Prestidge memo Marco re discrepancies in June 13 VID bill		copies BB (Bob Bason?) in 19809 for add'l'ns sug'ns corr'ns? ?98 dups?
	85*	76 220		7/11/88		Lena "addendum to report" to Prestidge = "efforts in MT seriously hampered" by ED Marco, gives examples		
		122		7/14/88		Marco ltr to Greer (Big Sky Data) re payment of $750, why add'l invoice (when $ lists co's & tapes provided from 11 co's)?		
	150*			7/15/88	<>	or mid-July Campbell advises Marco of complaints about his performance, suggests resignation		
		86* 340		7/22/88		Marco files for bankruptcy on his personal business, doesn't inform CC bd re negative publicity		11/8-1988 FedEx's to mortgage company billed to CC? see 20541-2
	151*			7/26/88		Marco memo CC Board re criticism as ED, asks for feedback		
		85		7/26/88		Bennett ltr to Marco expressing dissatisfaction w/his performance as ED		
	151*	11		8/2/88		CC Meeting: dissatisfaction w/Marco; VID "moving along w/NRSC assist"		Marco says not invited to CC; Shanahan advised him not to attend
	152*			8/2/88		After CC mtg, Jack Moore briefs Marco; Campbell, Briggs inform Marco of committee re ED		Marco's also claim (@ 10150) talk w/Bob Marks, Jack Galt re employment situation
	152*			[redacted]		Resume of Christy Hutchins of Bigs appears (for ED) w/ Sharon Estrada 7/30/88 recommendation		
		86		8/2/88	<>	Bennett memo Campbell re conversion problems, ED "mismanagement"		
		74*		8/8/88		Lena telecon w/Campbell re "understanding" not to harm MT CC. Lena's work concluding, then?		
	254*			[redacted]		Marco claims NRSC "assumed control of all aspects" of VID, began funding w/its own $		
	259*			[redacted]		NRSC contribution to CC	10,000.00	
			380	[redacted]		Helena Tribune local poll shows Judge @ 40%, Stephens @ 31%		
			160	8/12/88		Marco memo statewide campaigns, others re 8/16 status meeting, VID on agenda		
		74		8/15/88		Lena ltr to Campbell re "balance due" req $ to follow, Marco's "bent to destroy me"	3,288.31	

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REF #	REF 1	REF 2	REF 3	DATE	THRU	DESCRIPTION	AMOUNT	COMMENTS
		62 63		8/4/88		Vendor Jogt ltr to Campbell re: coordinated party expenditures in district 2 (Hartnett?)	25 000 00	re Campbell response/figures in same file
			654 657	8/4/88		RNC/RGA ltr 7 8/87 to Stephens (not reported FEC#?)	5 000 00	
		362		8/29/88		Hannger memo FEC that DC filing "incomprehensible" for 10th, been asked for amendment		copy to Marcia, VSB or CC copies?
			810	8/29/88		Sample Stephens contribution letter w/attachments of checks attached		
	259*			8/29/88		NRSC contribution to CC	10 000 00	
		73		9/1/88		Hoste ltr to Schramm re RNC bill for postage for direct mail, also $50K deadline for bills re: FEC filing		
	30	67		9/6/88		John Sweny memo Marcia w/"state processing proc ltr"		
	259*			9/8/88		NRSC contribution to CC	10 000 00	
	25	66	201 370	9/15/88		Marcia memo re VID mailing completion, attch: vendor quotes, data display, survey		
	15	66	202 380	9/15/88		Polling instrument sent to Marcia memo re: poll and Stephens/Bush poverty level		Note "Stevens" see 9201 E for vendor Phase 2
653				9/16/88		Thomson (Burns) memos Prestidge re "Friends" campaign planning		
	226			9/20/88		Letson ltr to Campbell re: proposed Schramm spot, places CC "in proximity", cites good campaign track		copies to many party officials
		240-48		9/20/88		Schramm sends Marcia proposed VSB upcoming budget @ $10,400		
656				9/23/88		Hughes ltr to Michele Davis (RGA) re "Party Express Rate" for VID project or bill	3 000 00	copy to Ann Prestidge see exec 10100 (Marcia memo to Gallagher 10/1/88)
	32			9/23/88		Hoste FAX to Bowen 2-pg memo of county lists for VID		
	154*			9/23/88		Shanahan courier "Memo of Terms of Employment" to Marcia w/brief cover letter to review w/Campbell		Mo/Fed @ 20000-10/7"party dated Aug see 10100 Campbell memo "despite several requests never signed" Mo
615				9/23/88		Marcia FAX to Prestidge (2 pgs. w/ref?)		
		65		9/26/88		Campbell ltr to CC (East 3rd re: Letson's objections to appt. of Schramm as Dep. Treas for VSB, seeing transfer w/witnesses or 2nd signer		copies to Hannger Stephens Pierson Story Burns Letson suggest Campbell's original action "overboard and
	229			9/26/88		Schramm ltr to Marcia re CC/VSB accounting requirements, Campbell memo		copy to Shanahan
			200	9/26/88		Yeutter memo w/"40 Days to Victory" Plan rate planning, cites RNC		see also VID/telephone banks manual by RNC @ 30004
		263		10/4/88		VSB letter showing $4,000.00 balance		
611				10/5/88		Hoste FAX to Prestidge (2 pgs. w/ref?)		
	125* 256*			10/5/88		Invoice (for services by whom, for what?) number 1 by NRSC re CC re "contribution/Party Transfer 7810"	6 679 01	
		124		10/6/88		NRC contribution to CC for "party building", appears in state accounts not to support any operations for her office	5 000 00	
			240 430	10/7/88		3 Stephens ltrs to "Contributor"+ unsigned, (1/88), for ($ 500), appl (7%)		copy 30059 270-73, 300-303 for telephone & questions of labels for mailing
	160 114*			10/7/88		Shanahan's memo to Campbell claims VID has "promise by [illegible] are being held for ransom"		
	259*			10/7/88		NRSC contribution to CC	6 679 00	
	259*			10/13/88		NRSC contribution to CC	15 000 00	
612				10/13/88		Marcia 2-pg draft re "Rep. Friends" asking $25,000 goal for VID/GOTV		hand-[illegible] by Prestidge?
			200	10/11/88		Shanahan note to Yeutter re Marcia's 9/1988 VID memo, read "then exc."		
	40			10/11/88		USPS receipt for CC mailing Washington Mail Room	1 471 00	CC Ck. 4868 signed by Marcia @ $1471.01
			550	10/11/88		Stephens' compliments from Interstate Co. giving survey		copy by Arlene Brown (Ohio Co. Chair?)
			320 340	10/12/88		Stewart (CMDI) FAX to Yeutter "Liberal Fed[illegible] Today," listing turnout counts		
	165 79*			10/17/88		Nanotah Mag ltr to "Mr. Bush" enc ck. # 4020 for "non-federal purposes" "good luck in M?"	5 000 00	ref receipt by Joseph Mak, 10/20 memo Prestidge wouldn't give info to Marcia
	163	356		10/17/88		Joseph Mak ck #4020 to CC	5 000 00	20/88 shows Mak's address "soft money"
	230			10/18/88		Shanahan ltr to Campbell re: library/data bank @ CC		VID "Representing Marcia to use in distribution of current VID mail's "
		354		10/19/88		CMDI FedEx re CC "RNC/Staff Phone Listing", bill re-charged on 10/21/88		see this documentation 00540-544
	259*			10/20/88		NRSC contribution to CC	15 000 00	
	107			10/20/88	49	Alb 2 weeks 84 election, Marcia memo Prestidge refused CC "expenditure" to reopen VID file		Marcia then placed order(s) w/Campaign Mail & Data 4 copies
		360		10/20/88		Prestidge cable (CC?) after talking w/Campbell "vote 3 passage checks @ $12,000, $1,000, and $2,616		Cora York handwritten message, refs to Burns Foster Ramberg
		261		10/21/88	10/25/88	(VSB?) letter showing $15,748.48 balance		
		362		10/21/88		Yeo (Burns) FAX to Marcia w/"Friends" ltr, sticker samples		
		229 229		10/24/88		Sample VID list for County 03 (Walbridge) interviews circled, name of caller		
		230		10/24/88		unsigned handwritten VSB budget status sheets $12,000 available		
		349-50		10/24/88		Pat Bush ltr to Schramm w/$4,000 for VSB (Dinsbergs & $5,000 "for state party" (Joseph Mak)	9 000 00	20281 shows $4,000 Dinsberg deposit to VSB $5,000 Mak?
		355		10/24/88		RNC ltr to Campbell with cc CC "reimbursement for PR expenses" not for specific candidate(s)	15 000 00	Schramm note to Campbell "Must go to VSB account" crossed out
	259*	116		10/25/88		NRSC contribution to CC "party transfer #7810"	4 000 00	
	259*			10/25/88		NRSC contribution to CC	15 000 00	
	125* 265			10/25/88		Foster invoice #564, Job 341 re: Reagan GOTV Ltr Prod. sent to CC	10 400 00	w/note from "Ann" to please [illegible] check today
	125* 264			10/25/88		Foster invoice #575, Job 349 re: Gun Control Piece sent to CC	11 200 00	w/note from "Ann" to please [illegible] check today
	125* 263			10/27/88		Foster invoice #574, Job 350 re: Widgnuts Addl quantity sent to CC	4 000 00	w/note from "Ann" to please [illegible] check today
616				10/28/88		Hoste FAX to Prestidge (2 pgs. w/ref?)		
617		375		10/28/88		Hoste memo Prestidge w/reconciliation re "Rep. Friends" of $10,033 "balance"		
	202 65*			10/28/88		Michele Davis (RGA) ltr to Campbell w/note "for compliance" to be reported as RNC	5 000 00	Marcia memo Yeutter said to report it as "not reported" also see 10130 37
		256		10/28/88		Colorado Mail Group invoice # 5822 to VSB for 2 Bush direct mail pieces	17 032 00	$5,000 each of "Best of the West" "Texas MT"
		356-60		10/28/88		CC deposit slips for RNC & Mak etc	20 000 00	deposit to CC, not VSB, apparently
	165			10/31/88		Hoste FedEx receipt to Burns (contains?)	32 110 00	
	259*			10/31/88		NRSC contribution to CC		
	166			11/3/88		Hoste FedEx receipt to Foster (contains?)		
		29*		11/2/88		Marcia wires Oz Allen to collect $200 for 4 "guests" at Quayle's 10/15 GP reception (VSB?)		
620	10 20			11/3/88		Shanahan FAX to Prestidge o/b Burns re "don't ask a question" to ID		copies to Campbell, Schramm (Marcia)
	16	404		11/3/88		USPS permit mailing by CC of 70,684 pieces signed by Marcia	4 169 20	Sunshine vs. Marcia/Dukakis campaign @ 1-2017
623	11 256*	402		11/3/88		Foster invoice #578, Job 355 to CC re: MT Telephone/Burns & Bush	84 151 97	sample @ 20000-007, @ 10206-7 Marcia memo FEC violation
		337 344		11/4/88		VSB deposits $14,000 from CO Rep. Fed. Camp. Comm. & $5,000 from Pat Buchanan (via Eric Jacobi c/o Fred Bush	19 000 00	Schramm ltr "does not 1 goes on a MT Senator" (20341)

REFERENCES TO MERICAN page 3 of 4

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REF N	REF 1	REF 2	REF 3	DATE	THRU	DESCRIPTION	Amount	COMMENT
	129*	372		11/3/00	<>	(FedEx?) Handwritten memo from Leo Varela (NRSC?) to Marzo w/accounting of $ for Foster bills, Victory '00, misc. ck. etc.	19,000.00	
	250*			[illegible]		? NRSC transfer[illegible] to CC (probably same as above/duplicate entry here)	19,000.00	
	22	374		11/6/00		Marzo memo Campbell, Shanahan re "balance due on NRSC commitment"	16,135.00	
			210	[illegible]		Yoshel memo "Winning Team" urging calls to undecided [illegible] (identified on our earlier phone surveys?) to vote		
		320-328		11/6/00		Shanahan memo Marzo re (CC?) [illegible] Hennigan's VSS phone [illegible]		
625				11/6/00		Shanahan FAX to Prestige re "balance due on NRSC commitments" prepared by Marzo	16,135.00	
	169			11/7/00		Noda FedEx receipt to Colorado Media Group [illegible]		
687				[illegible]		NRSC Comptroller (Sommers) ltr to Jon Baron (Burns) re "earmarked contributions" check dated 10/31	50,000.00	
	116*			[illegible]		CC? Ck [illegible] to Campaign Mail & Data for lists	1,040.30	Letterhead, env., phone, pol post prepaid, [illegible]
616	10	271		11/10/00		Noda memo Prestige w/reconciliation re "Sen. Transfer of Funds" w/ $16,135 "balance"		
616				11/16/00		Prestige hand revisions on Noda's 11/10 "reconciliation"		
627				11/16/00		Shanahan FAX to Prestige re "problems need resolving" attch Noda 11/10 reconciliation update		
	250*			[illegible]		NRSC transfer[illegible] to CC	5,000.00	
	220			11/10/00		Marzo memo CC Exec Brd re rumors he's leaving/taking job + [illegible]		
		16 104		11/16/00		CC Meeting: VID "good start ... much remains to be done"; ED search authorized, Marzo transition		
	100			11/16/00		Campbell discusses possible resignation date w/Marzo		
	100			11/21/00		Campbell visits Marzo @ office, provides MOU: 11/20 deadline		
	12	297		11/22/00		Noda ltr to Foster requesting sample printing job estimates		
	63-65	365-369		11/27/00		Prestige phones Noda to wire $ to Foster; Noda informs Marzo, Shanahan	60,533.00	Noda claims Campbell concurred; it was "her [Prestige's] money"
	234	105		11/29/00		Marzo memo Campbell refusing to sign 11/21/00 resignation request		copy to Erdman
	100			11/29/00		Campbell ltr to Marzo terminating him as ED a/o 12/15/00		copies Shanahan, Jack Gail, Iona Brownson
	13	300		12/1/00		Marzo ltr to Foster repeating request for samples/invoices		
	200			12/1/00		Marzo ltr to Noda terminating her employment as of 12/15/00		also promised 2 wks severance pay + vacation time accrued
	60			[illegible]		CC files Post-Election Report to FEC. CPP		see 10/29: $8,000 earmarked for Stephens campaign
	235			12/6/00		Marzo ltr to Shanahan re wrongful discharge; Campbell unjustified; MOU to continue thru 6/30/01		
	169			12/6/00		Marzo memo Shanahan re Year End FEC Report w/items needing completion, clarification		ref to Bush/CC VSS "mass" mlgs, coord. exp, RNSC VID, Burns, F vs. $ sheds
		251		[illegible]		Schoonen FAX to Shanahan w/"est. recap of major transactions" for VSS		Payees include Bush/Burns [illegible] mtg, Renard labels, CO Media Group bulk mail prep
	269*			12/6/00		Marzo, Noda inform Letson they were concerned about legality of contributions, transfers, expenditures, etc.		
	105-6 148*			12/6/00		Letson ltr to Marzo, Noda requesting written list of FEC [illegible]		
	14			12/13/00		Marzo & Campbell sign Ck #1012 to Foster for invoice 2878 [illegible]	3,604.63	Shanahan wouldn't sign? See 10/14 note re "Prestige's [illegible]"
	104 148*			12/12/00		Marzo memo Shanahan re Letson's FEC request: difficult; suggested meeting		copies to Letson, Campbell
	109 148*			12/12/00		Shanahan ltr to Campbell re Marzo, Letson FEC exchange, "put [illegible] up" memo and suggesting "calm, sensible" meeting		copies to Letson, Marzo
	147-149*			12/13/00	<>	or 12/14? mtg w/Marzo, Noda, Shanahan, Letson, Kellout, Campbell re FEC		
	267*			12/12/00	<>	or 12/14 mtg "Marzo claims Letson said 'Can't we minimize the amount?' and Kellout said 'Just alter the report'"		
	230	108		12/14/00		Shanahan memo Marzo re Campbell refusal to sign payroll and vacation checks; wants "release"		copies Letson, Campbell
	237			12/14/00		Marzo memo Shanahan objecting to Campbell's no-check stance and "release" notion		
	240			12/14/00		Noda memo Shanahan disclaiming responsibility, citing no accounting system ("sinking ship")		Marzo's did not confer w/counsel re "release" as per 10/157
	267*			[illegible]		Letson resigns as Treas.; Kellout [illegible] him		
		294		[illegible]		unsigned memo re VSS ck re balance @ $10,323.12		
		107		12/20/00		Marzo news release commending volunteers. Campbell and he have each other's phone numbers, can talk		
		469		12/20/00		Campbell note to Kellout on Marzo claim: "make sure no checks written"	1,201.52	
750				[illegible]		Prestige [illegible] according to "Employee Records Jacket"		
		79*		[illegible]		Notary examines CC computers @ request of [illegible] Christian		
		582		1/5/00		L&C Rep. Warren ltr [illegible] to Campbell w/questions re Marzo termination		
		2*		[illegible]		CC Meeting: Cliff Christian Acting ED, selection of [illegible]		
		2*		[illegible]		CC Meeting: [illegible] "Agreement", nothing in computer, VID overview		
		537		8/11/00		FBS ltr to [illegible] re "no Marzo policy @ Aetna" as per 8/8/00 cancelled check		
	201			4/3/01		Copy of Aetna insurance claim covering James Marzo		
			551	[illegible]		Yoshel ltr to Colburg w/amended C-6 for 6/7/00 to 6/9/00		see exp. 2007 & 2023 also 6/24/00
	163			12/10/02		Marzo ltr to Leo re E. English & NRSC/RGA, Stephens & Parkinson, Payton & VID links		
						UNDATED DOCUMENTATION		
344				date/timing		Prestige note to Foster & Kay re "postage [illegible] in Big P.O. account"	15,412.00	
660				date/timing		unsigned ltr to English (& Allen?) re Burns "thank yous" for checks; Trust mtg, May Jenkins funeral		ref: Ben Cooper @ Pro-PAC, Grace [illegible] Cross, Ron Nelson
	23			date/timing		"1999 Sources of Funds" w/o sign., contrib., VSS committee transfers	435,416.60	Leo says Marzo prepared this
	31			date/timing		standard contribution display options		(but attached to Simms 8/8/00 memo)
	41-48			date/timing		somewhat [illegible] figures, source unknown; basically [illegible]		
	132*			date/timing		CC payments to Tom Hannah, Ken Knudson, Elwood English (Burns) [illegible] by Prestige (NRSC)		
			150	date/timing		("Spring [illegible]") Stephens' VID instructions/target [illegible]		
			410-420	date/timing		printouts "1998 Gen. Election Target [illegible] Precincts"		
		68		date/timing		unsigned description of VID "NRSC is unable, due to FEC, to provide direct $ toward this project"; [illegible] MT GOP goals & objectives		
		152 154		date/timing		"Voter Registration Lists Report" by counties; costs noted	349.93	
		207		date/timing		Lane VID proposal [illegible] notes describe [illegible] for the Senatorial Committee		
		253		date/timing		unsigned "Post VSS" budget notes		
		233		date/timing		10/21/00 FR @ [illegible] Schoonen notes re VSS "unpaid & estimated bills"		

REFERENCES TO MERICAN page 4 of 4

2404358358

SEQ #	REF 1	REF 2	REF 3	DATE	THRU	DESCRIPTION
		887				[redacted]
		976				[redacted]
	998	997 6				[redacted]
	201-48					[redacted]
	100'					[redacted]
	140' 204'					[redacted]

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REF N	REF 1	REF 2	REF 3	DATE	THRU	DESCRIPTION		Amount	COMMENT
			10	8/27/93		NRSC sends Brandon (then CC Chair) Marketing Research Institute survey in MT			
682				2/23/00		Jeff Larson (NRSC) ltr to English re Markey/Williams			ref Tom Mason
			180	2/1/00		Yeakel notes re VID mtg + new list RNC/NRSC earmkt MT GOP maintenance of entire cycle			
452				2/11/00		David Bauer (Burns) ltr to Mike Wien, NRSC, thanking him for sending Geoghegan into MT			
	100*			4/10/00	<>	Marcus called Prestige when "NRSC rule of thumb" couldn't cover Lane expenses, Prestige FedEx ...			
	91*			4/27/00		1st of 4 installments from NRSC to CC for "party finance assistance program." (VID?)		5,000.00	
	211			5/2/00		Lane ltr to Briggs: "NRSC committed seed money" for VID FR, "eliminating any $ burden on Party"			
	91*			6/1/00		2nd of 4 installments from NRSC to CC for "party finance assistance program." (VID?)		6,000.00	
		61		6/1/00		Campbell ltr to Dewhurst (NRSC Chair) ... re "coordinated expenditures" for Burns campaign		45,100.00	
	91*			6/10/00		3rd of 4 installments from NRSC to CC for "party finance assistance program." (VID?)		5,000.00	
	91*			7/10/00		4th of 4 installments from NRSC to CC for "party finance assistance program." (VID?)		4,000.00	
	234*			8/8/00	<>	Marcus claims NRSC "assumed control of all aspects" of VID, began funding with own $			
	230*			8/8/00		NRSC transferred $ to CC		10,000.00	
	230*			9/20/00		NRSC transferred $ to CC		10,000.00	
		70		9/12/00		RNC/NRSC/NRCC/VID guidelines on GOTV allocation, exp. phone banks, ... ballots			
	230*			9/15/00		NRSC transferred $ to CC		10,000.00	
	28			10/7/00		Foster Invoice #607, Job #310 for "Absentee Ballot Mailing" @ $0400 + ... for $1471.01 ... USPS +		6,670.01	Sample @10020-10029 shows FAX to NRSC Pol Div (Prestige?)
	125* 230*			10/7/00		invoice (for services by whom, for what?) reimbursed by NRSC to CC as "contribution/Party Transfer 7810"		6,670.01	
	230*			10/10/00		NRSC transferred $ to CC		6,670.00	
	230*			10/10/00		NRSC transferred $ to CC		15,000.00	
		554		10/10/00		CMDI FedEx to CC "NRSC/MT Phone Listing", last re-shipped on 10/25/00			see Vry documentation 20049-558
	230*			10/20/00		NRSC transferred $ to CC		10,000.00	
	230*	118		10/25/00		NRSC transferred $ to CC "party transfer #7810"		6,000.00	
	230*			10/26/00		NRSC transferred $ to CC		45,000.00	
	230*			11/1/00		NRSC transferred $ to CC		50,110.00	
	230*			11/4/00		? NRSC transferred $ to CC (probably same as above/duplicate entry here)		10,000.00	
687				11/9/00		NRSC Comptroller (...) ltr to Jim Swain (Burns) re "earmarked contributions" check dated 10/31		50,000.00	
686				11/10/00		NRSC invoice to Burns for "Airfare for Fly Around"		297.50	
	230*			11/10/00		NRSC transferred $ to CC		5,000.00	
643				1/8/00		NRSC invoice to Burns for "check processing fees"		78.50	
642				1/10/00		NRSC invoice to Burns for "check processing fees"		84.64	
649				1/26/00		NRSC invoice to Burns for "Direct Mail Expenses"		1,737.40	6647 duplicates?
	140* 234*				date/timing	(after filing 12/6/00 FEC report?) Noida claims to have telecon w/Ginsberg, NRSC counsel, re. ...			

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REF N	REF 1	REF 2	REF 3	DATE	THRU	DESCRIPTION	Amount	COMMENT
750				6/15/87		Prestidge employed by NRSC		
			820	12/3/87		Andrews (after season w/Prestidge @ NRSC) ltr to Yeckel re. pollings svcs		Andrews @ Arthur J. Finkelstein & Assoc. w/GOP clients
	100*			1/10/88		Marca season w/Prestidge re VID 1st of many conversations		Marca depicts nature of calls w/Prestidge @ 10109
		138		1/26/88		Bason (NRSC) memos Marca w/others "to cover MT GOP cts" & "for future". mtg w/ Powell to discuss plan for MT, will send	633.63	copies Campbell, Prestidge
502	109*	139		1/27/88		Bason memos Marca re. estimate VID needs, cited		copies Campbell, Powell, Prestidge, Grata
705				1/27/88		Bason memos Cam Powell [illegible] by MT county, says Marca to send		copy to Ann Prestidge
703				1/30/88		Timothy Butler memo to Tony Payton re. "MT Cross-over Analysis" (Melcher vs. Burns data)		copies to Brookover, Prestidge
503				2/10/88		Campbell mailgrams Prestidge re "impossible" Rudy (Boschwitz) scheduling requests		
504	110*	157		2/16/88		Bason memos Marca re missing VID deadlines. "if problem w/... can get check out in 2 days"		copies to Campbell, Payton, Prestidge, Powell, Grata
793				2/21/88		Prestidge memos Carol Whitney, Payton re. Burns PAC fundraising, Melcher research		ref PhilPAC AIPAC NRA AGC
505	111*	158		3/16/88		Bason memos Marca re: VID status (30 of 50 cos. bds, Big Sky Data work, missed deadlines); see 20184 for list of 28 co's?	534.19	ck enclosed, ref to 91360.02 copies to Campbell, Payton, Prestidge, Powell, Grata
		150		3/24/88		Bason sends Marca ck for Big Sky "deposit," now has 38 co's, what co's are Big Sky?	750.00	copy to Prestidge
681				4/5/88		Prestidge memos English re: his accompanying Burns 4/7/88 for CC contacts, i.d. Melcher ag/88 weaknesses		mention "talk to Carol and John"
	100*			4/10/88	<>	Lane gives Marca proposal; Campbell & Prestidge refused to sign		
	100*			4/10/88	<>	Marca called Prestidge when "NRSC side of ledger" couldn't cover Lane expenses, Prestidge FedEx-ed chk		
708				4/20/88		Prestidge memos Brookover "Lane... starts tomorrow," "we've committed $80,000 for salary," need to send $3,000		copies Lee Vance, Jill Jackson
508		124 141 156		4/29/88		Prestidge memos Marca re: co's "we haven't reimbursed you for" on VID		N508 & N 797 duplicates? 20124 has amounts by each county in handwriting, as does 20141
716				4/29/88		Mason memos Payton & Prestidge re: Burns press, research, fundraising, Jewish $ plan		
717				5/10/88		Prestidge memos Brookover & Payton re: Burns' "hit" at AIPAC, possible natl events, Jewish $		copies to Mason, Wm. Olson, Jill Jackson. N 724-29 dups?
50				6/7/88	6/10/88	Ann Prestidge in Billings		
	91* 102*	214		6/8/88		Lane ltr to Peter Gillard re. VID, proposed Grouse Mtn event July 29-30, NRSC underwriting, etc.; signed "Finance Director"		if Lane reference needed, call "Prestidge or Campbell" proposed agenda @ 20217
734				6/12/88		Prestidge memos "MT Group" re: "Cheney Event Status Report" (ticket selling)		Prestidge offers to "go back," refs mtg w/ Mike Gustafson
510		121		6/15/88		Marca memos Prestidge re VID data acquisition costs (bill)	609.08	plus "Big Sky receipt enclosed as per your request" 20121 strikes out Yellowstone Co. reducing bil
730				6/21/88		Prestidge memos "MT Group" re. AIPAC/Jewish $		ref Barbara Klein, Liz Schrayer
507		155		6/28/88		Prestidge memos Marca re: discrepancies in June 15 VID bill		copies BB (Bob Bason?) in N508 for add'tnl aug'tns cort'ns? 788 dups?
	91* 254*	223		7/11/88		Lane ltr to Prestidge summarizing VID activities, reciting "original plan"		1st page only, others missing?
	85*	76 220		7/11/88		Lane "addendum to report" to Prestidge + "efforts in MT seriously hampered" by sol Marca, some examples		
665				7/12/88		English (Burns) FAX to Prestidge re: Dud Lutton petition for campaign fundraising		
676				7/19/88		Allen ? (Burns) FAX to Prestidge w/"Rudy ltr" response summary & rep. responses		
669				7/21/88		Mark Peterson (Burns) FAX to Prestidge w/Bob Zirnter memo on Congressional salaries under Melcher		
747				8/4/88		Prestidge memo to (several NRSC/MT) re. "MT Phone Bank Draft"		
671				8/21/88		Dean Dykema (Burns) FAX to Prestidge w/Melcher "shadow" commercial scripts		
757				8/26/88		Prestidge FAX to ? Lee, Payton re: 7/88 polling excerpt by Lawrence Research, Santa Ana CA		Ladonna Lee? (see N000746)
			400-1	9/14/88		Yeckel notes re "Phone Results" organization (for Ctrl?), incl. 10/10 or 10/17 "Phone Bank"		Note both Bob Bason (sic) and Prestidge's names. As appear
653				9/19/88		Thomson (Burns) memos Prestidge re. "Friends" campaign plan/ideas		
699				9/22/88		English ltr to Michelle Dave (RGA) re. "Pony Express Ride" for VID project w/ bill	3,200.00	copy to Ann Prestidge, see also 10193 (Marca memo to Gallagher 12/16/88)333
613				9/23/88		Marca FAX to Prestidge (2 pgs. what?)		
			310	9/26/88		Prestidge FAX to Yeckel attch RNC VID printout by co., 3rd phase [illegible] for MT survey & "I've got a deal for you"		
611				10/5/88		Nada FAX to Prestidge (3 pgs. what?)		
314				10/7/88		Foster & Kay FAX to Prestidge 4-pg "MT Candidate ... Mail Plan"		
314				10/7/88		Prestidge copies "Mail Plan" to Brookover & Payton		N316-323 duplicates?
	35			10/7/88		Foster invoice #527 Job #310 for "Absentee Ballot Mailing" @ $8400 + (see 10040) for $1471.01 Sign USPS +	6,879.01	Sample @10036-10039 shows FAX to NRSC Pol Div (Prestidge?)
332				10/9/88		Foster & Kay FAX to Lee, Rehberg, Thomson, Prestidge 8-pg drafts re. "Friend/Drugs/Pro-Life"		
324				10/9/88		Prestidge copies "Friends, etc." to Brookover & McGinnis		
660				10/9/88		"David" (Burns) FAX to Prestidge + cl w/Market Opinion Research "MT '88 Minimum Winning Analysis"		
612				10/10/88		Marca 2-pg draft to "Rep. Friends" asking $38,600 goal for VID/GOTV		hand editing by Prestidge?
338				10/14/88		Foster FAX to Lee, Rehberg, Prestidge "Melcher/Dukakis" draft		
629				10/14/88		Lorhardt (Burns) FAX to Prestidge re: 10/13 "weekly finance report" & county [illegible] list		many cc's
648				10/17/88		"David" (Burns) FAX Prestidge re: draft to Symms on Melcher's wilderness bill		Prestidge hand copies to Brookover, Payton & others?
	163 79*			10/17/88		Hanrahan Mtn ltr to "Mr. Bush" enc. ck. # 4839 for "non-federal purposes," "good luck in MT!"	3,000.00	ref receipt by Joseph Mtn. 10080 claims Prestidge wouldn't give info to Marca
310		380		10/18/88		Foster FAX to Prestidge 4 pg "Special Report to MT Taxpayers"		N330-343 duplicates?
306				10/19/88		Prestidge copies "MT Taxpayers" rpt to Brookover, Payton, Jackson, Vance & Bason		
	107			10/20/88	<>	Abt 2 weeks b4 election, Marca claims Prestidge refused CC "expenditure" to resolve VID [illegible]		Marca then placed order(s) w/Campaign Mail & Data. 4 copies
		380		10/21/88		Prestidge called (CC?) after talking w/Campbell, "write 3 postage checks @ $12,000, $1,000, and $5,816"		Carla Turk handwritten message, refs to Burns, Foster, Rehberg
616				10/28/88		Nada FAX to Prestidge (2 pgs. what?)		
617		375		10/28/88		Nada memos Prestidge w/reconciliation re. "Gen. Transfer of Funds" w/ $16,638 "balance"		
50				11/2/88	11/7/88	Ann Prestidge in Billings		
749				11/2/88		Jeff Wills memos Brookover, Olsen, Mason, Payton, Prestidge w/ [illegible] Research results + Burns win		
620	10 20			11/3/88		Shanahan FAX to Prestidge c/o Burns re. "don't issue directives" to ED		copies to Campbell, Schoenen, Marca
622	8 11 21	400-1		11/4/88		Shanahan FAX to Prestidge re. "explain" Foster invoice #578, Job #338 (Taxpayers/Burns & Bush)		copies to Campbell, Schoenen
625				11/5/88		Shanahan FAX to Prestidge re. "balance due on RNSC commitments" prepared by Marca	16,133.00	
618	18	371		11/16/88		Nada memos Prestidge w/reconciliation re. "Gen. Transfer of Funds" of $15,1[illegible] "balance"		
619				11/16/88		Prestidge hand revisions on Nada's 11/16 "reconciliation"		
627				11/16/88		Shanahan FAX to Prestidge re. "problems need resolving," attch. Nada 11/16 reconciliation update		

REFERENCES TO ANN PRESTIDGE page 2 of 2

94043583601

REF #	REF 1	REF 2	REF 3	DATE	THRU	DESCRIPTION	Amount	COMMENT
	63-65	365 369		11/07/88		Prestidge phones Hoeb to wire $ to Foster; Hoeb informs Moran, Shanahan	40,333.00	Hoeb claims Campbell concurred; it was "her (Prestidge's) money"
311				11/30/88		Prestidge handwritten note "[illegible] paid on the [illegible]"	5,194.81	
	14			12/12/88		Moran & Campbell sign Ck #1013 to Foster for invoice #979 [illegible]	8,001.65	Shanahan wouldn't sign? See 10014 note re "Prestidge's due"
313				12/19/88		Foster FAX to Prestidge invoices #979, 980		
	267*			12/31/88		Shanahan to resign as counsel on this date; in margin [illegible] Prestidge [illegible] Campbell "at private deals" says he "can't be part of th		WS (can't have it) "I'll stay [illegible] to see that she gets what's coming to her."
750				1/9/89		Prestidge resigned, according to "Employee Records Jacket"		
344					date/timing	Prestidge note to Foster & Kay re "Prestidge needs [illegible] P.O. account"	19,412.00	
	132*				date/timing	CC payments to Tom Horvath, Ken Shanahan, [illegible] English (Burns) transferred by Prestidge [illegible]		
		279			date/timing	unsigned "accounting" of "Carry [illegible]" [illegible] several checks [illegible] to Horvath, Shanahan, Foster [illegible] etc.		addressed to "Ann" (Prestidge?)

REFERENCES TO RGA/RSCHELLE DAVIS page 1 of 1

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REF N	REF 1	REF 2	REF 3	DATE	THRU	DESCRIPTION		AMOUNT	COMMENT
			010	2/20/87		Covell ltr to Yoshel offering research/polling [illegible] of AM Viewpoint			American Viewpoint has RNC, RGA, RNCC, RNSC [illegible] as clients
			2	7/22/88		Lawrence Research reports results of "The Study" in [illegible] for RGA			see also 30881 and 30884
			654 657	8/24/88		RNC/RGA ck # 6707 to Stephens (not reported until [illegible])		6,000.00	
			3	8/9/88		Lawrence Research Report/results of "[illegible] Survey of [illegible] Voters" for RGA			see also 30881 and 30884
			400-1	8/14/88		Yoshel notes re. "Phone Results", organization [illegible] "Phone Bank"			Note [illegible] Bob [illegible] and [illegible] names [illegible]
688				8/22/88		English ltr to Michelle Davis (RGA) re. "[illegible] Survey [illegible]" for VIO [illegible]		3,000.00	copy to Ann [illegible], see also 10183 (Marcus memo to Gallagher [illegible])
	202 83*			10/28/88		Michelle Davis (RGA) ltr to Campbell [illegible] "in [illegible]" to be reported as RNC		6,000.00	Marcus claims Yoshel said to report $ as "earmarked", also see 10138-37
	180			12/19/89		Marcus ltr to Leo re. E. English & RNSC/RGA, Stephens & [illegible], Forbes & VIO bills			

REFERENCES TO WARD SHANAHAN page 1 of 1

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FILE #	REF 1	REF 2	REF 3	DATE	THRU	DESCRIPTION	Amount	COMMENT
			560	8/1/87	<>	BBER poll show large undecided % re potential gubernatorial candidates		BBER=Bureau of Business and Economic Research @ UNM New
			573	11/10/87		R private unpaid: Stephens @ 21% Winslow @ 29% Wallace @ 18%, yet Stephens highest confidence @ 50%		poll sponsored by Lee [illegible], conducted by Economic Consultants Northwest (Dick Dodge)
			620	12/2/87		Andreas (officer [illegible] w/Prestidge @ RNSC) ltr to Yeakel re polling cost		Andreas @ Arthur J. Finkelstein & Assoc w/GOP clients
	77*			3/1/88	<>	Marco claims telecons w/Shanahan re Lane's corporate fundraising re VID		
			480-81	3/?/88		Colburg opinion to Yeakel re Goodman ltr supporting Winslow (anonymity, disclaimer [illegible] etc.)		
			720	3/23/88		Arbuthnot ltr to Yeakel w/memo & instructions for field interviews		
			762	4/?/88		Newspaper articles w/results of Pub Op Polling Winslow survey		
	100*			4/10/88	<>	Initially Lane gave $ checks to Marco & Campbell and ED signed cks. Marco Fed travel, so eliminated from process		Shanahan told Marco to comply w/Campbell's instructions re. Lane/travel/payments
		108 113		4/?/88		Campbell newsletter claims "VID a reality." lists from all counties collected c/o mid-May, being compiled to master computer tape, asking $		
610		121		4/15/88		Marco memo Prestidge re VID data acquisition costs (bill?)	809.00	plus "Big Sky receipt enclosed as per your request" 20121 strikes out Yellowstone Co. reducing bill to [illegible]
	151*	11		6/2/88		CC Meeting: dissatisfaction w/Marco. VID "moving along w/ RNSC assist"		Marco says not invited to CC. Shanahan advised him not to attend
	209			8/20/88		Letson ltr to Campbell re proposed Schoenen appt places CC "in jeopardy", cites good campaign laws		copies to many party officials
	194*			8/22/88		Shanahan couriers "Memo of Terms of Employment" to Marco w/brief cover letter to review w/Campbell		MoTofE @ 20009-102?, fully dated Aug. see 10196 Campbell claims "despite several requests never ag[illegible]
	206			8/26/88		Schoenen ltr to Marco re CC/VSS accounting responsibilities, Campbell [illegible]		copy to Shanahan
	190			8/29/88		Shanahan becomes State Chair Victory '88, see his 10/6 "Situation Report"		
	39			9/?/88		Foster invoice #327 Job #316 for "Absentee Ballot Mailing" @ $[illegible] - (see 10040 for $1471.01 [illegible] USPS)	6,879.01	Sample @10008-10039 [illegible] FAX to NRSC Pol Div (Prestidge?)
	160			10/6/88		Shanahan memo Campbell re VSS Situation Report		copies Tillie Pierce, Shirley Marvin c/o Chuck Heringer, Marie Teigen
	160 114*			10/6/88		Shanahan's memo to Campbell claims VID tape "promised by [RNSC] are being held for ransom"		
	161			10/6/88		Shanahan's memo to Campbell also claims nat'l HQ going to make 60,000 calls to MT soon, conflict w/local phone banks?		
	163	336		10/?/88		Joseph Mish ck #4839 to CC	5,000.00	20356 [illegible] Mish's address "self-employed"
	230			10/16/88		Shanahan ltr to Campbell re Gray/data bank @ CC		WB: "Requesting Marco to use [illegible] in distribution of current VID mat'ls."
		388		10/?/88		Foster invoice #344, Job 329 to CC for 30,000 "Yellowstone Piece"	3,393.00	
		349-50		10/?/88		Fred Bush ltr to Schoenen w/$4,000 for VSS (Ginsberg) & $5,000 "for state party" (Joseph Mish)	6,000.00	20301 [illegible] $4,000 Ginsberg deposit to VSS $5,000 Mish?
620	10 20			11/2/88		Shanahan FAX to Prestidge c/o Burns re "don't issue directives" to ED		copies to Campbell, Schoenen, Marco
	232			11/?/88		Shanahan memo all local chairs re return of VID lists for CC database		
622	8, 11 21	400-1		11/4/88		Shanahan FAX to Prestidge re "explain" Foster invoice #373, Job #330 (Tabloid/Burns & Bush)		copies to Campbell, Schoenen
	22	374		11/4/88		Marco memo Campbell, Shanahan re "balance due on RNSC commitment"	16,133.00	
		320-328		11/4/88		Shanahan memo Marco re (CC?) reimbursing Heringer's VSS phone [illegible]		
625				11/5/88		Shanahan FAX to Prestidge re "balance due on RNSC commitment" prepared by Marco	16,133.00	
	121* 203			11/8/88		Shanahan "internal" memo re Org of MT Rep Party critical of nat'l committees & state org		
627				11/16/88		Shanahan FAX to Prestidge re "problems need resolving" attch Nada 11/15 reconciliation update		
	63-65	365 369		11/27/88		Prestidge phones Nada to wire $ to Foster. Nada informs Marco, Shanahan	60,033.00	Nada claims Campbell concurred it was "her (Prestidge's) money"
	168			11/29/88		Campbell ltr to Marco terminating him as ED c/o 12/1/88		copies Shanahan, Jack Galt, Iona Brownson
	233			12/6/88		Marco ltr to Shanahan re wrongful discharge, Campbell unjustified. MOU to continue thru 6/30/89		
	166			12/8/88		Marco mailbox Shanahan re Year End FEC Report w/items needing completion, clarification		ref to Bush/Q VSS "mass" mtgs coord exp. RNSC VID Burns F vs $ check
		251		12/8/88		Schoenen FAX to Shanahan w/"brief recap of major [illegible]" for VSS		Payees include Bush/Burns ads, mtg. Rennard labels CO Media Group bulk mail prep
	14			12/12/88		Marco & Campbell sign Ck #1013 to Foster for Invoice #373 ([illegible])	9,604.63	Shanahan wouldn't sign? See 10014 note re "Prestidge's idea"
	184 146*			12/12/88		Marco memo Shanahan re Letson's FEC request, difficult, suggests meeting		copies to Letson, Campbell
	166 140*			12/12/88		Shanahan ltr to Campbell re Marco, Letson FEC discharge, [illegible] and suggesting "same [illegible]" meeting		copies to Letson, Marco
	147-1 19*			12/13/88	<>	re 12/14? mtg w/Marco, Nada, Shanahan, Letson, [illegible], Campbell re FEC		
	236	108		12/14/88		Shanahan memo Marco re Campbell refusal to sign payroll and [illegible] checks, wants "release"		copies Letson, Campbell
	237			12/14/88		Marco memo Shanahan objecting to Campbell's no-check stance and "release" notion		
	240			12/14/88		Nada memo Shanahan disclaiming responsibility, citing no accounting system (sinking ship)		Marco's did not confer w/counsel re "release" as per 10157
		107		12/20/88		Marco [illegible] release commending volunteers. Campbell and he have each other's phone numbers, can ta[illegible]		
	287*			12/31/88		Shanahan to resign as counsel c/o this date. in resign ltr states Prestidge accuses Campbell "of private deals" says he "can't be part of th[illegible]"		WB (don't have it): "I'll stay ... to see that she gets what's coming to her."

REFERENCES TO STEPHENS-KOLSTAD (YEAKEL) page 1 of 1

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REF n	REF 1	REF 2	REF 3	DATE	THRU	DESCRIPTION	Amount	COMMENT
			610	2/20/87		Covel ltr to Yeckel offering research/polling svcs of AM Viewpoint		American Viewpoint has RNC, RGA, NRCC, NRSC, etc. as clients
			679	11/15/87		all private report: Stephens @ 21%, Winslow @ 33%, Vaillancourt @ 40%, yet Stephens highest confidence @ 53%		poll sponsored by Lee newspapers, conducted by Economic Consultants Northwest (Dick Dodge)
			890	12/3/87		Andrews letter after discuss w/Prestidge @ NRSC ltr to Yeckel re polling svcs		Andrews @ Arthur J. Finkelstein & Assoc. w/GOP clients
			460-81	1/10/88		Stephens campaign CFP Bingo listing Benson as Pres, Yeckel as dep. treas.		
	87*			2/1/88		Meeting re VID w/Peyton, Chuck Brown, Yeckel, English, Campbell and Marco		
			160	2/1/88		Yeckel notes re: VID mtg + now for RNC-NRSC commit MT GOP maintenance (4 cycles)		
			161	2/1/88		Yeckel notes re: VID ... by RNC/MT GOP ... to Corey, March start @ ...		
			770	2/1/88	<>	Marketing Research Institute survey instrument for Stephens; 3/88 poll re: date completed?		see Yeckel's notes re: same as 30010-11
			460-83	3/8/88		Colburg opinion to Yeckel re: Goodman ltr registering Winslow (promptly, disclaimer, ... etc.)		
			690	3/8/88		Marketing Research Institute invoice 8070 to Stephens for Arbuthnot March 6-7 travel	677.25	
			600	3/14/88		Stephens ltr to Yeckel re: outdoor signs, BR Arbuthnot poll		
			720	3/23/88		Arbuthnot ltr to Yeckel w/ans & instructions for field interviews		
			600	3/29/88	3/31/88	Stephens survey transmittals		
			650	3/31/88		Marketing Research Institute invoice for "Stephens Study"	710.00	
			600	3/31/88		Stephens for Governor survey questionnaire		conducted? results?
			740	4/6/88		Stephens campaign releases rebuttal to Pub. Co. Polling/Winslow survey results		
			680	4/20/88		Marketing Research Institute invoice 8074/5 to Stephens for consulting	1,200.00	
			710	4/20/88		Marketing Research Institute invoice 8181 to Stephens for "Phone #s from Survey Sampling Inc."	700.00	
			1	4/20/88		R.A. Howard & Assoc Reports/results of "Market Survey" for Stephens		
			9	5/1/88	<>	Marketing Research Institute "Confidential Report for (Stephens) based on sampling 300 voters in 4/88		
			600	5/9/88		Arbuthnot ltr to Yeckel w/"tracking survey" proposal & memo		Arbuthnot w/Marketing Research Institute
			160	6/6/88		Lane ("Finance Director") ltr to Stephens asking $17,000 for VID; "every Rep. cand. will benefit from this info."		
			170	6/15/88	<>	(5 months before gen'l) Lane drafts VID $ solicitation for Stephens' sig, not approved. Also, VID = Project '88		
			4	6/16/88		Macro Information research proposal to Stephens and 1/88 data re Judge		
			580	8/9/88		Helena Tribune local poll showed Judge @ 40%, Stephens @ 21%		
			554 557	8/24/88		RNC/RGA ck # 6707 to Stephens (not reported until 7/25/91)	6,000.00	
			510	8/29/88		Sample Stephens contribution ledger w/photocopies of checks attached		
			400-1	9/14/88		Yeckel notes re "Phone Results" organization (for Corf?), est. 10/10 or 10/17 "Phone Bank"		Note: both Bob Benson [sic] and Prestidge's names to appear
	18	69	202 280	9/19/88		Polling instrument attch to Marco memo re poll prot. Stephens/Judge, income level		Note: "Stevens", see 30013 for results? Phase 8
		65		9/23/88		Campbell ltr to CC Exec Brd re: Larson's objections to appt. of Benjamin as Dep. Treas for VSB, seeking transfer w/Dickerson as 2nd signer		copies to Harweger, Stephens, Racicot, Blan, Burns. Larson suggested Campbell's original action "unethical and
			280	9/26/88		Yeckel memo w/"40 Days to Victory" Plan re: phoning, mail, etc.		see also VID/telephone banks manual by RNC @ 30008
			210	9/28/88		Prestidge FAX to Yeckel attch RNC VID printout by co.; 2nd phase is for MT survey & "I've got a deal for you!"		
			5	10/3/88		"MT Survey Number 1" - results from Stephens campaign		
			6	10/3/88		"MT Survey Tally/State Totals" - results from Stephens campaign		
			260	10/6/88		Yeckel memo re "Key Info for Final Assault"		
			240 430	10/7/88		3 Stephens ltrs to "Concerned Voter" - undecid. (153), for (2,000), agst (70)		see 30230, 270-72, 300-303 for locations & quantities of labels for mailing
			321	10/10/88		Yeckel ltr to Milo w/first order to CMDI, "official vendor of the MT VID data base," for MTG01-MTG07		see 30300 for brochure on CMDI services
			200	10/11/88		Stephens note to Yeckel re Marco's 9/19/88 VID memo: read, "thanks"		
			550	10/12/88		Stephens' script/results from Missoula Co. phone survey		signed by Arlene Braun [Mis Co. Chair?]
	29			10/13/88		Stephens/Kolstad GOTV phone/address list sample		
			330 340	10/13/88		Stewart (CMDI) FAX to Yeckel: "Labels FedExed today," listing format ...		
			330	10/13/88		Stephens GOTV Sample Precinct Printout w/names, phones, addrs, etc.		
			260	10/15/88		Yeckel "work chart" re: mail newsletter, undecided/GOTV calls in 17 counties		
			530	10/16/88		Howard memo: Yeckel w/results from Stephens vs. Judge phone survey		
	202 63*			10/20/88		Michelle Davis (RGA) ltr to Campbell w/contr. "for candidates" to be reported as RNC	8,000.00	Marco claims Yeckel said to report $ as "earmarked", also see 10128-37
			230	10/20/88		Yeckel ltr to Simms w/3rd order to CMDI for MTG07-MTG09	1,288.51	
			540	10/21/88		Howard memo Yeckel again, w/later results from Stephens vs. Judge phone survey		
			210	11/4/88		Yeckel memo "Winning Team" urging calls to undecideds (county lists/identified on our earlier phone surveys?) to vote		
			220	11/8/88		Campaign Mail & Data invoices Stephens @ Job #01742 for "Labels & Listing, MTG07-8"	1,288.51	
		283		11/15/88		Stephens "thank you" to VSB for $500 contribution		
	56			12/6/88		CC files Post-Election Report to FEC, CPP		see 10/20 $8,000 earmarked for Stephens campaign
			631	7/23/91		Yeckel ltr to Colburg w/amended C-6 for 6/23/88 to 8/9/88		see app. 3002 & 3003, also 8/24/88
			680	8/20/91		Yeckel ltr to Colburg inquiring about delay in investigation		
	183			12/16/92		Marco ltr to Lee re: E. English & RNSC/RGA, Stephens & Ferguson, Peyton & VID links		
			150			date?/timing (? Spring '88?) Butler JW's drafts Stephens' VID instructions/script sound		
			380			date?/timing "1988 Phone Bank Results" from Billings re: Stephens, Burns, Marlenee, Racicot		
			440			date?/timing Yeckel MT map by zip codes		
			450 460			date?/timing Yeckel MT map w/top 17 counties		
			470			date?/timing Stephens campaign phone script		
			500			date?/timing Yeckel instructions for handling Stephens campaign mail		

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REF #	REF 1	REF 2	REF 3	DATE	THRU	DESCRIPTION	Amount	COMMENT
660				10/9/93		"David" (Burns) FAX to Prestidge + all w/signed Opinion Research "MT '93 Minimum Winning Analysis"		
			221	10/10/93		Yossef ltr to Mills w/first order to CMDI: "official vendor of '93 MT VID data base" for MT GOP?		est 30000 for brochure on CMDI services
612				10/10/93		Moore 3-pg draft to "Rep. Friends" asking $30 000 goal for VID/GOTV		hand editing by Prestidge?
			200	10/11/93		Stephens note to Yossef re. Moroso's 6/15/93 VID memo, read, "from ties."		
648				10/17/93		"David" (Burns) FAX Prestidge re. draft to Symms on Malcolm's w/[illegible] 93		Prestidge hand copies to Brockover, Payton & others?
	230			10/16/93		Shanahan ltr to Campbell re. [illegible] bank @ CC		WS "Requesting Moroso to use ... on distribution of current VID mat'ls."
		206-7		10/18/93		Sample VID list for County 13 (Vaughn, Ft. Shaw)		
	107			10/20/93	<>	Abt 2 weeks b4 election, Moroso claims Prestidge refused CC "expenditure" to receive VID list		Moroso then placed order(s) w/Campaign Mail & Data, 4 copies
		224-5		10/24/93		Sample VID list for County 111 (Billings?) w/personal notes from calls made		
		228-229		10/24/93		Sample VID list for County 93 (Whitefish) w/[illegible] & name of caller		
		116		10/24/93		VSS contribution to CC to "pay for VID," campaign [illegible] voter ID	1,300.00	
		127 332		11/1/93		CMDI invoices CC for "MT Phone Listing" (for VID?)	1,442.39	job had to be done over, see Sty 20540-536
	232			11/6/93		Shanahan memos all local offices re. return of VID lists to CC database		
		125		11/10/93		CC ck to CMDI for "VID"	1,442.39	
		16 104		11/10/93		CC Meeting: VID "good start ... much remains to be done", ED search authorized, Moroso transition		
	166			11/21/93		Campbell visits Moroso @ office, provides [illegible] 11/93 deadline		
	169			12/6/93		Moroso memos Shanahan re. Year End FEC Report w/[illegible] reporting completion, clarification		ref to BuchID, VSS "mass" mtgs coord. grp. RNSC VID. Burns. F vs. B sheds
		27		8/11/93		CC Meeting: ED "Agreement", nothing in computer, VID overview		
		33		11/8/93		CC Meeting: Irby thanks Burns, Ramirez, Rehberg for "donor file" (VID?)		
		38		1/12/93		CC Meeting: Irby asks VID move to RNC policy re. Hannibal list charges		
		44		4/22/93		CC Meeting: Irby re. "allocation," Rich Hill re. VID		
	183			12/10/93		Moroso ltr to Lee re. E. English & RNSC/RSA, Stephens & Fenderson, Payton & VID links		
			150		date/timing	(?Spring '93) after JW's death Stephens' VID memo/draft/script saved		
		58			date/timing	unsigned description of VID, "RNSC is unable, due to FEC, to provide direct $ toward the project", attchmt: MT GOP goals & objectives		
		207			date/timing	Lane VID proposal: "... raise desired monies for the Senatorial Committee ..."		
		218			date/timing	(8/93?-7/93) Porter ltr to Lane w/budget estimate, disappointment re: existing speaker for VID FR		
		270			date/timing	unsigned "accounting" of "Carey $$$" (VID?): several deposits, ck #s to Hanrath, Knudsen, Foster transfers, etc.		addressed to "Ann" (Prestidge?)
	222	207-8			date/timing	unsigned "Challenge '93 VID FR Program" (list first w/Lane resume, etc.)		
	194*				date/timing	Hostel function in Great Falls: Carey Lane involved		

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REF N	REF 1	REF 2	REF 3	DATE	THRU	DESCRIPTION
		194		8/31/88		Campbell ltr to Lane w/ck #883 as balance on expenses less advance of $2,500; won't pay Rainbow @ $237 since complimentary @ Quality Inn
						SEPTEMBER
		73		9/1/88		Neida ltr to Schaenen re RNC bill for postage for direct mail; also 9/30 deadline for bills re: FEC filing
7				9/5/88	9/9/88	Rodney Smith in Billings
34				9/7/88	9/9/88	Tim McGinnis in Billings
	30	67		9/8/88		John Simms memos Merica w/"data processing price list"
			3	9/9/88		Lawrence Research Report--results of "Telephone Survey of [MT] Voters" for RGA
		70		9/12/88		RNC/NRSC/NRCC/V'88 guidelines on GOTV allocation, esp. phone banks, sample/absentee ballots
			400-1	9/14/88		Yeakel notes re: "Phone Results;" organization (for Oct?), incl. 10/10 or 10/17 "Phone Bank"
	259*			9/15/88		NRSC transferred $ to CC
	28	66	201,370	9/15/88		Merica memo re: VID nearing completion, attch: vendor quote, data display, survey
	18	68	202, 390	9/15/88		Polling instrument attch to Merica memo re: pol. pref, Stephens/Judge, income level
	224			9/16/88		Campbell memos CC Exec. Comm. re: app't of Schaenen as Dep. Treas of V'88 (a MT VID and mailing campaign for Bush-Quayle)
653				9/19/88		Thomson (Burns) memos Prestidge re: "Friends" campaign plan/ska
		172*		9/19/88		Lane ltr to Campbell w/bills rec'pts, says $503.32 balance due
	226			9/20/90		Letson ltr to Campbell re: proposed Schaenen appt. places CC "in jeopardy"; cites good campaign laws
614				9/20/88		Incomplete draft to "MT Repubs" asking $45,000 for VID/GOTV
		246-48		9/20/88		Schaenen sends Merica proposed V'88 operating budget @ $15,400
654				9/22/88		Draft Burns' "Friends Steering Comm" letter w/questionnaire
699				9/22/88		English ltr to Michelle Davis (RGA) re: "Pony Express Ride" for VID project w/ bill
	32			9/22/88		Neida FAX to Bissen 2-pg status of county lists for VID
	154*			9/22/88		Shanahan couriers "Memo of Terms of Employment" to Merica w/brief cover letter to review w/Campbell
615				9/23/88		Merica FAX to Prestidge (2 pgs, what?)
		65		9/23/88		Campbell ltr to CC Exec Brd re: Letson's objections to appt. of Schaenen as Dep. Treas for V'88; acc'ting transfer w/Schaenen as 2nd signer
7				9/25/88	9/29/88	Rodney Smith in Billings
	228			9/26/88		Schaenen ltr to Merica re CC/V'88 accounting responsibilities; Campbell attests
	190			9/28/88		Shanahan becomes State Chair, Victory '88; see his 10/8 "Situation Report"
			280	9/29/88		Yeakel memo w/"40 Days to Victory" Plan refs phoning, mtg sked
			310	9/29/88		Prestidge FAX to Yeakel attch RNC VID printout by co.; 2nd phase #s for MT survey & "I've got a deal for you!"
						OCTOBER
			5	10/3/88		"MT Survey Number 1"= results from Stephens campaign
			6	10/3/88		"MT Survey Tally/State Totals" = results from Stephens campaign
		263		10/3/88	10/16/88	V'88 ledger showing $4,922.56 balance
		193		10/4/88		Campbell ltr to Lane saying CC overpaid him by $177.68
611				10/5/88		Neida FAX to Prestidge (3 pgs, what?)
			290	10/6/88		Yeakel memo re: "Key Info for Final Assault"
314				10/7/88		Foster & Key FAX to Prestidge 4-pg "MT Candidate. . .Mail Plan"
314				10/7/88		Prestidge copies "Mail Plan" to Brookover & Payton
	35			10/7/88		Foster invoice #527, Job #318 for "Absentee Ballot Mailing" @ $5408 + (see 10040) for $1471.01 Bigs USPS =

ACTORS AND ACRONYMS by FIRST name a/o 2/21/92 page 1 of 5

FIRST or CONTACT	LAST	SOURCE
Alan	Robertson	
Alan Robertson	Moore Information	30004
Allan	Lenhardt	N000679
Allen	Kolstad	
Andrea	Bennett	20095
Ann	Prestidge	N750, N324
Arlene	Breum	30550
Barbara	Campbell	
Barbara	Klein	N000717
BBER	Bureau of Business and Economic Research -	30580
Ben	Cooper	NOOO793
Ben	Ginsberg	N17-18, 20070
Ben	Kay	N000318
Ben Cooper	PrintPAC	NOOO793
Bill	Decision/Making/Information	30600
Bob	Bissen	N00306
Bob	Howard	30530, 540, 660
Bob	Ziemer	N000669
BR	Arbuthnot	
BR Arbuthnot	Market Research Institute	30630
Cam	Powell	20139
Carla	Turk	20399
Carol	Whitney	NOOO793
CFA	Campaign Finance Area in NRSC -	NOOO793
Charles J.	Heringer, Jr.	20015
Charles/Chip	Erdman	10234
Christy	Hutchins	10052
Chuck	Brook	10087
Cliff	Christian	20012
CMDI	Campaign Mail & Data, Inc. -	
CMDI	Campaign Mail & Data, Inc. -	
Conrad	Burns	
Corey	Lane	20074
CPP	Commissioner of Political Practices -	
Craig	Berman	N00004
Craig	Wilson	
Craig Wilson & Joe Floyd	Public Opinion Polling	30730

9404358360Z

FIRST or CONTACT	LAST	SOURCE
Darold	Bauer	N000652, 20002
Dave	Schaenen	20065
David	Schaenen	20073
David	Sommers	NOOO687
David	Stewart	30330
David		N000664
Dean	Dykema	N000671
Dennis	Rehberg	N000332
Dick	Dodge	
Dina	Beaumont	N000001
Don	Kraft	N000031
Don	Nickles	N00048
Dud	Lutton	N000665
Dwight	MacKay	20007
E. Mark	Braden	20070
ECN; Dick Dodge	Economic Consultants Northwest =	30575
Ed	Allen	20257
Eddie	Mahe	N000734
Edward	Brookover	N000799
Edward or Ed	Brookover	N000730
Elwood	English	10087
Eric	Javits	20341
FR	Fundraiser/Fundraising =	
Fred	Bush	20349
Fred	Sullivan	20339
Gary	Orser	
Gary Lawrence	Lawrence Research	30003
Gary Orser	Big Sky Data Systems	20129
GOTV	Get-Out-the-Vote =	
Gracie	Barker-Cross	NOOO680
Greg	Rayl	20137
Guy	Vander Jagt	20062
Helen	Kellicut	20002+
Ione	Brownson	20009
IR	Independent Record =	
Jack	Galt	20004
Jacque	Irby	20021

9 4 0 4 3 5 8 3 6 0 8

FIRST or CONTACT	LAST	SOURCE
James	Foster & Associates	20397
Jan	Baran	20070
Jann L.	Olsten	20139
Jaye	Andrews	
Jaye C. Andrews	Arthur J. Finkelstein & Assoc.	30620
Jeanne	Ansberry	30291
Jeff	Larroca	N000662
Jill	Jackson	N000306+
Jim	Covell	
Jim	Swain	NOOO667
Jim Covell	American Viewpoint, Inc.	30610
Joe	Briggs	20011+
Joe	Floyd	
John	Brendan	30310
John	Grotta	20041
John	Larson	20041
John	Nehring	20079
John	Simms	30230
John Simms	Campaign Mail & Data, Inc.	30220 & 231
Joseph	Misk	20366
JW	Jim Waltermire =	
JW	Jim Waltermire =	
Ken	Knudsen	10132*
Ladonna	Lee	N000734
Larry	Akey	N000714
LCC	Legislative Campaign Committee =	20012
Lee	Vance	N000306+
Liz	Schrayer	NOOO730
Liz	Schrayer	N000730
Liz Schrayer	AIPAC	NOOO730
Marc	Racicot	
Margaret	Mankin	N000794
Marge	Sierra	30291
Mark	Peterson	N000670
Marty	Gubbels	30291
Mary Lee	Geoghegan	N000021-23
Michelle	Davis	10202

9 4 0 4 3 5 8 3 6 0 9

FIRST or CONTACT	LAST	SOURCE
Mike	Gustafson	N000738
Mike	Letson	10228
Mike	Winn	NOOO793
Mona	Tiegen	100190
Nasrallah	Misk	100165
Neida	Merica	
NRCC	National Republican Congressional Committee =	20070
NRSC	National Republican Senatorial Committee =	20139
Phil	Reberger	N000060
Porter	Gifford	20214
RGA; Michelle Davis	Republican Governors Assn =	
Richard D.	Holcomb	20070
Rick	Hill	20044
Rick	Nelson	N000038-46
RNC	Republican National Committee =	20070
Rodney	Smith	N00007-8
Rodney Smith	Fundraising and Financial Management	N00007-8
Roger	Benson	30480
Ron	Marlenee	
Rudy (Sen.)	Boschwitz	20061
Sharon	Estrada	10052
Shirley	Herrin	10190 & 20562
Steve	Yeakel	30231
Terry	Merica	
Tillie	Pierce	100190
Timothy	McGinnis	N0034, N324
Timothy P.	Butler	N000703
Tina	Thomson	N000653
Tom	Hannah	10132*
Tom	Mason	NOOO719
Tony	Payton	N000730
Tony	Payton	N000730
V'88	Victory '88 =	
VID	Voter Information Project =	
w/Gary Lawrence Research?	Willis	N000749
Wanda	Diversified Computing	20135
Ward	Shanahan	

9 4 0 4 3 5 8 3 6 1 0

ACTORS AND ACRONYMS by FIRST name a/o 2/21/92 page 5 of 5

FIRST or CONTACT	LAST	SOURCE
WS	Ward Shanahan -	
	AGC	NOOO793
	Colorado Media Group	20289
	Colorado Republican Campaign Comm.	20344
	Eddie Mahe & Assoc.	N000730
	Garin-Hart Strategic Research Group	30590
	GRC Cook Political Report	30520
	Heringer Energy Resources Co.	30362
	MT Group -	N000734
	NFIB	NOOO793
	NRA	NOOO793
	Rexnord Political Services Group	20251
	Sheehan	N000717
	Tony Payton & Associates	N000084

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Participants (listed 1st mention only) from CC minutes
(all 20001 → 20059)

1/9/88 MT GOP State Central Committee
- Mike Letson - Treas.
- Jean Birch - Nat'l Committeewoman ← 3/1/89 1st Exd of Rep. Women
- Harold Bauer (ND); & Blgp, Finance Dir. ← had worked on '80 Reimer campaign — for Burns Exploratory Comm
- Bob Correa, Bzm, representing SoS Jim Waltermire
- Helen Kellicut - Asst Treas.
- Barbara Campbell
- Terry Minica
- Jack Moore
- Riley Johnson
- Bob Marks, Speaker of the House
- Jack Galt re: Tim Babcock, Bruce Vorhauer
- George Roskie — Pachyderm Club Nat'l Dir.
- Joyce Sandquist, Bzm.
- Francis Mennix
- Andrea Bennett
- Rep. Marian Hanson
- Ed Argenbright
- Howard Ellis
- Elwood English, Secretary ref: Mark[sic] Racicot
4/30/88 - Dwight MacKay, new VP.
- Sue Aleksich - Akey
- Ward Shanahan
- Steve Yaked
- ref. re: Tony Payton speech @ Bzm. campaign school
- " " Bruce Simon, Chuck Brooks
- Allison Letson (Teen-Age Republican?)
- Corey Lane
- Ione Brownson

8/2/88
- Joe Briggs
- Jo Kurz
- Ben Hainline
- Jon Flanagan } Helena "guests"
- Stuart Doggett } - representing Bennett, at first

CC FOLKS

9404361

Fred Thomas
LCC = Legislative Campaign Committee
Cliff Christian, hired for LCC

9/26/88
Helen McCardle
Rep. Larry Grinde
ref re: Norm Waller
ref re: Wally Mercer
ref re: Pete Story campaign
ref re: Nat'l chair Frank Fahrenkopf visit to MT
Chuck Herringer, MT Bush/Quayle chair (see 1/20/89: "all: geo problem")
ref re: MT visit by "Denny" [Quayle]
ref re: Neida Merica

11/14/88
Diane Ekhart
Joyce Sandquist
ref. re: Lee Atwater as new RNC chair
ref. re: several old/new legislators, leadership posts

1/20/89
Becky Erickson, Glasgow, new Reg'l Rep
Reg Jack Ramirez
Eileen Story, new Exec. Sec
Cliff Christian, new Exec Dir.
new Sen Conrad Burns
Rep. Rehberg
Rep. Giacometto
Larry Anderson (rep Gov on E.D. Search Committee)
Jacque Irby (rep Cong. Marlenee by 1/13/90)
Brad Johnson
Jeanne Austin, RNC vicechair
Maureen Reagan, former RNC vicechair
John Brendan

3/11/89
Sonja Marchwick
Hope Nelson, Alaska, MFRW (MT Fed of Rep Women)
Ken Noland, Marlenee's Bldg ofc.
Natalie ?
Dick Cheney (WHO Long → Defense)

9404 5836 1

John Nehring re: computer analysts
John Bandy, Hannibal (computer software) president
Sen Dan Nickle, OK, new chair of Sen. Comm. (RNSC?
6/1/89 Ken Jones, Rules chairman
Pat Goodover. — (became Vice Chair by 1/13/90)
Dave Maclay } introduced as "special guests" only
James Moe }
10/9/89 Rep. Susan Good
Shirley Warehime, new Treas.
Rich Hill > among others appt to "financial plan" for '90 committee
Joe Briggs
Dr. Dave Colitney (again in 4/22/90) ? Δ
1/13/90 Rep. Clyde Smith, new Reg'l Director O
PSC Wally Mercer Δ
Gov. Stan Stephens
Barbara Ford, new MFRW president ω
ref: Ernie Dalton, Blgs, > re: Pachyderm Clubs 5
" : Ted Dale, Butte 8
ref: John Kinna, Gov's office re: appts.
Sen Gene Thayer, new LCC chair ω
ref: Bill Reilley visit (EPA dir → March [illegible]
Jeff Larson > RNC, NRSC re: voter IDs
John Grotta
Pete Jacobson of Odell, Roper & Assoc. ?
Tim Ryan re: Reilley fundraiser
4/22/90 Carie Boster, "new computer maven" @ hdqtrs.
Randy Roth, Marlenee campaign manager
ref: Steve Birch re: establishing Pachyderm Clubs
ref: Harry Farrington, Flathead Co. GOP chair
ref: Arlene Morgan, Havre
ref: Allen Kolstad
ref: Treas. Sec. Nicholas Brady
ref: Chip Erdmann, legal counsel
ref: John Mercer

ref: Susan Cheverria, Pat Korten } re: Min. Opportunity Workshop Tolerton/Weststar coords.

7/19/90

Mark Pankuch, new hdqtrs Finance Dir.
Chris Jungharo, " " Communications Dir.
Rep. Randy Vogel, Mgr.
Jeff Larson, Rep. Nat'l Committee
ref: Hockaday? Tom, NRSC
(attendance list w/ titles attached to minutes)

9/28/90

Bruce Borhauer, new Victory '90 comm. chair
ref: Charlie Black as official GOP spokesperson
ref: Pete Dunbar (endorsement w/ Bancroft)
ref: Bob Rowe, Mona Tiegen re: State Packwaukee Fed
ref: Kelly Andrews "hired as liaison w/ leg. races" GOP
ref: Jane Meyer, GF legislative candidate
ref: Cal Winslow

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REF N	REF 1	REF 2	REF 3	DATE	THRU	DESCRIPTION
						JULY
		886		7/1/88		Sample "payment" by tag. card. for VID in reply to Lane solicitation
		111		7/7/88	7/9/88	State GOP Convention in Great Falls
	91*, 254*	223		7/11/88		Lane ltr to Prestidge summarizing VID activities, reciting "original plan"
	95*	76,220		7/11/88		Lane "addendum to rept" to Prestidge = "efforts in MT seriously hampered" by ED Merica; some examples
665				7/12/88		English (Burns) FAX to Prestidge re: Dud Lutton bid/plan for campaign fundraising
		122		7/14/88		Merica ltr to Oraer (Big Sky Data) re: payment of $750, why add'l invoice (when $ less co's & tapes provided from 11 co's)?
	150*			7/15/88	<>	or mid-July, Campbell advises Merica of complains about his performance; suggests resignation
	91*			7/18/88		4th of 4 installments from NRSC to CC for "party finance assistance program," [VID?]
676				7/19/88		Allen ? (Burns) FAX to Prestidge w/"Rudy ltr" response summary & neg. responses
669				7/21/88		Mark Peterson (Burns) FAX to Prestidge w/Bob Ziemer memo on Congressional salaries under Melcher
			2	7/23/88		Lawrence Research report= results of "The Study" in MT for RGA
		98*,540		7/23/88		Merica files for bankruptcy on his personal business, doesn't inform CC brd re: negative publicity
	151*			7/26/88		Merica memos CC Board re: criticism as ED, asks for feedback
		95		7/29/88		Bennett ltr to Merica expressing dissatisfaction w/his performance as ED
7						AUGUST
	151*	11		8/1/88	8/2/88	Rodney Smith in Billings
	152*			8/2/88		CC Meeting: dissatisfaction w/Merica; VID "moving along w/ RNSC assist"
	152*			8/2/88		After CC mtg, Jack Moore briefs Merica; Campbell, Briggs inform Merica of committee re: ED
		96		8/2/88		Resume of Christy Hutchins of Bige appears (for ED?) w/ Sharon Estrada 7/30/88 recommendation
1				8/2/88	<>	Bennett memos Campbell re: convention problems, ED "mismanagement"
747				8/3/88	8/4/88	Don Kraft in Billings
		74*		8/4/88		Prestidge memo to (several RNSC/MT) re: "MT Phone Script Draft"
	254*			8/6/88		Lane telcon w/Campbell re: "understanding" not to harm MT CC; Lane's work concluded then?
	259*			8/8/88	<>	Merica claims NRBC "assumed control of all aspects" of VID, began funding w/its own $
				8/9/88		NRSC transferred $ to CC
			560	8/9/88		Helena Tidbits local poll showed Judge @ 48%, Stephens @ 31%
			520-23	8/11/88		CRC Cook Political Report says MT gov's race a "toss up"; no gen'l elect. polls out at this stage
			190	8/12/88		Merica memos statewide campaigns, others re: 8/19 status meeting; VID on agenda
		245,318		8/12/88	9/8/88	V'88 Acct. # 36869 (Charles J. Heringer Jr. Acct.Assn?)
		74		8/15/88		Lane ltr to Campbell re: "balance due," tele $ to follow; Merica's "quest to destroy me."
		62-63		8/16/88		Vander Jagt ltr to Campbell re: coordinated party expenditures in district 2 (Marienee?)
	27			8/16/88		Campaign Status Meeting in Helena at Jorgenson's
671				8/21/88		Dean Dykema (Burns) FAX to Prestidge w/Melcher "shadow" commercial script/release
			854, 857	8/24/88		RNC/RGA ck # 8767 to Stephens (not reported until 7/23/91)
		362		8/25/88		Heringer writes FEC that CC filing "misrepresented" his role, loan; asked for amendment
		13		8/26/88		CC Meeting: Office Guidelines; "not much known" re: VID
737				8/26/88		Prestidge FAX to ?, Lee, Peyton re: 7/23 polling script by Lawrence Research, Santa Ana CA
			510	8/29/88		Sample Stephens contribution ledger w/photocopies of checks attached
	259*			8/30/88		NRSC transferred $ to CC

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9 4 0 4 3 5 8 3 6 1 7

Amount	COMMENT
	H@ $160, S@ $320; response form @ 10221
	1st page only; others missing?
4,000.00	
	see also 30851 and 30854
	11/8-15/88 FedEx's to mortgage company billed to CC? see 20541-2
	Merica says not invited to CC, Shanahan advised him not to attend
	Merica's also claim (@ 10156) talk w/Bob Marks, Jack Galt re: employment situation
10,000.00	
3,396.31	
23,050.00	no Campbell response/request in same file
8,000.00	
	copy to Merica; V'88 or CC related?
	Ladonna Lee? (see N000746)
10,000.00	

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Amount	COMMENT
3,159.01	
	see also 30851 and 30854
	Note: both Bob Beeson [sic] and Prestidge's names, #s appear
10,000.00	
	Note: "Stevens"; see 30313 for results> Phase 2
	copies to many party officials
3,200.00	copy to Ann Prestidge; see also 10193 (Merica memo to Gallagher 12/18/88)333
	MoToE @ 20099-102?why dated Aug; see 10198: Campbell claims "despite several requests, never signed"; Merica says in 10155 Campbell "rarely"
	copies to Heringer, Stephens, Racicot, Story, Burns; Letson suggested Campbell's original action "unethical and potentially illegal
	copy to Shanahan
	see also VID/telephone banks manual by RNC @ 30008
	20165-20170 bills relate to Campbell's 10/4/88 ltr
	N319-323 duplicates?
6,879.01	Sample @10036-10039; shows FAX to NRSC Pol. Div. (Prestidge?)

REF N	REF 1	REF 2	REF 3	DATE	THRU	DESCRIPTION
	125*, 258*			10/7/88		Invoice (for services by whom, for what?) reimbursed by NRSC to CC as "contribution/Party Transfer 7810"
		124		10/7/88		NRC contributes to CC for "party building," deposit in state account, not fed; support any candidate for fed office
			240, 430	10/7/88		3 Stephens ltrs to "Concerned Voter"= undecid. (16k), for (2,500), agri (7k).
	190			10/8/88		Shanahan memos Campbell re: V'88 Situation Report
	190, 114*			10/8/88		Shanahan's memo to Campbell claims VID lists "promised by [RNSC] are being held for ransom."
	191			10/8/88		Shanahan's memo to Campbell also claims nat'l HQ going to make 65,000 calls to MT soon; conflict w/local phone banks?
332				10/9/88		Foster & Key FAX to Lee, Rehberg, Thomson, Prestidge 8-pg drafts re: "Friend/Drugs/RI-to-Life"
324				10/9/88		Prestidge copies "Friends, etc." to Brookover & McGinnis
660				10/9/88		"David" (Burns) FAX to Prestidge + all w/Market Opinion Research "MT '88 Minimum Winning Analysis"
	259*			10/10/88		NRSC transferred $ to CC
	259*			10/10/88		NRSC transferred $ to CC
			321	10/10/88		Yeakel ltr to Mills w/first order to CMDI, "official vendor of '88 MT VID data base," for MTG01-MTG07.
312				10/10/88		Moore 2-pg draft to "Rep. Friends" asking $39,000 goal for VID/GOTV
			200	10/11/88		Stephens note to Yeakel re: Merica's 9/16/88 VID memo: read, "then toss."
	40			10/11/88		USPS receipt for CC mailing Voter/Absentee Mail pieces
4				10/12/88	11/4/88	Craig Berman in Billings
			550	10/12/88		Stephens' script/results from Missoula Co. phone survey
	26			10/13/88		Stephens/Kolstad GOTV phone/address list sample
			330, 340	10/13/88		Stewart (CMDI) FAX to Yeakel= "Labels FedExed today," listing format att'd
			350	10/13/88		Stephens GOTV Sample Precinct Printout w/names, phones, addrs, etc.
		242-4, 262		10/13/88		Budget/accounting for V'88 Bail
338				10/14/88		Foster FAX to Lee, Rehberg, Prestidge "Melcher/Dukakis" draft
629				10/14/88		Lenhardt (Burns) FAX to Prestidge re: 10/13 "weekly finance report" & county info/contributor lists
			260	10/15/88		Yeakel "w0rk chart" re: mail now/later, undec/GOTV calls in 17 counties
648				10/17/88		"David" (Burns) FAX Prestidge re: draft to Symms on Melcher's wilderness bill
	165, 79*			10/17/88		Nasrallah Misk ltr to "Mr. Bush" enc. ck. # 4826 for "non-federal purposes," "good luck in MT!"
	163	356		10/17/88		Joseph Misk ck #4826 to CC
10		393		10/18/88		Foster FAX to Prestidge 4 pg "Special Report to MT Taxpayers"
306				10/18/88		Prestidge copies "MT Taxpayers" rpt to Brookover, Payton, Jackson, Vance & Bissen
			530	10/18/88		Howard memos Yeakel w/results from Stephens vs. Judge phone survey
		258-60		10/18/88	10/19/88	Bush/Q nat'l/reg'l staff ltrs to CC re: V'88 sublease, printer rental (discrepancy re: who pays)
	230			10/18/88		Shanahan ltr to Campbell re: library/data bank @ CC
		554		10/19/88		CMDI FedEx to CC "NRSC/MT Phone Listing"; lost; re-shipped on 10/25/88
		226-7		10/19/88		Sample VID list for County 13 (Vaughn, Ft. Shaw)
	259*			10/20/88		NRSC transferred $ to CC
	107			10/20/88	<>	Abt 2 weeks B4 election, Merica claims Prestidge refused CC "expenditure" to receive VID list
		399		10/21/88		Prestidge called (CC?) after talking w/Campbell: "write 3 postage checks @ $12,000, $1,930, and $2,616.
		261		10/21/88	11/9/88	(V'88?) ledger showing $13,748.46 balance
		392		10/21/88		Tina (Burns) FAX to Merica w/"Friends" ltr, sticker samples
		378		10/22/88		Foster invoice #547, Job 341 to CC for "Friends GOTV Piece"
		379		10/22/88		Foster invoice #537, Job 322 to CC for 20,000 "Hannah Letter"

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Amount	COMMENT
6,879.01	
5,000.00	
	see 30250, 270-72, 300-303 for locations & quantities of labels for mailing
	copies Tillie Pierce, Shirley Herrin; info: Chuck Herringer, Mons Tiegen
6,879.00	
15,000.00	
	see 30360 for brochure on CMDI services
	hand editing by Prestidge?
1,471.00	CC Ck. #888 signed by Merica @ $1471.01
	signed by Arlene Breum [Msla Co. Chair?]
	Net @ $14,942.61, gross @ $24,963 = cost @ $10,020.39
	many cc's
	Prestidge hand copies to Brookover, Payton & others?
5,000.00	ref: receipt by Joseph Misk; 10060 claims Prestidge wouldn't give info to Merica
5,000.00	20356 shows Misk's address, "self-employed"
	N339-343 duplicates?
	WS: "Requesting Merica to use. . .in distribution of current VID mat'ls."
	see Irby documentation 20548-558
16,000.00	
	Merica then placed order(s) w/Campaign Mail & Data; 4 copies
	Carla Turk handwritten message; refs to Burns, Foster, Rehberg
2,498.00	
2,288.00	

REF N	REF 1	REF 2	REF 3	DATE	THRU	DESCRIPTION
		380		10/22/88		Foster invoice #538, Job 335 to CC for 45,000 "Drugs Piece"
		381		10/22/88		Foster invoice #539, Job 336 to CC for 45,000 "Taxes Piece"
		382		10/22/88		Foster invoice #540, Job 337 to CC for 84,000 "JM/Duke Piece"
		383		10/22/88		Foster invoice #541, Job 338 to CC for 90,000 ""Wild/Jobs Piece"
		384		10/22/88		Foster invoice #542, Job 328 to CC for 102,000 "Pro Burns Piece"
		385		10/22/88		Foster invoice #543, Job 339 to CC for 15,000 ""Defense Piece"
		386		10/22/88		Foster invoice #544, Job 329 to CC for 32,000 "Yellowstone Piece"
		387		10/22/88		Foster invoice #545, Job 323 to CC for 25,000 "Friends Bumpersticker & Postcards"
		388		10/22/88		Foster invoice #546, Job 340 to CC for 17,000 "Friends Coffee Package"
	163	357		10/24/88		NRC ck #10799 to CC; "transfer out"
		224-5		10/24/88		Sample VID list for County 111 (Billings?) w/personal notes from calls made
		228-229		10/24/88		Sample VID list for County 93 (Walkerville) w/answers circled & name of caller
		250		10/24/88		unsigned/handwritten V'88 budget status sheet= $19,000 available
		349-50		10/24/88		Fred Bush ltr to Schaenen w/$4,000 for V'88 (Ginsberg) & $5,000 "for state party" (Joseph Misk)
		355		10/24/88		RNC ltr to Campbell w/ck. to CC "reimbursement for FR expenses" not for specific candidate(s)
		118		10/24/88		V'88 contributes to CC to "pay for VID," campaign data voter I.D.
	259*	118		10/25/88		NRSC transferred $ to CC "party transfer #7810"
	259*			10/26/88		NRSC transferred $ to CC
21				10/26/88		Mary Lee Geoghegan in Billings
48				10/27/88		Sen Don Nickles in Billings
	126*, 285			10/27/88		Foster invoice #564, Job 341 re: Reagan GOTV Ltr Prod. sent to CC
	126*, 284			10/27/88		Foster invoice #575, Job 349 re: Gun Control Piece sent to CC
	126*, 283			10/27/88		Foster invoice #574, Job 348 re: Wilderness. . .Add'l quantity sent to CC
616				10/28/88		Neida FAX to Prestidge (2 pgs, what?)
617		375		10/28/88		Neida memos Prestidge w/reconciliation re: "Sen. Transfer of Funds" w/ $10,932 "balance"
	202, 85*			10/28/88		Michelle Davis (RGA) ltr to Campbell w/contr. "for candidates" to be reported as RNC
			230	10/28/88		Yeskel ltr to Simms w/2nd order to CMDI for MTGO7-MTG09
		286		10/28/88		Colorado Media Group invoice # 5822 to V'88 for 2 Bush direct mail pieces
		358-60		10/28/88		CC deposit slips for RNC & Misk cks
	188			10/31/88		Neida FedEx receipt to Burns (contents?)
			540	10/31/88		Howard memos Yeskel, again, w/later results from Stephens vs. Judge phone survey
						NOVEMBER
		127,553		11/1/88		CMDI invoices CC for "MT Phone Listing" (for VID?)
	259*			11/1/88		NRSC transferred $ to CC
	188			11/2/88		Neida FedEx receipt to Foster (contents?)
50				11/2/88	11/7/88	Ann Prestidge in Billings
749				11/2/88		Jeff Willis memos Brookover, Olsten, Mason, Payton, Prestidge w/Lawrence Research results = Burns win
		257		11/2/88		Merica writes Ed Allen to collect $200 for 4 "guests" at Quayle's 10/12 GF reception (V'88?)
312	14			11/3/88		Foster invoice #576 to CC for add'l printing on 10 mail pieces
520	10, 20			11/3/88		Shanahan FAX to Prestidge c/o Burns re: "don't issue directives" to ED

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Amount	COMMENT
5,713.00	
5,658.00	
6,508.00	
6,218.00	
10,772.00	
2,678.00	
5,293.00	
4,948.00	sample @ 20389-
3,003.00	total for above 11 Foster invoices is $55,577.
15,000.00	
9,000.00	20351 shows $4,000 Ginsberg deposit to V'88; $5,000 Misk?
15,000.00	Schaenan note to Campbell: "Must go to V'88 account"; crossed out
1,500.00	
4,956.00	
49,000.00	
16,483.00	w/note from "Ann" to please Fed Ex check today
11,385.00	w/note from "Ann" to please Fed Ex check today
4,925.00	w/note from "Ann" to please Fed Ex check today
8,000.00	Merica claims Yeakel said to report $ as "earmarked"; also see 10136-37
1,288.31	
17,832.02	85,000 each of "Best of the West," "Taxes-MT"
20,000.00	deposited to CC, not V'88, apparently
1,442.39	job had to be done twice; see Irby 20548-558
32,110.00	
9,604.85	
	copies to Campbell, Schaenen, Merica

REF N	REF 1	REF 2	REF 3	DATE	THRU	DESCRIPTION
	15	403		11/3/88		USPS permit mailing by CC of 16,348 pieces
	16	404		11/3/88		USPS permit mailing by CC of 79,084 pieces, signed by Merica
623	11, 256*	402		11/3/88		Foster invoice #578, Job 355 to CC re: MT Tabloid/Burns & Bush
		337-344		11/3/88		V'88 deposits $14,000 from CO Rep. Fed. Camp. Comm. & $5,000 from Fred Sullivan (via Eric Javits via Fred Bush)
	128*	372		11/3/88	<>	(FedEx?) Handwritten memo from Lee Vance (RNSC?) to Merica w/accounting of $ for Foster bills, Victory '88, misc.; ck. enc.
	259*			11/4/88		? NRSC transferred $ to CC (probably same as above/duplicate entry here)
	232			11/4/88		Shanahan memos all local chairs re: return of VID lists for CC databank
622	9, 11, 21	400-1		11/4/88		Shanahan FAX to Prestidge re: "explain" Foster invoice #578, Job #355 (Tabloid/Burns & Bush)
	22	374		11/4/88		Merica memos Campbell, Shanahan re: "balance due on RNSC commitments"
			210	11/4/88		Yeakel memos "Winning Team" urging calls to undecideds (county lists/"identified on our earlier phone surveys") to vote
		320-328		11/4/88		Shanahan memos Merica re: (CC?) reimbursing Heringer's V'88 phone deposit
25				11/5/88		Shanahan FAX to Prestidge re: "balance due on RNSC commitments" prepared by Merica
			220	11/5/88		Campaign Mail & Data Invoices Stephens @ Job #C1742 for "Labels & Listing, MTGO7-9"
	188			11/7/88		Neida FedEx receipt to Colorado Media Group (contents?)
	121*, 203			11/8/88		Shanahan "internal" memo re: Org of MT Rep Party critical of nat'l committees & state org.
687				11/9/88		NRSC Comptroller (Sommers) ltr to Jim Swain (Burns) re: "earmarked contributions" check dated 10/21
644				11/10/88		NRSC invoice to Burns for "Airfare for Fly Around"
		126		11/10/88		CC ck to CMDI for "VID"
	116*			11/15/88		CC? Ck dated to Campaign Mail & Data for lists
		285		11/15/88		Stephens "thank you" to V'88 for $500 contribution
618	19	371		11/16/88		Neida memos Prestidge w/reconciliation re: "Sen. Transfer of Funds" w/ $18,155 "balance"
619				11/16/88		Prestidge hand revisions on Neida's 11/16 "reconciliation"
627				11/16/88		Shanahan FAX to Prestidge re: "problems need resolving," attch: Neida 11/16 reconciliation update
	259*			11/15/88		NRSC transferred $ to CC
	233			11/18/88		Merica memos CC Exec Brd re: rumors he's leaving/taking job = No
		16,104		11/19/88		CC Meeting: VID "good start. . .much remains to be done"; ED search authorized, Merica transition
	198			11/19/88		Campbell discusses possible resignation date w/Merica
	198			11/21/88		Campbell visits Merica @ office, provides MOU; 11/25 deadline
60				11/22/88	11/23/88	Phil Reberger in Billings
	12	397		11/22/88		Neida ltr to Foster requesting sample printing job w/invoices
	83-85	365-369		11/27/88		Prestidge phones Neida to wire $ to Foster; Neida informs Merica, Shanahan
	234	105		11/29/88		Merica memos Campbell refusing to sign 11/21/88 resignation request
	198			11/29/88		Campbell ltr to Merica terminating him as ED a/o 12/15/88
311				11/30/88		Foster invoice #592 to Burns Committee for 115,000 tabloids
311				11/30/88		Prestidge handwritten note: "+postage St. Party paid on this. . ."
						DECEMBER
	13	398		12/1/88		Merica ltr to Foster repeating request for samples/invoices
	200			12/1/88		Merica ltr to Neida terminating her employment as of 12/15/88
	86			12/6/88		CC files Post-Election Report to FEC, CPP
	235			12/6/88		Merica ltr to Shanahan re: wrongful discharge. Campbell unjustified: MOU to continue thru 6/30/89

REF N	REF 1	REF 2	REF 3	DATE	THRU	DESCRIPTION
	168			12/6/88		Merica memos Shanahan re: Year End FEC Report w/items needing completion, clarification
		251		12/8/88		Schaenen FAX to Shanahan w/"est. recap of major income/exp" for V'88
	265*			12/8/88		Merica, Neida inform Letson they were concerned about legality of contributions, transfers, expenditures, etc.
	185-6, 145*			12/9/88		Letson ltr to Merica, Neida requesting written list of FEC incorrect entries
	14			12/12/88		Merica & Campbell sign Ck #1013 to Foster for invoice #578 (add'l pieces)
	184, 146*			12/12/88		Merica memos Shanahan re: Letson's FEC request; difficult, suggested meeting
	166,146*			12/12/88		Shanahan ltr to Campbell re: Merica, Letson FEC exchange, "put up/shut up" scene and suggesting "sane, sensible" meeting
	147-149*			12/13/88	<>	or 12/14? mtg w/Merica, Neida, Shanahan, Letson, Kellicut, Campbell re: FEC
	267*			12/13/88	<>	or 12/14 mtg, Merica claims Letson said: "Can't we minimize the amount?" and Kellicut said: "Just alter the report"
	236	106		12/14/88		Shanahan memos Merica re: Campbell refusal to sign payroll and vacation checks; wants "release"
	237			12/14/88		Merica memos Shanahan objecting to Campbell's no-check stance and "release" notion
	240			12/14/88		Neida memos Shanahan disclaiming responsibility, citing no accounting system ("sinking ship")
	267*			12/15/88	<>	Letson resigns as Treas., Kellicut succeeds him
		264		12/15/88		unsigned notes re: V'88 ck #s, balance @ $15,523.12
313				12/19/88		Foster FAX to Prestidge invoices #578, 592
312				12/19/88		Handwritten note: Foster invoice #578 paid (by whom?)
		107		12/20/88		Merica news release commending volunteers; Campbell and he have each other's phone numbers, can talk
		469		12/29/88		Campbell note to Kellicut on Merica claim: "make sure no checks written"
	267*			12/31/88		Shanahan to resign as counsel a/o this date; in res'gtn ltr: states Prestidge accuses Campbell "of private deals," says he "can't be part of this."
						1989+
643				1/5/89		NRSC invoice to Burns for "check processing fees"
750				1/6/89		Prestidge resigned, according to "Employee Records Jacket"
		79*		1/6/89		Nehring examines CC computers @ request of ED Christian
		562		1/9/89		L&C Rep. Women ltr (Herrin) to Campbell w/concerns re: Merica termination
642				1/10/89		NRSC invoice to Burns for "check processing fees"
		560		1/21/89		Kellicut recommends to CC Campbell bookkeeping controls after analysis
45				1/26/89		NRSC invoice to Burns for "Direct Mail Expenses"
		21		1/28/89		CC Meeting: Cliff Christian Acting ED; selection of Irby as ED;
		564		2/1/89	<>	CC "Bookkeeping Guidelines" outlines 4 bank accounts, etc.
		79		3/6/89		Nehring ltr to Irby re: CC computer virus and contents = none
		27		3/11/89		CC Meeting: ED "Agreement", nothing in computer, VID overview
		33		6/1/89		CC Meeting: "something in computer"
		537		8/11/89		FBS ltr to Irby re: "no Merica policy @ Aetna" as per 5/26/88 cancelled check
		35		11/9/89		CC Meeting: Irby thanks Burns, Ramirez, Rehberg for "donor file"; (VID?)
		36		1/13/90		CC Meeting: Irby asks VID move to RNC; policy re: Hannibal list charges
		44		4/22/90		CC Meeting: Irby re: "allocables." Rick Hill re: VID
		52		7/19/90		CC Meeting:
		55		9/28/90		CC Meeting: RNSC "exercising extra caution"

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Amount	COMMENT
1,004.42	
4,190.39	Burns/Bush vs. Melcher/Dukakis sample @ 10017
24,151.97	sample @ 20406-408?; @ 10256-7, Merica claims FEC violation
19,000.00	Sullivan's ltr: "hope that it gets us a MT Senator" (20341)
19,000.00	
19,000.00	
	copies to Campbell, Schaenen
18,133.08	
18,133.00	
1,288.31	
50,000.00	
267.50	
1,442.39	
1,442.39	Lists=name, adrs, phone, pol pref, precinct, S/H dist.
5,200.00	--
60,533.00	Neida claims Campbell concurred, it was "her [Prestidge's] money"
	copy to Erdman
	copies Shanahan, Jack Galt, Ione Brownson
14,632.12	
5,194.81	
	also promised 2 wks severance pay + vacation time accrued
	see 10/28: $8,000 earmarked for Stephens campaign

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Amount	COMMENT
	see esp. 3002 & 3003; also, 8/24/88
15,412.00	
	ref: Ben Cooper @ Print-PAC, Gracia Barker-Cross, Rick Nelson
430,416.66	Leo says Merica prepared this
	(but attached to Simms 9/8/88 memo)
345.93	
	--
5,000.00	why attached in V'88 file to photocopy of Misk ck?
	addressed to "Ann" (Prestidge?)

9404358 36127
FEDERAL ELECTION COMMISSION

REF N	REF 1	REF 2	REF 3	DATE	THRU	DESCRIPTION
NRSC	MERICA	MRP/CC	S-K (Y)			
						NOTES: <> in "THRU" column indicates date to the left is only approximate
						* by code numbers indicate reference only, no actual document
			10	9/27/83		NRSC sends Brenden (then CC Chair) Marketing Research Institute survey in MT
			7	11/1/86	<>1/1/87	Decision/Making/Information report = ". . .Merged post-election data on the mountain states" for RNC
			610	2/20/87		Covell ltr to Yeakel offering research/polling svcs of AM Viewpoint
)				6/15/87		Prestidge employed by RNSC
			580	9/1/87	<>	BBER poll shows large undecided % re: potential gubernatorial candidates
			573	11/15/87		IR article w/poll: Stephens @ 21%, Winslow @ 23%, Waltermire @ 56%; yet Stephens highest confidence @
			590	11/19/87		Garin-Hart reports results of Gov preference poll to Mike Greeley
63				12/3/87	11/30/88	Tony Payton Travel in Montana (242 pgs of claims)
			620	12/3/87		Andrews (after telecon w/Prestidge @ RNSC) ltr to Yeakel re: pollings svcs
		137		12/15/87		ED Gregory Rayl ltr to co's requesting voter registration lists (VID?)
		136		12/15/87	<>	CC list by co. of req't, rec'd, cost, type of system (VID?)
	244*			12/15/87	<>	Merica claims Campbell hired him as ED then (but see 1/9/88)
						1988
						JANUARY
			11	1/1/88	<>	Moore Information report = "MT Voter Survey" for Waltermire
		2		1/9/88		CC Meeting: Merica approved as ED
	109*			1/10/88		Merica telecon w/Prestidge re: VID, 1st of many conversations
			480-81	1/18/88		Stephens campaign CPP filings listing Benson as treas, Yeakel as dep. treas.
				1/20/88	1/21/88	Ben Ginsberg in Billings
51				1/25/88		RNSC "party transfers" begin, requests/receipts thru 11/15/88 (N791)
		138		1/26/88		Bissen (RNSC) memos Merica w/check "to cover MT GOP cks" & "for future"; mtg w/ Powell to discuss pla
592	109*	139		1/27/88		Bissen memos Merica re: overview VID needs, sked
795				1/27/88		Bissen memos Cam Powell w/paper or tape lists by MT county; says Merica to send
703				1/30/88		Timothy Butler memo to Tony Payton re: "MT Cross-tabs Analysis" (Melcher vs. Burns data)
21				1/31/88	2/3/88	Mary Lee Geoghegan in Billings, Helena
38				1/31/88	2/5/88	Rick Nelson in Billings, Helena
						FEBRUARY
	250*			2/1/88		Neida Merica hired as Administrative Secretary
1	25			2/4/88		UPS receipt for CC mailing MT Voter Registration Lists
		115-117		2/5/88	2/8/88	Sample CC request/processing of county voter lists (Daniels); VID?
593				2/10/88		Campbell mailgrams Prestidge re: "impossible" Rudy (Boschwitz) scheduling requests
		119		2/12/88		Big Sky Data Systems estimate for CC for (VID?) "programming plus data conversion for 10 hrs @ $75

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Amount	COMMENT
	American Viewpoint has RNC, RGA, RNCC, RNSC, etc. as clients
	BBER=Bureau of Business and Economic Research @ UM, Msla
	poll sponsored by Lee newspapers, conducted by Economic Consultants Northwest (Dick Dodge)
	Allocable to Burns campaign as per 10265?
	Andrews @ Arthur J. Finkelstein & Assoc. w/GOP clients
	Merica depicts nature of calls w/Prestidge @ 10109
853.83	copies Campbell, Prestidge
	copies Campbell, Powell, Prestidge, Grotta
	copy to Ann Prestidge
	copies to Brookover, Prestidge
17.43	CC Ck. #631
800.00	

REF N	REF 1	REF 2	REF 3	DATE	THRU	DESCRIPTION
		129		2/12/88		Orser (Big Sky Data Systems) ltr to Merica w/custom software estimate, will accept order only prepaid; VID?
594	110*	157		2/16/88		Bissen memos Merica re: missing VID deadlines; "if problem w/$. . .can get check out in 2 days"
793				2/21/88		Prestidge memos Carol Whitney, Payton re: Burns PAC fundraising, Melcher research
		135		2/22/88		Merica ltr to co's requesting lists on diskette as per vendor, Diversified, and ?ing $; for VID?
682				2/23/88		Jeff Larroca (NRSC) ltr to English re: Melcher/Phillipines
		145-151		2/23/88	3/31/88	Copies of invoices to/checks for co.s for VID lists
						MARCH
	77*			3/1/88	<>	Merica claims telecons w/Shanahan ?ing Lane's corporate fundraising re: VID
	87*			3/1/88		Meeting re: VID w/Payton, Chuck Brook, Yeakel, English, Campbell and Merica
	88-89*			3/1/88		Merica claims @ VID meeting that day, Cliff Christian recommended Corey Lane to Payton for fundrais
			160	3/1/88		Yeakel notes re: VID mtg = new list RNC-NRSC owned; MT GOP maintenance (6 mnths cycle)
			161	3/1/88		Yeakel notes re: VID mtg=ownership by RNC/MT GOP; ref to Corey; March plan @ Fulltime FR
			730	3/1/88	<>	Public Opinion Polling released Cal Winslow Nov.& March survey results
			770	3/1/88	<>	Marketing Research Institute survey instrument for Stephens; 3/29 call re: calls completed?
38				3/4/88		Rick Nelson in Billings
21				3/7/88	3/11/88	Mary Lee Geoghegan in Billings
			490-93	3/8/88		Colburg opinion to Yeakel re: Goodman ltr supporting Winslow (anonymity, disclaimer laws, etc.)
			680	3/8/88		Marketing Research Institute invoice 8078 to Stephens for Arbuthnot March 4-7 travel
652				3/11/88		Darold Bauer (Burns) ltr to Mike Winn, NRSC, thanking him for sending Geoghegan into MT
			830	3/14/88		Stephens ltr to Yeakel re: outdoor signs, BR Arbuthnot, poll
1				3/16/88		Dina Beaumont in Billings
595	111*	158		3/18/88		Bissen memos Merica re: VID status (26 of 56 co's, bills, Big Sky Data work, missed deadlines); see 20154 f
			720	3/23/88		Arbuthnot ltr to Yeakel w/enc & instructions for field interviews
		159		3/24/88		Bissen sends Merica ck for Big Sky "deposit," now has 36 co's, what co's are Big Sky?
			820	3/28/88	3/31/88	Stephens survey training/calls
			650	3/31/88		Marketing Research Institute invoice for "Stephens Study"
			800	3/31/88		Stephens for Governor survey questionnaire
						APRIL
		82		4/1/88	<>	2-pg listing VID status by county
716				4/4/88		Payton memos Jann Olsten w/"preliminary MT plan outline" (lists, mail, GOTV); state vs. "our" $
		145		4/4/88		(really 3/4/88?--see 20146 or 3/16/88)Merica signs request to Missoula Co. for computer tape (VID)
681				4/5/88		Prestidge memos English re: his accompanying Burns 4?/20 for DC contacts, i.d. Melcher ag/SS weaknesses
			740	4/8/88		Stephens campaign releases rebuttal to Pub. Op. Polling/Winslow survey results
			762	4/8/88		Newspaper articles w/results of Pub. Op. Polling Winslow survey
		223*		4/19/88		Lane arrives in Helena; same day CC asked to assist w/Bush event in Bigs
	100*			4/19/88	<>	Lane gives Merica proposal; Campbell & Prestidge refused to sign
	100*			4/19/88	<>	Merica called Prestidge when "NRSC side of ledger" couldn't cover Lane expenses; Prestidge FedEx-ed cks
	100*			4/19/88	<>	Initially, Lane gave $ claims to Merica & Campbell and ED signed cks; Merica ?ed travel, so eliminated from p
			640	4/20/88		Marketing Research Institute invoice 8076#2 to Stephens for consulting

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Amount	COMMENT
	copies to Campbell, Payton, Prestidge, Powell, Grotta
	ref: PrintPAC, AIPAC, NRA, AGC
	ref: Tom Mason
25.11	Note on 20145 "PAID 3/21/88"
	20203=Lane resume; 20207=Lane FR proposal; 20208= Lane VID plan
	see Yeakel's notes re: same as 30810-11
477.25	
534.19	ck enclosed, ref to $1388.02; copies to Campbell, Payton, Prestidge, Powell, Grotta
750.00	copy to Prestidge
719.00	
	conducted? results?
	mention "talk to Carol and John"
	Shanahan told Merica to comply w/Campbell's instructions re: Lane/travel/payments
1,250.00	

REF N	REF 1	REF 2	REF 3	DATE	THRU	DESCRIPTION
			710	4/20/88		Marketing Research Institute Invoice 8121 to Stephens for "Phone #s from Survey Sampling Inc."
799				4/26/88		Prestidge memos Brookover: "Lane. . .starts tomorrow," "we've committed $20,000 for salary," need to send $
	91*			4/27/88		1st of 4 installments from NRSC to CC for "party finance assistance program," [VID?]
659				4/28/88		Brookover form invite to English re: 5/19 campaign seminar in D.C.
714				4/28/88		Payton memos Olsten recommending Corey Lane, Larry Akey as "MT fundraiser" (. . ."smart investment for us
		85		4/28/88		Merica ltr to "Fellow Repub" re: leg. filings, cand. trng, need $
	209-218			4/28/88	5/24/88	several ltrs from Campbell & Lane in/out-state asking $, speakers for VID FR
596		124,141, 156		4/29/88		Prestidge memos Merica re: co's "we haven't reimbursed you for" on VID
719				4/29/88		Mason memos Payton & Prestidge re: Burns press, research, fundraising, Jewish $ plan
			1	4/29/88		R.A. Howard & Assoc Report=results of "Market Survey" for Stephens
		7		4/30/88		CC Meeting: Corey Lane/VID project introduced
						MAY
			700	5/1/88	<>	(After JW's death/B4 primary) R.A. Howard survey instrument
			9	5/1/88	<>	Marketing Research Institute "Confidential Report for. . .Stephens) based on sampling 300 voters in 4/88
	211			5/2/88		Lane ltr to Briggs: "NRSC commited seed money" for VID FR, "eliminating any $ burden on Party"
646				5/4/88		Brookover form invite to English (Burns) re: 5/19 campaign seminar in D.C.
			630	5/5/88		Arbuthnot ltr to Yeakel w/"tracking survey" proposal & costs
		133		5/12/88		Big Sky Data Systems invoices CC for $810+187=$997 minus $750 prepaid; VID?
	164, 97*	212		5/18/88		Merica memos Campbell re: understandings from March 1 VID mtg & "drifting from original intent"
717				5/19/88		Prestidge memos Brookover & Payton re: Burns' "hit" at AIPAC, possible nat'l events, Jewish $
		108-113		5/30/88	<>	Campbell newsletter claims "VID a reality," lists from all counties collected a/o mid-May, being converted
						JUNE
	91*			6/1/88		2nd of 4 installments from NRSC to CC for "party finance assistance program," [VID?]
		61		6/1/88		Campbell ltr to Boschwitz (NRSC Chair) w/authorization re: "coordinated expenditures" for Burns campa
		94, 213		6/1/88		Campbell memos several re: same day mtg @ Colonial for VID update by Payton
0				6/7/88	6/10/88	Ann Prestidge in Billings
	91*, 102*	214		6/8/88		Lane ltr to Porter Gifford re: VID, proposed Grouse Mtn event July 29-30, RNSC underwriting, etc.; signed "F
		214		6/8/88	<>	Merica's copy of Lane/Porter ltr sent to "Barb" (Campbell?) w/?s
			180	6/8/88		Lane ("Finance Director") ltr to Stephens asking $17,000 for VID; "every Rep. cand. will benefit from this info.
734				6/12/88		Prestidge memos "MT Group" re: "Cheney Event Status Report" (ticket selling)
38				6/14/88	6/15/88	Rick Nelson in Billings
610		121		6/15/88		Merica memos Prestidge re: VID data acquisition costs (bill?)
			170	6/15/88	<>	(5 mnths before gen'l) Lane drafts VID $ solicitation for Stephens' sig; not approved. Also, VID = Project '88
	219			6/15/88	<>	(after June 7 primary) Lane ltrs to leg. candidates seeking VID $
	91*			6/16/88		3rd of 4 installments from NRSC to CC for "party finance assistance program," [VID?]
			4	6/16/88		Moore Information research proposal to Stephens and 1/88 data re Judge
730				6/21/88		Prestidge memos "MT Group" re: AIPAC/Jewish $
597		155		6/29/88		Prestidge memos Merica re: discrepancies in June 15 VID bill

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Amount	COMMENT
700.00	
	copies Lee Vance, Jill Jackson
5,000.00	
	715 duplicates w/o Jann handwritten note
	N609 & N 797 duplicates?; 20124 has amounts by each county in handwriting, as does 20141
	conducted? results?
	Arbuthnot w/Marketing Research Institute
247.00	
	copies to Mason, Winn, Olsten, Jill Jackson; N 724-29 dups?
6,000.00	
45,100.00	
	if Lane reference needed, call "Prestidge or Campbell"; proposed agenda @ 20217
	Prestidge offers to "go back," refs mtg w/ Mike Gustafson
809.08	plus "Big Sky receipt enclosed as per your request"; 20121 strikes out Yellowstone Co., reducing bill to $465.54; see also 20140
	H@ $160, S@ $320; response form @ 10221
5,000.00	
	ref: Barbara Klein, Liz Schrayer
	copies BB (Bob Bissen?) in N608 for add'tns, sug'tns, cor'tns?; 796 dups?

OGC 8269

RECEIVED
FEDERAL ELECTION COMMISSION
93 JAN 21 PM 1:35

Richard E. Messick
Attorney at Law

3445 Mt. Pleasant Street, N.W.
Washington, D.C. 20010

202/332-0986
202/234-2585(fax)

January 14, 1993

Jeff Long, Esquire
Office of the General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

MUR 3087, Conrad Burns
Senate Committee
merged w/ 3204

Dear Mr. Long:

Please send all further correspondance and pleadings in the above referenced matter to me at the address shown on the letterhead.

I trust you had a good holiday and I look forward to hearing from the Commission in this matter shortly.

Sincerely,

Richard E. Messick

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FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

May 17, 1993

MEMORANDUM

TO: Robert J. Costa
Assistant Staff Director

THROUGH: John C. Surina
Staff Director

Lawrence M. Noble
General Counsel

FROM: Lois G. Lerner
Associate General Counsel

SUBJECT: MUR 3204- FIFO ANALYSIS REQUEST

The Office of General Counsel requests that the Audit Division perform a FIFO analysis in MUR 3204 to determine whether the Montana Republican Party ("MRP") used funds from national party committees, the National Republican Senatorial Committee ("NRSC") and the Republican National Committee ("RNC"), to finance mailings or activities on behalf of the campaign of Conrad Burns during 1988. Respondents contend that the mailings and activities in question fall within the volunteer exemption. However, it appears that some of the mailings do not qualify for the volunteer exemption and that the other activities do not qualify as exempt activities. Our preliminary analysis indicates that the MRP did not have sufficient funds to pay for the activities in question without the funds received from the national party committees.

The following is an example of receipt and disbursement activity which led us to our preliminary conclusion that the MRP needed national committee funds to pay vendors for services rendered:

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BEGINNING CASH AS OF 10/1/88: $46,012.50

DATE	RECEIPTS	DISBURSEMENTS
10/5/88	NRSC $15,000	
10/7/88	NRSC $6,879	
10/20/88	NRSC $16,000	
10/21/88		James Foster $1,930
10/22/88		James Foster $60,533
10/25/88		James Foster $6,879.01
		James Foster $3,145
		James Foster $4,956
10/26/88	NRSC $49,000	
10/26/88		Rexford $430.84
10/31/88	NRSC $25,000	
11/1/88		James Foster $32,110
11/3/88	NRSC $32,110	
11/4/88	NRSC $19,000	
11/15/88	NRSC $5,200	
11/24/88	NRSC $15,000	
11/25/88	NRSC $4,956	
12/12/88		James Foster $9,604.85
		Rexford $354

The NRSC and the RNC made several transfers to the MRP during 1988 and some of the transfers from the NRSC were equal to the amounts that the MRP disbursed to vendors in relation to the direct mail or other services provided. Several of the transfers from the NRSC to the MRP were made a few days prior to the MRP making disbursements to vendors. It appears that the NRSC made the disbursement to the MRP so that the MRP could pay the vendor in question. Thus, such an arrangement may have enabled the NRSC to exceed the $92,200 expenditure limit (for the Burns Committee) assigned to it by the MRP in the guise of party building.

This Office requests that the analysis cover the period 1/1/88 through 12/31/88. At this point in time, we are particularly interested in any disbursements made by the MRP to James Foster & Associates, Rexford, Campaign Telecommunications, the Gary Lawrence Company, and the U.S. Postal Service, but request that you not limit the analysis to the identified entities if national committee funds were needed to make payments to other vendors. Excluding the U.S. Postal Service, it appears that the identified entities provided direct mail or label services to the MRP for mailings relating to the Burns Committee.

This Office is also particularly interested in payments made by the MRP to four individuals, Corey Lane, Ken Knudsen,

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Elwood English, and Tom Hannah. It appears that these individuals received payments from the MRP; however, it is not clear who actually employed these individuals.

This Office has drafted a list of the major issues that are of concern to us at this time. This list is not exhaustive and may be expanded as this Office continues to work on this matter. The major issues identified at this time are as follows:

1. Did the MRP pay for direct mail activities and postage costs on behalf of the Burns Committee?

A. Did the NRSC provide the MRP with the money which the MRP used for direct mail activities for the Burns Committee?
B. What products and services were provided to the MRP by James Foster Associates or other vendors in relation to direct mail activity?
C. Did the products or services benefit the Burns Committee or any other committee?
D. Were volunteers involved in the direct mail activities and if so, what did they do?
E. Did MRP have adequate disclaimers on their mailings?
F. How was this activity reported?

2. Did the NRSC or RNC make an excessive or in-kind contribution to the Burns Committee regarding the results of the tracking polls?

A. Who contracted with the Gary Lawrence Company (GLC) regarding the polling services?
B. Who paid the GLC for the polling services and results?
C. Who directed and controlled the polling project? Who wrote the questions for the project?
D. Who received the results of the poll?
E. Did the NRSC or RNC share the results of the poll with the Burns Committee or any candidates or other committees?
F. Did the Burns Committee make any payments in regard to the polling project?
G. How was this activity reported by the parties involved?

3. Did the NRSC make an excessive contribution to or coordinated expenditure on behalf of the Burns Committee in regard to the voter lists and voter identification project?

A. What tasks were involved in this project?
B. Who performed the tasks involved in the project?
C. Who directed and controlled the project?
D. Who paid for the voter lists and voter I.D. project?
E. What was Corey Lane's involvement in this project?

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F. Who employed Corey Lane and who paid Corey Lane's salary?
G. Which candidates and committees received the voter lists?
H. Who provided the services to compile for the voter list and complete the voter I.D. project?
I. Was a phone bank conducted using the voter lists?
J. Who conducted the phone bank and what questions were asked?
K. Who paid for the phone bank?
L. Who received the results of the phone bank?
M. How was this activity reported by the parties involved?

4. Did the NRSC bundle contributions to the Burns Committee?

A. Did the NRSC exercise direction and control over the contributions which it bundled to the Burns Committee?
B. Did the NRSC report the costs of soliciting these contributions as in-kind contributions?
C. Did the Burns Committee report paying its share of the costs for the solicitation of the bundled contributions by the NRSC?

5. Did the NRSC or the MRP pay salaries for individuals who worked for the Burns Committee?

A. Who employed Tom Hannah, Ken Knudsen, and Elwood English?
B. What did Tom Hannah, Ken Knudsen, and Elwood English do for the NRSC, the MRP, and the Burns Committee?
C. Who paid the salaries of Tom Hannah, Ken Knudsen, and Elwood English?
D. Who directed or supervised Tom Hannah, Ken Knudsen, and Elwood English?
E. How were the salaries or payments to these individuals reported?

Attached are various disclosure reports for 1988 which are a part of the working file. The attached reports may not include all reports and amendments for 1988. We have also attached a copy of the First General Counsel's Report in this matter.

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If you have any questions regarding this matter or need additional information, please contact Abigail Shaine, Assistant General Counsel, or Larry Parrish and Mary Taksar, the two attorneys assigned to this matter. We appreciate your assistance with this matter.

Attachments
Disclosure reports
First GC Report

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JUNE 15, 1993

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Cary Davidson, Esq.
Reed & Davidson
888 West 6th Street, 12th Floor
Los Angeles, CA 90017

RE: MUR 3204

Dear Mr. Davidson:

The Federal Election Commission has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended, and Chapters 95 and 96 of Title 26, United States Code. The attached Interrogatories are being issued to your client in connection with an investigation the Commission is conducting and are in addition to the earlier interrogatories to which Mr. Lawrence responded. The Commission does not consider Gary Lawrence a respondent in the matter, but rather a witness only.

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

Your client is required to submit a response to these interrogatories by June 30, 1993. If you have any questions, please contact Larry Parrish or myself at (800) 424-9530.

Sincerely,

Mary L. Taksar

Mary L. Taksar
Attorney

Enclosure
Interrogatories

9404358363 9

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 3204

INTERROGATORIES

TO: Gary Lawrence Company
c/o Cary Davidson, Esq.
Reed & Davidson
888 West 6th Street, 12th Floor
Los Angeles, CA 90017

In furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby requests that you submit answers in writing and under oath to the attached questions by June 30, 1993. Such answers must be forwarded to the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463.

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INSTRUCTIONS

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

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

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

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

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

Unless otherwise indicated, the discovery request shall refer to the time period from January 1, 1988 to March 31, 1989.

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

DEFINITIONS

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

"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.

"Entities" shall be deemed to include both singular and plural, and shall mean partnership, committee, association, corporation, labor union, or any other organization or group.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

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"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and request for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

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1. a. State whether the tracking poll results sent or faxed by the Gary Lawrence Company in 1988 to Eddie Mahe and Ladonna Lee, paid consultants of the Burns Committee, included results for all questions included in the poll.

b. State whether the tracking poll results sent or faxed by the Gary Lawrence Company in 1988 to Eddie Mahe and Ladonna Lee were limited solely to the results for the additional question the Burns Committee requested be added to the poll and for which the Burns Committee paid $450.

c. Identify exactly what tracking poll results or portions of the results were sent or faxed by the Gary Lawrence Company in 1988 to Eddie Mahe and Ladonna Lee, paid consultants of the Burns Committee.

d. Identify the number of the corresponding questions in the master questionnaire for the tracking poll results or portions of the results which were sent or faxed by the Gary Lawrence Company in 1988 to Eddie Mahe and Ladonna Lee, paid consultants of the Burns Committee.

2. a. State whether any person, committee, or entity other than Jeff Willis of the NRSC, Michele Davis of the RGA, Eddie Mahe and Ladonna Lee, paid consultants of the Burns Committee and Bill Lee, paid consultant of the Stephens Committee received tracking poll results or portions of any results for the 1988 Montana elections.

b. If so, identify who received the results and exactly what tracking poll results or portions of the results were sent to the person, committee, or entity.

c. If so, identify the numbers of the corresponding questions in the master questionnaire for the tracking poll results or portion of the results which the person, committee or entity received.

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REED & DAVIDSON
ATTORNEYS AT LAW
777 SOUTH FIGUEROA STREET
SUITE 3400
LOS ANGELES, CALIFORNIA 90017
TELEPHONE (213) 624-8200
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DANA W. REED
CARY DAVIDSON

OF COUNSEL
DARRYL R. WOLD
BRADLEY W. HERTZ

ORANGE COUNTY OFFICE
2381 ALEWAY AVENUE, SUITE 100
COSTA MESA, CALIFORNIA 92626
TELEPHONE (714) 641-1692
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93 JUL 23 AM 8:55

July 22, 1993

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

RE: MUR 3204

Dear Ms. Taksar:

On behalf of our client, the Gary Lawrence Company, we respectfully request a twenty (20) day extension to respond to the interrogatories propounded to Mr. Lawrence in connection with the above referenced matter. As we discussed, by telephone, we did not receive the interrogatories until July 13, and we will need a few days to prepare responses.

Further, this letter confirms that Mr. Lawrence is only a witness in this matter, and that the Commission previously found no reason to believe that Mr. Lawrence violated any provision of the Federal Election Campaign Act of 1971, as amended, regarding his involvement with the campaign being investigated by the Commission.

Please confirm the date when the responses will be due. We will make every effort to provide you information in advance of that date.

Sincerely,

Cary Davidson

cc: Mr. Gary Lawrence

CD:lp

CD93\FECLAWRN

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 26, 1993

Cary Davidson, Esq.
Reed & Davidson
777 South Figueroa Street
Los Angeles, CA 90017

RE: MUR 3204

Dear Mr. Davidson:

This is in response to your letter dated June 22, 1993, which we received on June 22, 1993 requesting an extension of 20 days to respond to interrogatories on behalf of your client, the Gary Lawrence Company. After considering the circumstances presented in your letter, the Office of the General Counsel has granted the requested extension. Accordingly, your response is due by the close of business on August 11, 1993.

If you have any questions, please contact me at (202) 219-3400.

Sincerely,

Mary L. Taksar

Mary L. Taksar
Attorney

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AR-93-31

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

AR003990

July 26, 1993

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

THROUGH: JOHN C. SURINA
STAFF DIRECTOR

FROM: ROBERT J. COSTA
ASSISTANT STAFF DIRECTOR
AUDIT DIVISION

SUBJECT: MONTANA REPUBLICAN PARTY,
"MODIFIED FIFO" ANALYSIS - MUR 3204

On May 18, 1993 we received a request from the Office of General Counsel to perform a "Modified Fifo" analysis in MUR 3204 to determine whether the Montana Republican Party ("MRP") used funds from national party committees (the National Republican Senatorial Committee ("NRSC") and the Republican National Committee ("RNC")) to finance mailings or activities on behalf of the campaign of Conrad Burns during 1988.

On May 25, 1993, Counsel's office provided the Audit staff with a list of targeted expenditures for analysis.1/ The Audit staff reviewed the Committee's bank statements, check registers, and disclosure reports to determine if national committee funds were used to pay targeted expenditures, and conducted a "Modified Fifo" analysis.2/

The "Modified Fifo" analysis utilizes the standard First-in, First-out (Fifo) approach to establish the application of funds until the date of the expenditure(s) in question. On that date the "pool" of funds available on the date of the expenditure is calculated to determine whether sufficient private funds were available to cover the expenditure in question. If sufficient private funds exist, then national committee funds were not used to make the expenditure. In order to evaluate instances where

---

1/ Our analysis was limited to the targeted expenditures and did not include any other payments made to vendors which were funded by transfers from national committees.

2/ The Commission determined that this method is appropriate during its consideration of MUR 2270.

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both national committee funds and private funds were received on the same date, the analysis was performed twice, first, assuming that if national committee funds and private funds were received on the same date, the private funds were expended first, and second, assuming the national funds were expended first.

The Audit staff calculated cash on hand at 8/31/88 to be $21,970.09, comprised of $10,000.00 in national committee funds and $11,970.09 in private funds.3/ Receipts and disbursements were applied on a first-in, first-out basis until the date of a targeted expenditure, and then the modification described above was applied.

The source documentation of the information used for this analysis included bank statements and check registers for both the MRP Federal Election Account and the MRP Victory '88 Account, as well as invoices for the targeted expenditures. Disclosure reports filed by the MRP, NRSC and RNC were used to corroborate the transfer of funds between committees. The information gained from these sources was used to perform the FIFO analysis. The Audit staff applied the following procedures:

1) The composition of cash on hand at 8/31/88 was apportioned between national and private funds according to the sources of the last funds received.

2) The Audit staff recorded disbursements using the dates per the check register. It should be noted that the dates per check register do not always agree with the dates per the available photocopies of checks.

3) When activity occurred in both bank accounts on the same date, the Federal Election account activity was treated as if it occurred prior to the Victory '88 account activity.

4) When both targeted and non-targeted expenditures were made on the same date, funds were applied to targeted expenditures first.

5) If more than one targeted expenditure was recorded on the check registers on any date, funds were applied to the disbursements in sequential order.

6) All receipts on any given date were credited to the balances before any disbursement activity on the same date was applied to the balances.

Changes to any of the six procedures above could result in different conclusions.

3/ The the first targeted expenditure occurred on 9/30/88; the last on 12/12/88. Therefore, the Audit staff analyzed the Committee activity from 8/31/88 through 12/31/88.

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Finally, the Audit staff operated on the assumption that the activity disclosed on the MRP, NRSC, and RNC's reports was complete and accurate.

A total of $41,270.80 in targeted expenditures was funded from national committee funds, assuming private funds were expended before national funds when both were received on the same date. The flow of private funds was sufficient to defray the targeted expenditures until 10/27/88. On this date private funds were exhausted and $24,004.59 in national funds were used to defray targeted expenditures. National funds were again used on 10/31/88 totaling $9,782.88, and on 11/01/88, totaling $7,483.33. Subsequent to 11/01/88, deposits of private funds were sufficient to defray the remaining targeted expenditures. (See Attachment 1).

A second analysis was performed in which national funds were expended before private funds when both were received on the same date. This analysis resulted in a total of $36,439.02 in targeted expenditures being funded from national committee funds. The flow of private funds was sufficient to defray the targeted expenditures until 10/27/88. On this date private funds were exhausted and $19,172.81 in national funds were used to defray targeted expenditures. National funds were again used on 10/31/88 totaling $9,782.88, and on 11/01/88, totaling $7,483.33. Subsequent to 11/01/88, deposits of private funds were sufficient to defray the remaining targeted expenditures.

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AUDITOR'S NOTE

It should be noted that if the Committee had not received the $228,145 of national funds included in our analysis, a $199,672.36 shortfall would have existed, assuming the same level of expenditure activity.

Finally, the Audit staff notes that the analysis does not evaluate the effect of the dates on which the obligations for the targeted expenditures were incurred. In some instances where the Audit staff had access to invoice records, the invoice dates preceded the payment dates by more than 30 days. Thus, it is apparent that the Committee incurred obligations with some vendors well in advance of the payment dates.

Records are available for review in the Audit Division. If you have any further questions please contact Liz Ryan or Marty Favin at 219-3720.

Attachment:

Attachment 1 - MUR 3204, Modified Fifo Analysis, Montana Republican Party, "Private First"

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NSR 3204
MODIFIED FIFO ANALYSIS
MONTANA REPUBLICAN PARTY
"PRIVATE FIRST"

(1) DATE	(2) DESCRIPTION	(3) CHECK #	(4) FUNDS PRIVATE	(5) NATIONAL	(6) DISBURSEMENTS	(7) FUNDS APPLIED PRIVATE	(8) NATIONAL	(9) FUND BALANCE PRIVATE	(10) NATIONAL
	Cash on hand (per bank statements)								
08-31-88	Federal Election A/C		$10,720.09	$10,000.00				$10,720.09	$10,000.00
08-31-88	Victory '88		$1,250.00					$11,970.09	$10,000.00
09-02-88	LCC Clif Christian #855				$1,250.00	$1,250.00	—	$10,720.09	$10,000.00
09-06-88	Deposit FE A/C		$1,213.00					$11,933.09	$10,000.00
09-06-88	Deposit V'88		$1,356.00					$13,289.09	$10,000.00
09-12-88	Deposit FE A/C		$702.50	$10,000.00				$13,991.59	$20,000.00
09-12-88	Deposit V'88		$540.00					$14,531.59	$20,000.00
09-12-88	Svc. Chg.				$17.92	$17.92	—	$14,513.67	$20,000.00
09-12-88	Check order charge				$11.00	$11.00	—	$14,502.67	$20,000.00
09-13-88	Deposit V'88		$1,000.00					$15,502.67	$20,000.00
09-15-88	Check #s 856-864				$2,342.11	$2,342.11	—	$13,160.56	$20,000.00
09-15-88	Check #s 865-867				$1,233.00	$971.11	$261.89	$12,189.45	$19,738.11
09-16-88	Deposit V'88		$125.00					$12,314.45	$19,738.11
09-19-88	Deposit FE A/C		$678.00					$12,992.45	$19,738.11
09-19-88	Deposit FE A/C		$97.50	$10,000.00				$13,089.95	$29,738.11
09-20-88	Check #s 868-872				$2,809.93	—	$2,809.93	$13,089.95	$26,928.18
09-27-88	Deposit FE A/C		$775.00					$13,864.95	$26,928.18
09-27-88	Deposit V'88		$1,300.00					$15,164.95	$26,928.18
09-28-88	Deposit V'88		$505.00					$15,669.95	$26,928.18
09-29-88	Deposit FE A/C			$5,000.00				$15,669.95	$31,928.18
09-30-88	Postmaster Mailing CB	* 876			$148.34 *	$148.34	—	$15,521.61	$31,928.18
09-30-88	Postmaster Mailing CB	* 877			$615.89 *	$615.89	—	$14,905.72	$31,928.18
09-30-88	Postmaster Mailing CB	* 878			$13.61 *	$13.61	—	$14,892.11	$31,928.18
09-30-88	Check #s 873-875				$1,438.65	—	$1,438.65	$14,892.11	$30,489.53
10-03-88	Deposit V'88		$5,000.00					$19,892.11	$30,489.53
10-05-88	Check #s 879-887, 890-897				$14,924.29	$9,434.76	$5,489.53	$10,457.35	$25,000.00
10-05-88	Deposit V'88		$125.00					$10,582.35	$25,000.00
10-06-88	Deposit V'88		$740.00					$11,322.35	$25,000.00
10-07-88	Postage Friends C\B	* 889			$738.34 *	$738.34	—	$10,584.01	$25,000.00
10-07-88	Check # 888				$1,471.01	—	$1,471.01	$10,584.01	$23,528.99
10-07-88	Check #s 702-719				$10,540.25	$2,011.26	$8,528.99	$8,572.75	$15,000.00
10-10-88	Absentee Ballot Mailing #898				$6,879.01	$127.75	$6,751.26	$8,445.00	$8,248.74
10-11-88	Deposit FE A/C			$21,879.00				$8,445.00	$30,127.74
10-11-88	Deposit FE A/C		$2,597.92					$11,042.92	$30,127.74
10-11-88	Deposit V'88		$3,625.00					$14,667.92	$30,127.74
10-13-88	Check #s 720-724,726-730				$1,203.45	—	$1,203.45	$14,667.92	$28,924.29
10-13-88	Check #s 732-733				$345.16	—	$345.16	$14,667.92	$28,579.13
10-14-88	Deposit V'88		$3,180.00					$17,847.92	$28,579.13
10-15-88	James R. Foster Mailing	*			$3,145.00 *	$3,145.00	—	$14,702.92	$28,579.13
10-15-88	Check #s 899-908, 911				$11,242.64	$4,542.51	$6,700.13	$10,160.41	$21,879.00
10-16-88	Check #s 734-737				$1,677.06	$1,677.06	—	$8,483.35	$21,879.00
10-17-88	Check #s 909, 910				$3,882.95	$3,882.95	—	$4,600.40	$21,879.00
10-18-88	Deposit FE A/C		$329.50					$4,929.90	$21,879.00
10-18-88	Deposit V'88		$1,156.62					$6,086.52	$21,879.00
10-20-88	Deposit FE A/C		$245.00	$16,000.00				$6,331.52	$37,879.00

ATTACHMENT 1
PAGE 1 OF 3

9 4 0 4 3 5 8 3 6 5 1

[redacted]

(1) DATE	(2) DESCRIPTION	(3) CHECK #	(4) FUNDS PRIVATE	(5) NATIONAL	(6) DISBURSEMENTS	(7) FUNDS APPLIED PRIVATE	(8) NATIONAL	(9) FUND BALANCE PRIVATE	(10) NATIONAL
10-20-88	Debit Memo, Svc. Chg.				$29.26	$29.26	—	$6,302.26	$37,879.00
10-21-88	Deposit V'88		$15,130.99					$21,433.25	$37,879.00
10-21-88	Billings Post Office C\B	* 912			$12,000.00 *	$12,000.00	—	$9,433.25	$37,879.00
10-21-88	Jim Foster Assoc.	* 913			$1,930.00 *	$1,930.00	—	$7,503.25	$37,879.00
10-21-88	Check #s 914				$2,616.00	—	$2,616.00	$7,503.25	$35,263.00
10-21-88	Deposit V'88		$2,495.00					$9,998.25	$35,263.00
10-21-88	Check #s 738-739				$259.08	—	$259.08	$9,998.25	$35,003.92
10-24-88	Check #s 915-927				$2,759.99	—	$2,759.99	$9,998.25	$32,243.93
10-24-88	Deposit V'88		$2,575.00					$12,573.25	$32,243.93
10-25-88	Deposit FE A/C		$575.00					$13,148.25	$32,243.93
10-25-88	Deposit FE A/C		$1,500.00	$4,956.00				$14,648.25	$37,199.93
10-25-88	Deposit V'88		$11,703.00					$26,351.25	$37,199.93
10-25-88	Check #s 740-742				$2,288.94	—	$2,288.94	$26,351.25	$34,910.99
10-25-88	Check #s 751				$400.00	—	$400.00	$26,351.25	$34,510.99
10-26-88	Deposit FE A/C		$2,747.00					$29,098.25	$34,510.99
10-26-88	Deposit FE A/C			$49,000.00				$29,098.25	$83,510.99
10-26-88	Deposit V'88		$2,905.00					$32,003.25	$83,510.99
10-27-88	Transfer Jim Foster Ass.	*		a	$60,545.00 *	$32,003.25	$28,541.75 c	$0.00	$54,969.24
10-27-88	Rexnord Data Sys.	* 743			$430.84 *	—	$430.84 c	$0.00	$54,538.40
10-27-88	Check # 752				$425.00	—	$425.00	$0.00	$54,113.40
10-28-88	Check #s 936-960, 935				$44,199.95	—	$44,199.95	$0.00	$9,913.45
10-31-88	Deposit FE A/C			$20,000.00				$0.00	$29,913.45
10-31-88	Billings Postmaster	* 746			$4,891.44 *	—	$4,891.44 c	$0.00	$25,022.01
10-31-88	Billings Postmaster	* 747			$4,891.44 *	—	$4,891.44 c	$0.00	$20,130.57
10-31-88	Check #s 932, 933				$378.59	—	$378.59	$0.00	$19,751.98
10-31-88	Check #s 744-745				$365.91	—	$365.91	$0.00	$19,386.07
11-01-88	Deposit FE A/C		$2,701.67					$2,701.67	$19,386.07
11-01-88	Deposit FE A/C			$25,000.00				$2,701.67	$44,386.07
11-01-88	Deposit V'88		$6,125.00					$8,826.67	$44,386.07
11-01-88	James R. Foster and Ass.	* 934		a	$32,793.00 *	$8,826.67	$23,966.33 c	$0.00	$20,419.74
11-02-88	Deposit FE A/C			$32,110.00				$0.00	$52,529.74
11-02-88	Deposit V'88		$31,300.00					$31,300.00	$52,529.74
11-02-88	Billings Postmaster	* 753			$26,455.61 *	$26,455.61	—	$4,844.39	$52,529.74
11-02-88	Check #s 755,756				$331.50	—	$331.50	$4,844.39	$52,198.24
11-03-88	Deposit FE A/C		$8,000.00					$12,844.39	$52,198.24
11-03-88	Deposit FE A/C		$5,000.00					$17,844.39	$52,198.24
11-03-88	Deposit V'88		$19,000.00					$36,844.39	$52,198.24
11-03-88	Helena Post Office	* 757			$5,194.81 *	$5,194.81	—	$31,649.58	$52,198.24
11-03-88	Check #s 961, 929				$5,353.28	—	$5,353.28	$31,649.58	$46,844.96
11-03-88	Check # 748				$1,050.00	—	$1,050.00	$31,649.58	$45,794.96
11-04-88	Check #s 962-964				$7,931.72	—	$7,931.72	$31,649.58	$37,863.24
11-04-88	Check #s 759-787				$26,248.56	—	$26,248.56	$31,649.58	$11,614.68
11-07-88	Deposit FE A/C			$19,000.00				$31,649.58	$30,614.68
11-08-88	Deposit FE A/C		$892.00					$32,541.58	$30,614.68
11-15-88	Deposit FE A/C		$260.00					$32,801.58	$30,614.68
11-15-88	Deposit FE A/C		$160.00					$32,961.58	$30,614.68

ATTACHMENT 1
PAGE 2 OF 3

MR 3204
MODIFIED FIFO ANALYSIS
MINERA REPUBLICAN BANK
"PRIVATE FIRST"

(1) DATE	(2) DESCRIPTION	(3) CHECK #	(4) FUNDS PRIVATE	(5) NATIONAL	(6) DISBURSEMENTS	(7) FUNDS APPLIED PRIVATE	(8) NATIONAL	(9) FUND BALANCE PRIVATE	(10) NATIONAL
11-15-88	Check #s 965-972, 986, 974-976				$6,095.23	—	$6,095.23	$32,961.58	$24,519.45
11-15-88	Check #977				$75.00	—	$75.00	$32,961.58	$24,444.45
11-15-88	Check #s 978-985				$466.76	—	$466.76	$32,961.58	$23,977.69
11-16-88	Check #s 987-989, 991-994				$4,930.20	—	$4,930.20	$32,961.58	$19,047.49
11-16-88	Check #s 789-801				$11,484.47	$11,436.98	$47.49	$21,524.60	$19,000.00
11-17-88	Deposit FE A/C			$5,200.00				$21,524.60	$24,200.00
11-18-88	Svc. Chg.				$35.80	$35.80	—	$21,488.80	$24,200.00
11-22-88	Deposit FE A/C		$3,213.00					$24,701.80	$24,200.00
11-22-88	Check #s 995-999,973,1000-1003				$1,399.75	$1,399.75	—	$23,302.05	$24,200.00
11-30-88	Deposit FE A/C		$555.00					$23,857.05	$24,200.00
12-01-88	Check #s 1004-1007				$3,278.52	$3,278.52	—	$20,578.53	$24,200.00
12-12-88	James R. Foster Assoc.	*1013			$9,604.85 *	$9,604.85	—	$10,973.68	$24,200.00
12-12-88	Raymond Political Services	* 807			$354.00 *	$354.00	—	$10,619.68	$24,200.00
12-12-88	Check #s 1008-1011				$2,078.65	$2,078.65	—	$8,541.03	$24,200.00
12-12-88	Check #s 1012, 1014-1018				$2,225.66	$2,225.66	—	$6,315.37	$24,200.00
12-12-88	Check # 803-806				$490.30	$490.30	—	$5,825.07	$24,200.00
12-14-88	Check # 808,809				$1,548.15	$745.07	$803.08	$5,080.00	$23,396.92
12-20-88	Svc. Chg.				$4.28	—	$4.28	$5,080.00	$23,392.64
			$154,098.79	$228,145.00	$353,771.15	$149,018.79	$204,752.36		
						b $353,771.15		Col.(7) + Col.(8). Total funds applied.	
					$199,672.36	Col.(6) - Col.(4).			

* Targeted Expenditure

a Actual disbursement amount totals $60,545, however, per OGC instructions, net targeted expenditure amount analyzed totals $55,577. W/P (MF 2.1/2E).
Actual disbursement amount totals $32,793, however, per OGC instructions, net targeted expenditure amount analyzed totals $16,310. W/P (MF 2.1/2E).

b Difference between total disbursements and total funds applied. ($0.00)
Difference between the disbmt. amt. of $60,545 and analyzed amt. of $55,577. $4,968.00
Difference between the disbmt. amt. of $32,793 and analyzed amt. of $16,310. $16,483.00

c Total amount of targeted expenditures funded by national funds: $41,270.80

= $23,573.75 ($28,541.75-$4,968.00) per footnote b above.
+ $430.84
+ $4,891.44
+ $4,891.44
+ $7,483.33 ($23,966.33-$16,483.00) per footnote b above.

ATTACHMENT 1
PAGE 3 OF 3

OGC 9732

REED & DAVIDSON
ATTORNEYS AT LAW
777 SOUTH FIGUEROA STREET
SUITE 3400
LOS ANGELES, CALIFORNIA 90017
TELEPHONE (213) 624-6200
FACSIMILE (213) 623-1692

ORANGE COUNTY OFFICE
3151 AIRWAY AVENUE, SUITE M-1
COSTA MESA, CALIFORNIA 92626
TELEPHONE (714) 641-1668
FACSIMILE (714) 546-1003

DANA W. REED
CARY DAVIDSON

OF COUNSEL
DARRYL R. WOLD
BRADLEY W. HERTZ

FEDERAL ELECTION COMMISSION
MAIL CONTROL ROOM
AUG 13 12 45 PM '93
93 AUG 13 PM 3:10

August 10, 1993

Ms. Mary L. Taksar, Esq.
Federal Election Commission
Office of the General Counsel
999 E Street, N.W.
Washington, D.C. 20463

VIA FACSIMILE
ORIGINAL TO FOLLOW
VIA U.S. MAIL

RE: MUR 3204

Dear Ms. Taksar:

Attached are the responses to the interrogatories submitted to the Gary Lawrence Company in connection with the above referenced MUR.

In each instance, Gary Lawrence is the person capable of furnishing testimony concerning the response given. No person or persons other than Gary Lawrence provided input. I assisted in drafting all of the responses.

As you know, Mr. Lawrence has been very cooperative in this matter. It has required him to incur significant time and expense. We hope that you have obtained sufficient information from Mr. Lawrence.

If you have additional questions, please feel free to contact me.

Sincerely,

Cary Davidson

CD:sm

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Response to Interrogatories
of June 30, 1993
Regarding MUR 3024

Question 1.a: State whether the tracking poll results sent or faxed by the Gary Lawrence Company in 1988 to Eddie Mahe and Ladonna Lee, paid consultants of the Burns Committee, included results for all questions included in the poll.

Answer: It did not include all results.

Question 1.b: State whether the tracking poll results sent or faxed by the Gary Lawrence Company in 1988 to Eddie Mahe and Ladonna Lee were limited solely to the results for the additional question the Burns Committee requested be added to the poll and for which the Burns Committee paid $450.

Answer: The results were not limited solely to the results for the additional question.

Question 1.c: Identify exactly what tracking poll results or portions of the results were sent or faxed by the Gary Lawrence Company in 1988 to Eddie Mahe and Ladonna Lee, paid consultants of the Burns Committee.

Answer: To the best of my recollection, we faxed to Eddie Mahe and Ladonna Lee only those questions pertaining to the senatorial campaign.

Question 1.d: Identify the number of the corresponding questions in the master questionnaire for the tracking poll results or portions of the results which were sent or faxed by the Gary Lawrence Company in 1988 to Eddie Mahe and Ladonna Lee, paid consultants of the Burns Committee.

Answer: The original printout that was faxed no longer exists, but judging from the master summary questionnaire, which was previously submitted to you, to the best of my recollection, the Gary Lawrence Company faxed to Eddie Mahe and Ladonna Lee results of the following questions:

1, 4, 5, 7, 9, 10, 11, 12, 13, 14, 16, 17, 18, 19, 20, 21, 25, 26, 27, 28, 29, 30, 48, 49, 50, 51, 52, 61, 62.

Question 2.a: State whether any person, committee, or entity other than Jeff Willis of the NRSC, Michael Davis of the RGA, Eddie Mahe and Ladonna Lee, paid consultants of the Burns Committee and Bill Lee, paid consultant of the Stephens Committee received tracking poll results or portions of any results for the 1988 Montana elections.

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Answer: I do not possess adequate information to answer this question. However, to the best of my knowledge, our firm faxed results only to the above-named people. I have no knowledge as to what transpired following our transmission of the results.

Question 2.b: If so, identify who received the results and exactly what tracking poll results or portions of the results were sent to the person, committee, or entity.

Answer: (Does not apply)

Question 2.c: If so, identify the numbers of the corresponding questions in the master questionnaire for the tracking poll results or portion of the results which the person, committee or entity received.

Answer: (Does not apply)

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VERIFICATION

I am the designated counsel for Mr. Gary Lawrence, a witness in this investigation. I make this verification for and on behalf of Mr. Lawrence. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true.

Executed on August 11th, 1993, at Los Angeles, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Cary Davidson

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RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
93 DEC 27 PM 12:19

BEFORE THE FEDERAL ELECTION COMMISSION

)
)
) MUR 3204
)
)
)

AFFIDAVIT

Neida Merica, being duly sworn, makes the following affidavit and states:

1. I am Neida Merica. During 1988, my husband, Terry, and I were employees of the Montana Republican Party. I served as administrative secretary of the Montana Republican Party ("MRP"). Terry served as Executive Director.

2. During the 1988 election cycle the National Republican Senatorial Committee ("NRSC") was using the MRP as a conduit to pay for mailings advocating the election of Conrad Burns. Terry and I questioned officials from the MRP and NRSC on more than one occasion about the legality of some of these mailings. In response to such questions, Ann Prestidge, an NRSC field representative, complained to the MRP chairperson, Barbara Campbell, who instructed me to follow Ms. Prestidge's instructions.

3. On one occasion when I was preparing MRP's July Quarterly FEC report for 1988, I was instructed by Ms. Prestidge to report certain expenditures on the Schedule B form under operating expenditures for expenses which I had initially reported on the Schedule F as coordinated party expenditures.

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I also was instructed to use the word "volunteer" after each entry which applied to postage and mail handling.

4. Terry and I were instructed by Ms. Prestidge to send a copy of MRP's July Quarterly report to NRSC's staff attorney, Ben Ginsberg, so that it could be reviewed before it was mailed to the Federal Election Commission. On the next day, Mr. Ginsberg called and told me that everything looked fine. I asked him to put it in writing, but he stated that "nothing is ever put in writing."

5. Terry also questioned MRP's counsel, Ward Shanahan, about the legality of the mailings produced by Foster and Associates and made him aware of the fact that Ms. Prestidge had given instructions to me about payments to Foster and Associates. On or about November 3, 1988, Mr. Shanahan sent a letter to Ms. Prestidge, which cautioned Ms. Prestidge about giving directives to me and my staff and also cautioned her about movement of funds in and out of MRP's accounts. This letter also requested an explanation from Ms. Prestidge. On the very next day, Mr. Shanahan sent another letter to Ms. Prestidge enclosing a copy of a bill from Foster and Associates, requesting that Ms. Prestidge provide an explanation of this bill so that it could be handled properly.

6. Terry and I frequently received calls from Ms. Prestidge indicating that she was transferring money to cover the bills from Foster and Associates for the Burns mailings, and that Terry and I should pay the bills when they came in without seeing the mailings. Ms. Prestidge controlled

9404358365 8

all of the Burns mailings from Foster and Associates. MRP was just used as clearing house. Ms. Prestidge gave the instructions to Terry and I to wire Foster and Associates $60,533.00 on October 28, 1988 for payment for mailings produced by Foster and Associates. Terry spoke to Barbara Campbell about our concerns about this payment because neither Terry nor I knew what we were paying for. Ms. Campbell told Terry and I to just follow Ms. Prestidge's instructions since it was NRSC's funds.

7. Ms. Prestidge would often ask for an accounting of NRSC money, and once requested that I send her a written accounting of NRSC's funds. In order to keep track of the amount of funds transferred by the NRSC to MRP, I marked the letter "S" on MRP's accounting ledger to indicate those transaction. I also placed the letters "CB" besides certain transactions made with NRSC funds to indicate that they were spent for the Burns campaign.

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The above information is true and accurate to the best of my knowledge, information and belief.

Neida Merica

Neida Merica

Subscribed and sworn to before me this 24th day of December 1993.

Notary Public

My Commission expires 12/10/94.

9404358366O

BEFORE THE FEDERAL ELECTION COMMISSION

)
)
) MUR 3204
)
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)

AFFIDAVIT

Terry Merica, being duly sworn, makes the following affidavit and states:

1. I am Terry Merica. During 1988, my wife, Neida, and I were employees of the Montana Republican Party. I served as Executive Director of the Montana Republican Party ("MRP"). Neida served as administrative secretary.

2. During the 1988 election cycle the National Republican Senatorial Committee ("NRSC") was using the MRP as a conduit to pay for mailings advocating the election of Conrad Burns. Neida and I questioned officials from the MRP and NRSC on more than one occasion about the legality of some of these mailings. In response to such questions, Ann Prestidge, an NRSC field representative, complained to the MRP chairperson, Barbara Campbell, who instructed Neida to follow Ms. Prestidge's instructions.

3. On one occasion when Neida was preparing MRP's July Quarterly FEC report for 1988, she was instructed by Ms. Prestidge to report certain expenditures on the Schedule B form under operating expenditures for expenses that she had initially reported on the Schedule F as coordinated party expenditures. Neida also was instructed to use the word

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"volunteer" after each entry which applied to postage and mail handling.

4. Neida and I were instructed by Ms. Prestidge to send a copy of MRP's July Quarterly report to NRSC's staff attorney, Ben Ginsberg, so that it could be reviewed before it was mailed to the Federal Election Commission. On the next day, Mr. Ginsberg called and told Neida that everything looked fine. Neida asked him to put it in writing, but he stated that "nothing is ever put in writing."

5. I also questioned MRP's counsel, Ward Shanahan, about the legality of the mailings produced by Foster and Associates and made him aware of the fact that Ms. Prestidge had given instructions to Neida Merica about payments to Foster and Associates. On or about November 3, 1988, Mr. Shanahan sent a letter to Ms. Prestidge, which cautioned Ms. Prestidge about giving directives to me and my staff and also cautioned her about movement of funds in and out of MRP's accounts. This letter also requested an explanation from Ms. Prestidge. On the very next day, Mr. Shanahan sent another letter to Ms. Prestidge enclosing a copy of a bill from Foster and Associates, requesting that Ms. Prestidge provide an explanation of this bill so that it could be handled properly.

6. Neida and I frequently received calls from Ms. Prestidge indicating that she was transferring money to cover the bills from Foster and Associates for the Burns mailings, and that Neida and I should pay the bills when they came in without seeing the mailings. Ms. Prestidge controlled

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7. Ms. Prestidge would often ask for an accounting of NRSC money, and once requested that Neida send her a written accounting of NRSC's funds.

The above information is true and accurate to the best of my knowledge, information and belief.

Terry Merica

Subscribed and sworn to before me this 24th day of December 19 93.

Notary Public

My Commission expires 12/10/94.

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OGC 0702

LEO J. GALLAGHER
ATTORNEY AT LAW
310 BROADWAY
HELENA, MONTANA 59601

(406) 443-5565

RECEIVED
FEDERAL ELECTION
COMMISSION
MAIL ROOM

JAN 3 10 25 AM '94

MUR 3204

December 27, 1993

94 JAN -3 PM 4:10
RECEIVED
FEDERAL ELECTION COMMISSION

Federal Elections Commission
ATTN: Lawrence D. Parrish, Staff Attorney
999 E. Street N.W.
Washington, D.C. 20463

2404358364

Dear Larry:

Pursuant to our telephone conversation of December 22, 1993 I enclose a copy of the "Judgment of Dismissal" and the "Stipulation For Settlement" that ends the Commissioner's enforcement efforts of Montana's election laws with respect to the 1988 election cycle. The agreement does not affect the complaint filed before the FEC by the Commissioner's Office in June, 1992 which was the last in a series of complaints of a similar nature filed by a number of entities. As we have previously discussed, I think the Montana Commissioner is likely preempted from enforcing many of Montana laws that dovetail with the FEC with respect to federally registered committees and, therefore, only the FEC has the legal authority and legal resources necessary to enforce the laws that seek to prevent abuses in election spending.

Also enclosed is some work I had done to give me an idea of the costs associated with the voter identification project list development. This information was developed after my last response to your request for information from my investigation. Circumstantially, it may be of help to you in considering the merits of the various issues raised by the complaints before the FEC with respect to the 1988 election cycle, particularly with respect to direct mailing costs incurred in the closing days of the campaign. This material is on a

computer disc and is supported by certified copies of various FEC filings if you are interested.

This concludes my representation of the Commissioner of Political Practices. I appreciate your courtesies over the past years and those of Mr. Long. Please give my regards to him. If either of you travel to this area again I'd enjoy seeing you and if I can be of any further help to you in this matter please let me know.

Sincerely,

Leo J. Gallagher

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COMMISSIONER OF
POLITICAL PRACTICES

STATE OF MONTANA

ED ARGENBRIGHT, Ed.D.
COMMISSIONER
TELEPHONE (406) 444-2942
FAX (406) 444-1643

1205 EIGHTH AVENUE
P.O. BOX 202401
HELENA, MONTANA 59620-2401

December 23, 1993

NEWS RELEASE

Helena--The Montana Commissioner of Political Practices, Ed Argenbright, through his legal counsel, Leo Gallagher, announced today that his office has reached agreement with the Republican National Committee and the Stephens/Kolstad Campaign to dismiss the complaint filed by the Commissioner's Office in State District Court in June of 1992. Under the terms of the settlement that was approved by District Judge Thomas C. Honzel in Helena on Thursday, the Republican National Committee and the Stephens/Kolstad Campaign agreed to contribute $20,500 to the Commissioner's Office to establish a fund that will be used by the Commissioner to better inform the public, as well as political candidates and committees, about the requirements of Montana's Political Practice laws, both through the media and through technological improvements to the office. The fund will also assist the Commissioner with the technological resources needed to provide the public with more timely information about campaign contributions and expenditures reported to the Commissioner's office under Montana law.

Under the terms of the settlement neither side admitted any wrongdoing and agreed that the costs of litigation outweighed the benefits of protracted litigation. Under Montana's election laws the amount of penalty, if a violation was proven, could have been as little as $500 or as much as three times the amount of the illegal contribution or expenditure depending upon the seriousness of the violation and the degree of culpability of the party as determined by the presiding judge. The Commissioner acknowledged that the Stephens/Kolstad Campaign gave its complete cooperation to the Commissioner's investigation and noted the Stephens/Kolstad Campaign and the Republican National Committee had maintained consistently that any violations of Montana law had either not occurred or were unintentional.

This State District Court settlement concludes years of costly litigation. This case, by far the most complex ever handled by the Office of Political Practices, resulted in the largest settlement amount ($20,500) in the history of the office. Another complaint arising from the campaign of 1988 and filed with the Federal Election Commission is separate from this settlement and remains before the Federal Election Commission.

2404358366

CLARA GILREATH
CLERK OF DISTRICT COURT
Dec 23 11 42 AM '93
FILED CLARA GILREATH
BY _____ DEPUTY

9404-3583667

MONTANA FIRST JUDICIAL DISTRICT, LEWIS AND CLARK COUNTY

DOLORES COLBURG, in her capacity as Commissioner of Political Practices, Plaintiff, vs. REPUBLICAN NATIONAL COMMITTEE and the STEPHENS/KOLSTAD CAMPAIGN Defendants.	Number: CDV 92-870 Judge: Thomas C. Honzel JUDGMENT OF DISMISSAL WITH PREJUDICE

Upon the joint motion of all parties to this civil action, appearing by their respective counsel of record; and the Court being fully advised in the premises; and there being good cause;

IT IS HEREBY ORDERED, ADJUDGED AND DECREED: that this civil action, and all claims stated or which would have been stated in the complaint and any counterclaim which was or could have been made to the Complaint, and all the amendments thereof, are dismissed with prejudice as fully and finally determined on the merits, with each party to bear its own attorney's fees and costs incurred in this action.

IT IS FURTHER ORDERED that each party shall immediately return all documents and things acquired during the course of investigation or discovery to the party or person originating the documents and things.

Dated this 23 day of December, 1993.

THOMAS C. HONZEL

DISTRICT JUDGE

cc: All Counsel

9404-3583668

CLARA GILREATH
CLERK OF DISTRICT COURT
Dec 23 11 40 AM '93
FILED BY CLARA GILREATH
DEPUTY

LEO J. GALLAGHER
310 Broadway
Helena, MT 59601
(406) 443-5565

ATTORNEY FOR PLAINTIFF
COMMISSIONER OF POLITICAL PRACTICES

Robert Edd Lee
Crowley, Haughey, Hanson, Toole & Dietrich
490 North 31st Street
P.O. Box 2529
Billings, MT 59103
(406) 252 3441

ATTORNEYS FOR DEFENDANT
REPUBLICAN NATIONAL COMMITTEE

John B. Kuhr
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325 Fourth Avenue
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Havre, MT 59501
(406) 265-6706

ATTORNEYS FOR DEFENDANT
STEPHENS/KOLSTAD CAMPAIGN

MONTANA FIRST JUDICIAL DISTRICT COURT, LEWIS AND CLARK COUNTY

****

DOLORES COLBURG, in her capacity as Commissioner of Political Practices,

PLAINTIFF,

VS.

REPUBLICAN NATIONAL COMMITTEE and the STEPHENS/KOLSTAD CAMPAIGN,

DEFENDANTS.

****

No. BDV 92-870

STIPULATION FOR SETTLEMENT AND JUDGMENT OF DISMISSAL

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The parties, by their respective successors in office, successor officers, agents, and their counsel of record, some of whom have changed subsequent to the filing of this civil action, agree to stipulate and reflect upon the record that it is in the interests of justice and for the general good of the State of Montana and the parties to conclude by settlement of all unresolved issues of law and fact, in this case, the last case arising under state jurisdiction out of the Merica incident of 1988, and to move the Court jointly to enter judgment of dismissal with prejudice of all claims stated or which could have been stated in the complaint and in any counterclaims which have been or could have been pleaded, on the following grounds and for the following reasons:

1. This civil action was filed after a series of investigations by the plaintiff into certain complaints filed with the plaintiff by letter on September 4, 1990, by Kelly Addy, Democratic Speaker Pro Tem of the Montana Legislature, based in turn upon certain pleadings filed by Terry Merica, a former Executive Director of the Montana Republican Party during the election campaign in 1988, in Civil Action No. CV-90-6-H-CCL, United States District Court for Montana, styled Merica v. Campbell, et.al., and subsequently remanded to the Montana District Court as Civil Action No. ADV-89-930, Montana First Judicial District Court in and for Lewis and Clark County, an

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action for wrongful termination and other relief by Merica against the Republican National Senatorial Committee and the Montana Republican Party and its 1988 chairman. After the dismissal of certain Merica claims by the U.S. District Court and remand to the state court, and after certain depositions of Merica, Campbell, and others in May 1992, the Merica civil action was dismissed with prejudice in July 1992 after settlement of all claims for $9,000.00.

2. The plaintiff, acting through Special Counsel appointed for the purpose, has during the period subsequent to the Addy complaint pursued a number of separate investigations and examined the relevant records of a number of various candidates, political organizations, and individuals. As a result of those investigations, this civil action was filed by the plaintiff in June, 1992 based upon the advice of counsel that there was a reasonable legal and factual basis to allege the claims made, according to certain statements and documents at that time available to the plaintiff and the reasonable inferences which the plaintiff was entitled to draw from the same.

3. After a change in office during 1993, the plaintiff and her successor in office have continued the prosecution of this action through the Special Counsel for that purpose. As preparation for trial proceeded, however, and a fuller

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understanding of the underlying circumstances between Merica and the Montana Republican Party emerged from the underlying documents used by Merica and others to compile the records and reports of the Montana Republican Party during the Fall of 1988, it became clear that certain factual issues in dispute in this civil action, and the legitimate inferences which could be drawn from the conflicting evidence, and the controlling law relating to the same, were becoming more peripheral to the core issues. At the same time the remaining disputed facts, permissible inferences, and issues of law were becoming more vigorously contested and thus, more expensive to resolve by litigation. In short, this case reached a point where proceeding to litigate the remaining disputed issues would result in litigation costs far outweighing the utility to be derived from doing so.

4. The plaintiff continues to assert that this action and any claims pleaded were brought for the sole purpose of enforcing the statutes and regulations of Montana with respect to elections and campaigns, and the plaintiff believes that any counterclaims which are pleadable in this litigation would not be sustained upon the ultimate proof at trial. Notwithstanding that, the plaintiff has accepted the advice of the Special Counsel that the costs of continued litigation will far outweigh any remaining benefits to be derived from continuing the litigation and that the proposed settlement of all disputed

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factual and legal issues in this litigation is in the best interest of justice and the State of Montana.

5. The defendants continue to assert that this action and the claims pleaded may have been brought for secondary purposes, and they, and each of them, deny any wrongdoing or liability with respect to the claims pleaded in the complaint, and at least one of the defendants continues to believe that it has or may have counterclaims which are pleadable in this litigation. Notwithstanding that, the defendants have each accepted the advice of the respective counsel that the costs of continued litigation will likely outweigh the costs of the settlement of all disputed factual and legal issues as proposed by the plaintiff, and therefore the defendants have determined to accept the advice of their respective counsel to settle this case on the terms proposed.

6. All parties understand that this is a civil case, as provided under Montana election laws, and that the resolution of the disputed issues by this settlement is not an admission by any party adverse to the positions which have been taken, or which could have been taken, had this civil action proceeded to judgment after trial.

7. The defendants, jointly and severally, acting through their counsel, agree to deposit with plaintiff's counsel a cashier's instrument in proper form payable to the order of the

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plaintiff in the amount of $20,500.00 for the establishment of a state special revenue fund under the provisions of section 17-2-102(a)(ii)(A), MCA. The special revenue fund so established will be used by the Commissioner of Political Practices to supplement two vital components to his office's efforts to prevent noncompliance by political candidates and committees in reporting their financial activities in the future.

The first purpose of the fund will be to provide information to candidates, committees, and the voting public, through the use of the print, radio and television media that is designed to educate interested parties in the legal requirements associated with reporting campaign finances and obeying political practices law and insuring compliance with political practices under Montana law.

The second purpose of the fund will be to provide for greater office efficiency through the use of technology to provide the public timely information about campaign contributions and expenditures as reported to the Commissioner.

8. Upon receipt and approval of the cashier's instrument by plaintiff's counsel, the parties agree to move the Court jointly for the entry of a judgment of dismissal with prejudice of all claims pleaded or which could have been pleaded in the compliant and any counterclaims which were or could have been asserted in this action by the defendants, or either of them.

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9. Upon entry of judgment by the court in the form attached, the plaintiff shall be entitled negotiate the cashier's instrument, by depositing the same in the state treasury for the establishment of the special revenue fund described in this document and the parties will thereafter deem this matter terminated for all purposes.

10. A proposed judgment approved in form by the parties shall be lodged with the Clerk of Court at the time this stipulation is filed.

Dated this 23rd day of December, 1993.

LEO J. GALLAGHER
Attorney for Plaintiff

BOSCH, KUHR, DUGDALE, MARTIN & KAZE

By: _____
JOHN KUHR
Attorney for Stephens/Kolstad Campaign

CROWLEY, HAUGHEY, HANSON, TOOLE & DIETRICH

By: _____
ROBERT EDD LEE
Attorneys for the Republican National Committee

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was presented to and retained by each of the following at the time the original was presented in succession for execution and return to the clerk of Court for filing:

Robert Edd Lee
Crowley, Haughey, Hanson, Toole & Dietrich
490 North 31st Street
P.O. Box 2529
Billings, MT 59103

John Kuhr
Bosch, Kuhr, Dugdale, Martin & Kaze
335 Fourth Avenue
P.O. Box 7152
Havre, MT 59501

Dated this 23rd day of December, 1993.

By _____
Leo J. Gallagher

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August 31, 1993

Leo J. Gallagher
Counsel for Commissioner of Political Practices
310 Broadway
Helena, Montana 59601

Dear Mr. Gallagher:

Attached please find a 37 page document that states the information researched at the Federal Election Commission (FEC). I searched the FEC records of the Republican National Committee (RNC)- Contributions, Republican National Committee (RNC)- Expenditures, National Republican Senatorial Committee (NRSC)- Contributions, National Republican Senatorial Committee (NRSC)- Expenditures, and the Montana Republican Party. All committee reports were searched from January 1, 1987 to December 31, 1988.

The information is formatted similar to the FEC reports. Name, purpose, date and amount of the expenditure is listed for each expenditure. The information appears in the table in the same order that the information appears in the FEC report.

Please note in some places Robert Bissen's name is followed by "Bob", in these places Mr. Bissen is referred to Bob in the FEC reports.

The information I have provided to you was completed on a 3 1/2 disk using Word for Windows 5.1 software. If you would like the material forwarded to you on a disk please write or call and I will provide the disk. In addition, I have saved my notes and although they are messy I can also make them available to you.

I am leaving the Washington, D.C. area on September 10th. My new address is:
133 Jauncey Avenue
North Arlington, NJ 07031

Please do not hesitate to contact me if you have any questions.

I hope this information is able to provide you with the basic footing in your investigation. Good Luck!

Sincerely,

Jennifer L. Fitzpatrick

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COMMITTEE / DOCUMENT	RECEIPTS	DISBURSEMENTS	COVERAGE DATES	# OF PAGES	MICROFILM LOCATION
			TYPE OF FILER		
MONTANA REPUBLICAN STATE CENTRAL COMMITTEE			ID #C00006086 PARTY QUALIFIED		
CONNECTED ORGANIZATION: RNC					
1987 STATEMENT OF ORGANIZATION - AMENDMENT			14JUL87	3	87FEC/473/5227
APRIL QUARTERLY	25,665	24,640	1JAN87 -31MAR87	12	87FEC/466/2585
JULY QUARTERLY	43,915	43,479	1APR87 -30JUN87	14	87FEC/473/5230
JULY QUARTERLY - AMENDMENT	-	-	1APR87 -30JUN87	1	88FEC/510/1103
REQUEST FOR ADDITIONAL INFORMATION			1APR87 -30JUN87	4	88FEC/498/2263
REQUEST FOR ADDITIONAL INFORMATION 2ND			1APR87 -30JUN87	5	88FEC/507/3413
OCTOBER QUARTERLY	14,752	11,828	1JUL87 -30SEP87	13	87FEC/491/3708
OCTOBER QUARTERLY - AMENDMENT	-	-	1JUL87 -30SEP87	1	88FEC/510/1102
1'ST LETTER INFORMATIONAL NOTICE			1JUL87 -30SEP87	3	88FEC/498/1645
YEAR-END	9,647	11,063	1OCT87 -31DEC87	11	88FEC/498/2193
YEAR-END - AMENDMENT	-	-	1OCT87 -31DEC87	3	88FEC/509/3201
REQUEST FOR ADDITIONAL INFORMATION			1OCT87 -31DEC87	4	88FEC/501/0515
1988 STATEMENT OF ORGANIZATION - AMENDMENT			16OCT88	2	88FEC/553/3230
APRIL QUARTERLY	34,437	33,157	1JAN88 -31MAR88	15	88FEC/519/1541
APRIL QUARTERLY - AMENDMENT	34,437	33,157	1JAN88 -31MAR88	1	88FEC/542/0993
JULY QUARTERLY	41,222	43,321	1APR88 -30JUN88	16	88FEC/536/2923
JULY QUARTERLY - AMENDMENT	41,222	43,321	1APR88 -30JUN88	19	88FEC/542/0991
JULY QUARTERLY - AMENDMENT	-	-	1APR88 -30JUN88	3	88FEC/543/4536
JULY QUARTERLY - AMENDMENT	41,222	43,321	1APR88 -30JUN88	18	88FEC/545/4142
REQUEST FOR ADDITIONAL INFORMATION			1APR88 -30JUN88	2	88FEC/541/2406
OCTOBER QUARTERLY	111,366	67,342	1JUL88 -30SEP88	22	88FEC/553/3232
OCTOBER QUARTERLY - AMENDMENT	-	-	1JUL88 -30SEP88	8	88FEC/567/3440
OCTOBER QUARTERLY - AMENDMENT	-	-	1JUL88 -30SEP88	5	88FEC/572/1328
REQUEST FOR ADDITIONAL INFORMATION			1JUL88 -30SEP88	3	88FEC/565/4525
POST-GENERAL	325,480	329,183	1OCT88 -30NOV88	35	88FEC/572/1333
POST-GENERAL - AMENDMENT	-	-	1OCT88 -30NOV88	1	89FEC/580/4986
POST-GENERAL - AMENDMENT	-	-	1OCT88 -30NOV88	13	89FEC/588/4486
REQUEST FOR ADDITIONAL INFORMATION			1OCT88 -30NOV88	4	89FEC/584/3703
REQUEST FOR ADDITIONAL INFORMATION 2ND			1OCT88 -30NOV88	5	89FEC/586/4249
YEAR-END	2,338	24,273	1DEC88 -31DEC88	9	89FEC/580/4987
YEAR-END - AMENDMENT	2,338	24,273	1DEC88 -31DEC88	3	89FEC/589/2084
REQUEST FOR ADDITIONAL INFORMATION			1DEC88 -31DEC88	1	89FEC/588/0120
TOTAL	648,822	589,288	0	259	TOTAL PAGES

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REPUBLICAN NATIONAL COMMITTEE - EXPENDITURES
(AKA REPUBLICAN NATIONAL COMMITTEE)

REPORT: February Monthly
COVERAGE DATES: 01/01/87 - 01/31/87

COMPANY	PURPOSE FOR EXPENSE	DATE	AMOUNT
Campaign Mail & Data	Mail SVS	01/23/87	415.85

REPORT: April Monthly
COVERAGE DATES: 03/01/87 - 03/31/87

COMPANY	PURPOSE FOR EXPENSE	DATE	AMOUNT
Rexnord Data Systems	Mailing SVS	03/17/87	700.00
Richard B. Roldan	Meals	03/25/87	175.28
Richard B. Roldan	Meals	03/31/87	147.57
Rexnord Data Systems	Data Processing	03/25/87	1,417.52

REPORT: May Monthly
COVERAGE DATES: 04/01/87 - 04/30/87

COMPANY	PURPOSE FOR EXPENSE	DATE	AMOUNT
Camilla Powell	Lodg Tele	04/15/87	337.62
Rexnord Data Systems	List Development	04/10/87	2,450.00
Richard B. Roldan	Lodg Trans	04/15/87	386.89

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REPUBLICAN NATIONAL COMMITTEE - EXPENDITURES
(AKA REPUBLICAN NATIONAL COMMITTEE)

REPORT: June Monthly
COVERAGE DATES: 05/01/87 - 05/31/87

COMPANY	PURPOSE FOR EXPENSE	DATE	AMOUNT
Camilla Powell	Lodg Meals	05/13/87	288.90
Richard B. Roldan	Lodg Trans Meals	05/06/87	176.74
Richard B. Roldan	Meals Trans	05/13/87	157.82

REPORT: July Monthly
COVERAGE DATES: 06/01/87 - 06/30/87

COMPANY	PURPOSE FOR EXPENSE	DATE	AMOUNT
Rexnord Data Systems	List Development	06/09/87	10,000.00
Richard B. Roldan	Trans	06/10/87	650.84

REPORT: August Monthly
COVERAGE DATES: 07/01/87 - 07/31/87

COMPANY	PURPOSE FOR EXPENSE	DATE	AMOUNT
Camilla Powell	Meals Trans	07/08/87	900.46
Camilla Powell	Meals & Trans	07/15/87	45.33
Richard B. Roldan	Meals Lodg Trans	07/22/87	1,228.05

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REPUBLICAN NATIONAL COMMITTEE - EXPENDITURES
(AKA REPUBLICAN NATIONAL COMMITTEE)

REPORT: September Monthly
COVERAGE DATES: 08/01/87 - 08/31/87

COMPANY	PURPOSE FOR EXPENSE	DATE	AMOUNT
Camilla Powell	Meals Lodg Trans	08/26/87	284.74
Richard B. Roldan	Meals Lodg Trans	08/28/87	42.59
Lee Vance	Almanac	08/28/87	1,250.00

REPORT: October Monthly
COVERAGE DATES: 09/01/87 - 09/30/87

COMPANY	PURPOSE FOR EXPENSE	DATE	AMOUNT
Richard B. Roldan	Meals Lodge Trans	09/02/87	501.97
Richard B. Roldan	Meals	09/16/87	131.28
Richard B. Roldan	Meals	09/23/87	28.00

REPORT: November Monthly
COVERAGE DATES: 10/01/87 - 10/31/87

COMPANY	PURPOSE FOR EXPENSE	DATE	AMOUNT
Camilla Powell	Meals Lodge Trans	10/07/87	276.09
Camilla Powell	Lodge Trans	10/29/87	305.64
Rexnord Data Systems	List Development	10/29/87	10,795.64
Richard B. Roldan	Trans Meals	10/07/87	91.00
Richard B. Roldan	Meals Lodg Trans	10/21/87	335.67

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REPUBLICAN NATIONAL COMMITTEE - EXPENDITURES
(AKA REPUBLICAN NATIONAL COMMITTEE)

REPORT: December Monthly
COVERAGE DATES: 11/01/87 - 11/30/87

COMPANY	PURPOSE FOR EXPENSE	DATE	AMOUNT
Richard B. Roldan	Meals	11/12/87	144.60

REPORT: Year End 1897
COVERAGE DATES: 12/01/87 - 12/31/87

COMPANY	PURPOSE FOR EXPENSE	DATE	AMOUNT
Camilla Powell	Lodg Trans Meals	12/09/87	143.34
Richard B. Roldan	Meals	12/09/87	68.00

REPORT: February Monthly
COVERAGE DATES: 01/01/88 - 01/31/88

COMPANY	PURPOSE FOR EXPENSE	DATE	AMOUNT
Richard B. Roldan	Lodg Trans	01/18/88	345.95
Richard B. Roldan	Meals Lodg Trans	01/15/88	714.35
Richard B. Roldan	Meals	01/29/88	24.77

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REPUBLICAN NATIONAL COMMITTEE - EXPENDITURES
(AKA REPUBLICAN NATIONAL COMMITTEE)

REPORT: March Monthly
COVERAGE DATES: 02/01/88 - 02/29/88

COMPANY	PURPOSE FOR EXPENSE	DATE	AMOUNT
Camilla Powell	Meals & Trans	02/25/88	407.60
Richard B. Roldan	Trans & Meals	02/17/88	403.69
Richard B. Roldan	Meals	02/25/88	127.20

REPORT: April Monthly
COVERAGE DATES: 03/01/88 - 03/31/88

COMPANY	PURPOSE FOR EXPENSE	DATE	AMOUNT
Parity Systems Corp.	Mailing Costs	03/23/88	42,353.30
Camilla Powell	Meals Trans	03/24/88	16.95
Richard B. Roldan	Trans Meals	03/23/88	445.44

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REPUBLICAN NATIONAL COMMITTEE - EXPENDITURES
(AKA REPUBLICAN NATIONAL COMMITTEE)

REPORT: May Monthly
COVERAGE DATES: 04/01/88 - 04/30/88

COMPANY	PURPOSE FOR EXPENSE	DATE	AMOUNT
Parity Systems	Printing Costs	04/25/88	12,200.00
Parity Systems	Data Processing	04/27/88	8,070.62
Parity Systems	Postage	04/03/88	5,411.08
Camilla Powell	Meals Lodge Trans	04/08/88	145.01
Camilla Powell	Meals Trans	04/20/88	102.17
Richard B. Roldan	Trans, Meals	04/08/88	166.15
Richard B. Roldan	Meals Lodg Trans	04/12/88	724.90

REPORT: June Monthly
COVERAGE DATES: 05/01/88 - 05/31/88

COMPANY	PURPOSE FOR EXPENSE	DATE	AMOUNT
Campaign Mail & Data	Computer services	05/11/88	317.32
Parity Systems	Delivery Costs	05/18/88	98.50
Parity Systems	Mailing Costs	05/04/88	7,237.00
Camilla Powell	Trans, Meals, Lodg	05/23/88	372.60
Richard B. Roldan	Meals	05/06/88	347.15
Richard B. Roldan	Trans, Meals, Lodge	05/23/88	1,571.49

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REPUBLICAN NATIONAL COMMITTEE - EXPENDITURES
(AKA REPUBLICAN NATIONAL COMMITTEE)

REPORT: July Monthly
COVERAGE DATES: 06/01/88 - 06/30/88

COMPANY	PURPOSE FOR EXPENSE	DATE	AMOUNT
Parity Systems	Data Processing	06/01/88	5,658.03
Parity Systems	Data Processing	06/20/88	6,859.45
Parity Systems	List Development	06/22/88	11,000.00
Parity Systems	List Development	06/28/88	15,000.00
Parity Systems	Data Processing	06/20/88	1,221.91
Camilla Powell	Meals, Lodg, Trans	06/07/88	389.20
Camilla Powell	Meals, Lodg, Trans	06/28/88	707.46
Richard B. Roldan	Meals	06/14/88	697.76
Richard B. Roldan	Meals, Lodg, Trans	06/22/88	1,478.40
Richard B. Roldan	Meals, Lodg, Trans	06/28/88	838.98

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REPUBLICAN NATIONAL COMMITTEE - EXPENDITURES
(AKA REPUBLICAN NATIONAL COMMITTEE)

REPORT: August Monthly
COVERAGE DATES: 07/01/88 - 07/31/88

COMPANY	PURPOSE FOR EXPENSE	DATE	AMOUNT
Campaign Mail & Data	List Chgs	07/15/88	12,135.48
Parity Systems	Printing Costs	07/01/88	15,523.00
Parity Systems	Printing Costs	07/08/88	1,259.20
Parity Systems	Printing Costs	07/12/88	3,020.58
Parity Systems	Printing Costs	07/15/88	1,068.33
Parity Systems	Printing Costs	07/15/88	1,692.40
Parity Systems	List Development	07/15/88	13,000.00
Camilla Powell	Meal Trans Lists	07/19/88	153.08
Camilla Powell	Per Diem	07/26/88	200.00
Rexnord Data Systems	List Development	0715/88	15,435.88
Richard B. Roldan	Trans, Lodg, Misc	07/15/88	458.43
Richard B. Roldan	Per Diem	07/26/88	2,121.94

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REPUBLICAN NATIONAL COMMITTEE - EXPENDITURES
(AKA REPUBLICAN NATIONAL COMMITTEE)

REPORT: September Monthly
COVERAGE DATES: 08/01/88 - 08/31/88

COMPANY	PURPOSE FOR EXPENSE	DATE	AMOUNT
Campaign Mail & Data	Printing	08/23/88	253.14
Campaign Mail & Data	Printing	08/05/88	3,650.78
Parity Systems	Printing Costs	08/01/88	1,499.91
Parity Systems	Mailing Costs	08/05/88	2,005.25
Parity Systems	Printing Costs	08/01/88	3,708.89
Camilla Powell	Meals Trans	08/31/88	211.39
Richard B. Roldan	Meals, Lodg, Trans	08/05/88	1,777.84
Richard B. Roldan	Meals. Lodg, Trans	08/31/88	773.65
Stephens For Governor	Contribution	08/24/88	8,000.00

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REPUBLICAN NATIONAL COMMITTEE - EXPENDITURES
(AKA REPUBLICAN NATIONAL COMMITTEE)

REPORT: October Monthly
COVERAGE DATES: 09/01/88 - 09/30/88

COMPANY	PURPOSE FOR EXPENSE	DATE	AMOUNT
Campaign Mail & Data	Labels	09/29/88	325.00
Campaign Mail & Data	Printing	09/22/88	2,129.50
Campaign Mail & Data	Mailing	09/09/88	120.00
Parity Systems	Mailing Costs	09/09/88	350.00
Parity Systems	List Costs	09/22/88	4,988.70
Parity Systems	Mailing Costs	09/29/88	1,299.49
Parity Systems	List Development	09/09/88	28,109.73
Richard B. Roldan	Meals	09/09/88	901.17
Richard B. Roldan	Mtg. Chg.	09/22/88	1,929.72
Richard B. Roldan	Meals. Trans	09/29/88	462.61
Racicot for Attorney General	Contribution	09/09/88	1,000.00

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REPUBLICAN NATIONAL COMMITTEE - EXPENDITURES
(AKA REPUBLICAN NATIONAL COMMITTEE)

REPORT: Pre- General Report
COVERAGE DATES: 10/01/88 - 10/19/88

COMPANY	PURPOSE FOR EXPENSE	DATE	AMOUNT
Parity Systems	Mailing Costs	10/19/88	415.25
Camilla Powell	Meals Lodg Trans	10/06/88	474.95
Camilla Powell	Meals Lodg Trans	10/12/88	114.20
Richard B. Roldan	Meals Lodg Trans	10/13/88	1.335.12
Richard B. Roldan	Meals Lodg Trans	10/19/88	2,075.82
Montana Rep State Central Committee	Transfer Out	10/19/88	5,000.00

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REPUBLICAN NATIONAL COMMITTEE - EXPENDITURES
(AKA REPUBLICAN NATIONAL COMMITTEE)

REPORT: Post General Report
COVERAGE DATES: 10/20/88 - 11/28/88

COMPANY	PURPOSE FOR EXPENSE	DATE	AMOUNT
Parity Systems	Data Entry	11/01/88	3,998.68
Parity Systems	List Costs	11/18/88	361.52
Parity Systems	List Costs	10/27/88	5,631.25
Parity Systems	Key Punching	10/26/88	15,450.26
Parity Systems	Mailing Costs	10/26/88	251.35
Parity Systems	Data Entry	10/26/88	12,266.67
Parity Systems	Mailing Costs	10/31/88	391.11
Parity Systems	Mailing Costs	11/15/88	5,071.98
Camilla Powell	Meals, Lodg, Trans	11/15/88	420.35
Camilla Powell	Meals, Lodg, Trans	10/26/88	309.37
Rexord Data Systems	Lists Costs	10/26/88	116.00
Rexnord Data Systems	List Chgs	11/04/88	2,948.65
Richard B. Roldan	Meals, Lodg, Trans	10/31/88	1,634.62
Richard B. Roldan	Meals, Lodg, Trans	11/01/88	604.43
Richard B. Roldan	Lodg, Trans, Meals	11/28/88	2,121.32
MT. Rep. State Central Committee	Transfer Out	10/26/88	15,000.00
MT. Rep. State Central Committee	Transfer Out	10/27/88	25,000.00
MT. Rep. State Central Committee	Transfer Out	10/27/88	8,000.00

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REPUBLICAN NATIONAL COMMITTEE - EXPENDITURES
(AKA REPUBLICAN NATIONAL COMMITTEE)

REPORT: Year End Report
COVERAGE DATES: 11/29/88 - 12/31/88

COMPANY	PURPOSE FOR EXPENSE	DATE	AMOUNT
Parity Systems	List Costs	12/13/88	592.88
Richard B. Roldan	Meals, Trans. Lodg	12/07/88	2,069.04
Richard B. Roldan	Meals, Trans, Lodg	12/13/88	1,889.28

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REPORT: March Monthly
COVERAGE DATES: 2/1/87 - 2/28/87

COMPANY	PURPOSE FOR EXPENSE	DATE	AMOUNT
Jill Jackson	Salary	2/13	1,456.36
Jill Jackson	Salary	2/27	1,786.77

REPORT: April Monthly
COVERAGE DATES: 3/1/87 - 3/31/87

COMPANY	PURPOSE FOR EXPENSE	DATE	AMOUNT
Jill Jackson	Parking	3/10	78.40
Robert Bissen	Salary	3/13	869.63
Robert Bissen	Salary	3/13	436.98
Jill Jackson	Salary	3/13	1,533.49
Jill Jackson	Salary	3/31	1,615.37
Robert Bissen	Salary	3/31	871.67
Campaign Mail & Data	Direct Mail	3/24	1,244.98
Jill Jackson	Parking, Travel Advance	3/24	334.90

Additional expenditures or information:

Debt and Obligation - line 9
Citizens for Cozzens Committee
P.O. Box 1984
Billings, MT 59103
Outstanding balance $529.98 for mailing services
Total payment this period - $0

9404358369 2

REPORT: May Monthly
COVERAGE DATES: 4/1/87 - 4/30/87

COMPANY	PURPOSE FOR EXPENSE	DATE	AMOUNT
Robert Bissen	Salary	4/15	869.63
Jill Jackson	Salary	4/15	1,553.49
Jill Jackson	Salary	4/30	1,611.89
Jill Jackson	Taxi, Meals	4/14	430.56

Debt and Obligation - line 9
Citizens for Cozzens Committee
Outstanding balance $529.98 for mailing services
Total payment this period - $0

REPORT: June Monthly
COVERAGE DATES: 5/1/87 - 5/31/87

COMPANY	PURPOSE FOR EXPENSE	DATE	AMOUNT
Jill Jackson	Salary	5/15	1,533.49
Robert Bissen	Salary	5/15	869.63
Jill Jackson	Salary	5/29	1,611.89
Robert Bissen	Salary	5/29	869.63
Jill Jackson	Parking, Taxi	5/5	119.63
Jill Jackson	Parking	5/19	78.40

Debt and Obligation - line 9
Citizens for Cozzens Committee
Outstanding balance $529.98 for mailing services
Total payment this period - $0

9 4 0 4 3 5 8 3 6 9 3

REPORT: July Monthly
COVERAGE DATES: 6/1/87 - 6/30/87

COMPANY	PURPOSE FOR EXPENSE	DATE	AMOUNT
Jill Jackson	Salary	6/15	1,637.95
Robert Bissen	Salary	6/30	968.11
Ann Prestidge	Salary	6/30	1,050.81
Jill Jackson	Salary	6/30	1,637.94
Rexnord Data System	Direct Mail	6/2	4,000.00
Jill Jackson	Travel Advance	6/23	400.00

Debt and Obligation - line 9
Citizens for Cozzens Committee
Outstanding balance $529.98 for mailing services
Total payment this period - $0

9404358369 4

REPORT: August
COVERAGE DATES: 7/1/87 - 7/31/87

COMPANY	PURPOSE FOR EXPENSE	DATE	AMOUNT
Jill Jackson	Salary Advance	6/15	175.00
Robert Bissen	Salary	7/15	970.91
Jill Jackson	Salary	7/15	1,720.63
Ann Prestige	Salary	7/15	984.53
Robert Bissen	Salary	7/31	970.91
Jill Jackson	Salary	7/31	1,720.62
Ann Prestige	Salary	7/31	984.53
Lee Vance	Salary	7/31	968.82
Jill Jackson	Travel Expenses	7/7	168.59
Robert Bissen "Bob"	Travel & Meeting	7/14	76.35

Debt and Obligation - line 9
Citizens for Cozzens Committee
Outstanding balance $529.98 for mailing services
Total payment this period - $0

9 4 0 4 3 5 8 3 6 9 5

REPORT: October Monthly
COVERAGE DATES: 9/1/87 - 9/30/87

COMPANY	PURPOSE FOR EXPENSE	DATE	AMOUNT
Ann Prestige	Salary	9/15	984.53
Robert Bissen "Bob"	Salary	9/15	970.91
Jill Jackson	Salary	9/15	1,720.62
Lee Vance	Salary	9/15	968.81
Robert Bissen "Bob"	Travel Expense	9/16	577.02
Robert Bissen "Bob"	Salary	9/30	970.90
Ann Prestige	Salary	9/30	984.53
Jill Jackson	Salary	9/30	1,768.89
Lee Vance	Salary	9/30	968.82
Jill Jackson	Salary Advance	9/16	200.00

Debt and Obligation - line 9
Citizens for Cozzens Committee
Outstanding balance $529.98 for mailing services
Total payment this period - $0

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REPORT: November Monthly
COVERAGE DATES: 10/1/87 -10/31/87

COMPANY	PURPOSE FOR EXPENSE	DATE	AMOUNT
Lee Vance	Salary	10/15	986.82
Lee Vance	Salary	10/31	986.82
Lee Vance	Travel Expenses	10/28	50.00
Jill Jackson	Travel Expenses	10/28	17.33
Jill Jackson	Salary	10/15	1,714.27
Jill Jackson	Travel Advance	10/13	450.00
Jill Jackson	Salary	10/31	1,914.27
Ann Prestige	Salary	10/15	984.53
Ann Prestige	Salary	10/31	984.53
Robert Bissen "Bob"	Salary	10/15	970.91
Robert Bissen "Bob"	Salary	10/31	970.91
Robert Bissen "Bob"	Travel Expense	10/28	57.73

Debt and Obligation - line 9
Citizens for Cozzens Committee
Outstanding balance $529.98 for mailing services
Total payment this period - $0

9 4 0 4 3 5 8 3 6 9 7

REPORT: December Monthly
COVERAGE DATES: 11/01/87 - 11/30/87

COMPANY	PURPOSE FOR EXPENSE	DATE	AMOUNT
Lee Vance	Salary	11/15	986.81
Robert Bissen "Bob"	Travel Expenses	11/18	150.84
Robert Bissen "Bob"	Salary	11/25	970.91
Robert Bissen "Bob"	Salary	11/15	970.90
Jill Jackson	Travel Advance	11/24	250.00
Jill Jackson	Salary	11/30	200.00
Ann Prestige	Travel Expense	11/18	398.05
Ann Prestige	Salary	11/15	984.52
Ann Prestige	Salary	11/25	968.82
Lee Vance	Salary	11/25	968.82
Jill Jackson	Salary	11/25	1,714.27
Jill Jackson	Salary	11/15	1,914.27

Debt and Obligation - line 9
Citizens for Cozzens Committee
Outstanding balance $529.98 for mailing services
Total payment this period - $0

9 4 0 4 3 5 8 3 6 9 8

REPORT: Year-End Report
COVERAGE DATES: 12/01/87 - 12/31/87

COMPANY	PURPOSE FOR EXPENSE	DATE	AMOUNT
Lee Vance	Salary	12/23	968.82
Lee Vance	Salary	12/15	968.82
Jill Jackson	Salary	12/23	1,914.27
Jill Jackson	Salary	12/15	1,914.27
Ann Prestige	Travel Expense	12/01	485.62
Ann Prestige	Salary	12/15	984.53
Ann Prestige	Salary	12/23	984.53
Robert Bissen "Bob"	Salary	12/15	970.91
Robert Bissen "Bob"	Salary	12/23	970.91

Debt and Obligation - line 9
Citizens for Cozzens Committee
Outstanding balance $529.98 for mailing services
Total payment this period - $0

9 4 0 4 3 5 8 3 6 9 9

REPORT: February Monthly
COVERAGE DATES: 01/01/88 - 01/31/88

COMPANY	PURPOSE FOR EXPENSE	DATE	AMOUNT
Lee Vance	Salary	01/29	977.35
Lee Vance	Travel Expense	01/25	100.00
Lee Vance	Salary	01/15	977.06
Lee Vance	Travel Expense	01/25	33.29
Jill Jackson	Salary	01/29	1,784.73
Jill Jackson	Salary	01/15	1,784.42
Ann Prestige	Salary	01/29	1,000.36
Ann Prestige	Salary	01/15	1,003.25
Robert Bissen "Bob"	Travel Expense	01/15	258.02
Robert Bissen "Bob"	Salary	01/29	975.63
Robert Bissen "Bob"	Salary	01/15	975.33
Robert Bissen "Bob"	Travel Expense	01/25	87.71

Debt and Obligation - line 9
Citizens for Cozzens Committee
Outstanding balance $529.98 for mailing services
Total payment this period - $0

Line 20
Montana Republican State Party Transfer 01/26 853.83
1425 Helena Ave
Helena, MT 59601

24043583700

REPORT: March Monthly
COVERAGE DATES: 02/01/88 -02/29/88

COMPANY	PURPOSE FOR EXPENSE	DATE	AMOUNT
Lee Vance	Salary	02/12	977.36
Lee Vance	Salary	02/29	977.36
Jill Jackson	Salary	02/12	1,784.72
Jill Jackson	Salary	02/29	1,784.72
Ann Prestige	Salary	02/12	1,003.56
Ann Prestige	Travel Expense	02/04	103.20
Ann Prestige	Salary	02/29	1,003.56
Robert Bissen "Bob"	Salary	02/12	975.64
Robert Bissen "Bob"	Salary	02/29	975.64
Robert Bissen "Bob"	Travel Expense	02/23	16.75

Debt and Obligation - line 9
Citizens for Cozzens Committee
Outstanding balance $529.98 for mailing services
Total payment this period - $0

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REPORT: April Monthly
COVERAGE DATES: 03/01/88 - 03/31/88

COMPANY	PURPOSE FOR EXPENSE	DATE	AMOUNT
Lee Vance	Salary	03/15	1,050.78
Lee Vance	Salary	03/31	1,050.78
Jill Jackson	Salary	03/31	1,784.72
Jill Jackson	Salary	03/15	1,784.73
Ann Prestige	Salary	03/15	1,052.51
Robert Bissen "Bob"	Travel Expense	03/02	22.45
Robert Bissen "Bob"	Salary	03/15	1,049.06
Mt. Republican State	Party Transfer	03/15	534.19
Mt. Republican State	Party Transfer	03/21	750.00
Conrad Burns For Us. Senate	Contribution	03/17	15,000.00

Debt and Obligation - line 9
Citizens for Cozzens Committee
Outstanding balance $529.98 for mailing services
Total payment this period - $0

9 4 0 4 3 5 8 3 7 0 2

REPORT: May Monthly
COVERAGE DATES: 04/01/88 - 04/30/88

COMPANY	PURPOSE FOR EXPENSE	DATE	AMOUNT
Campaign Mail & Data	party Building	04/05	257.31
Lee Vance	Travel Expense	04/12	100.00
Lee Vance	Salary	04/15	1,050.78
Lee Vance	Salary	04/29	1,050.78
Jill Jackson	Travel Expenses	04/12	32.72
Jill Jackson	Salary	04/29	1,784.72
Jill Jackson	Salary	04/29	1,784.73
Ann Prestige	Travel Expenses	04/05	549.26
Ann Prestidge	Salary	04/15	1,052.51
Ann Prestidge	Salary	04/29	1,052.51
Robert Bissen "Bob"	Travel Expense	04/05	162.89
Robert Bissen "Bob"	Travel Expense	04/19	183.70
Robert Bissen "Bob"	Salary	04/29	1,049.06
Robert Bissen "Bob"	Salary	04/15	1,049.06
Mt. Republican State Committee	Party Transfer	04/29	5,000.00

Debt and Obligation - line 9
Citizens for Cozzens Committee
Outstanding balance $529.98 for mailing services
Total payment this period - $0

9 4 0 4 3 5 8 3 7 0 3

REPORT: June Monthly
COVERAGE DATES: 05/01/88 - 05/31/88

COMPANY	PURPOSE FOR EXPENSE	DATE	AMOUNT
Robert Bissen "Bob"	Travel Expense	05/03	26.00
Ann Prestige	Salary	05/13	1,052.51
Lee Vance	Salary	05/13	1,050.78
Ann Prestige	Salary	05/31	1,052.52
Lee Vance	Salary	05/31	1,050.78
Jill Jackson	Salary	05/13	1,784.72
Robert Bissen "Bob"	Salary	05/31	1,049.06
Ann Prestige	Travel Expense	05/24	70.80

Debt and Obligation - line 9
Citizens for Cozzens Committee
Outstanding balance $529.98 for mailing services
Total payment this period - $0

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REPORT: July Monthly
COVERAGE DATES: 06/01/88 - 06/30/88

COMPANY	PURPOSE FOR EXPENSE	DATE	AMOUNT
Campaign Mail & Data	Direct Mail Expense	06/14	120.00
Lee Vance	Travel Expense	06/21	128.51
Lee Vance	Salary	06/15	1,050.78
Jill Jackson	Salary	06/15	1,784.73
Jill Jackson	Travel Expense	06/09	315.23
Jill Jackson	Salary	06/30	1,919.06
Jill Jackson	Travel Expense	06/21	262.96
Ann Prestige	Salary	06/15	1,052.51
Ann Prestige	Travel Expense	06/14	434.17
Ann Prestige	Salary	06/30	1,052.51
Robert Bissen "Bob"	Meeting Expense	06/07	85.00
Robert Bissen "Bob"	Salary	06/30	1,049.06
Robert Bissen "Bob"	Salary	06/15	1,049.06
Mt. Republican State Committee	Party Transfer	06/01	6,000.00
Mt. Republican State Committee	Party Transfer	06/16	5,000.00

Debt and Obligation - line 9
Citizens for Cozzens Committee
Outstanding balance $529.98 for mailing services
Total payment this period - $0

9 4 0 4 3 5 8 3 7 0 5

REPORT: August Monthly
COVERAGE DATES: 07/01/88 - 07/31/88

COMPANY	PURPOSE FOR EXPENSE	DATE	AMOUNT
Parity Political Planning	List Development	07/26	7,495.39
Lee Vance	Salary	07/15	1,050.78
Lee Vance	Salary	07/29	1,050.78
Jill Jackson	Travel Expense	07/19	226.39
Jill Jackson	Salary	07/29	1,851.89
Jill Jackson	Salary	07/15	1,851.90
Jill Jackson	Travel Expense	07/26	543.84
Ann Prestige	Salary	07/15	1,052.51
Ann Prestige	Salary	07/29	1,052.51
Robert Bissen "Bob"	Salary	07/29	1,049.06
Robert Bissen "Bob"	Salary	07/29	1,049.06
Mt. Republican State Committee	Party Transfer	07/21	4,000.00

DEBT AND OBLIGATION - line 9
Citizens for Cozzens Committee
Outstanding balance $529.98 for mailing services
Total payment this period - $0

COORDINATED EXPENDITURES:

Interface Video Systems 1333 New Hampshire Ave Washington, DC 20036	Conrad Burns/Media Buy	07/15	627.75
Capital Video Company 2121 Wisconsin Ave, NW Washington, DC 20007	Conrad Burns/Media Buy	07/15	1,616.50
Media Market Inc 2909 D. South Woodstock Arlington, VA 22206	Conrad Burns/ Media Buy	07/07	10,000.00

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REPORT: September Monthly
COVERAGE DATES: 08/01/88 - 08/31/88

COMPANY	PURPOSE FOR EXPENSE	DATE	AMOUNT
Campaign Mail & Data	List Development	08/24	3,145.00
Lee Vance	Salary	08/11	1,050.78
Lee Vance	Travel Expense	08/30	1,089.02
Lee Vance	Travel Expense	08/02	103.15
Lee Vance	Salary	08/31	1,050.78
Jill Jackson	Salary	08/11	1,851.90
Jill Jackson	Travel Expense	08/05	200.00
Jill Jackson	Salary	08/31	1851.90
Ann Prestige	Travel Expense	08/09	58.46
Ann Prestige	Salary	08/31	1,052.52
Ann Prestige	Salary	08/11	1,052.51
Robert Bissen "Bob"	Salary	08/31	1,049.06
Robert Bissen "Bob"	Salary	08/11	1,049.06
Mt. Republican State Committee	Party Transfer	08/05	10,000.00

DEBT AND OBLIGATION - line 9
Citizens for Cozzens Committee
Outstanding balance $529.98 for mailing services
Total payment this period - $0

COORDINATED EXPENDITURES

Capitol Video	Media Buy	08/30	1,431.00
Interface	Media	08/30	1,483.92
National Republican Congressional Cmt	Media	08/04	1,413.78
National Republican Congressional Cmt.	Media	08/30	709.00
RSM 719 8th St, Se Washington, DC 20003	Media	08/05	15,000.00

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REPORT: October Monthly
COVERAGE DATES: 09/01/88 - 09/31/88

COMPANY	PURPOSE FOR EXPENSE	DATE	AMOUNT
Parity Political Planning	List Development	09/13	9,568.05
Campaign Mail & Data	List Development	09/13	980.16
Lee Vance	Salary	09/15	1,050.78
Rexnord Data Systems	List Development	09/27	12,518.03
Lee Vance	Salary	09/30	1,050.78
Jill Jackson	Salary	09/15	1,995.84
Jill Jackson	Salary	09/30	2,064.68
Ann Prestige	Travel Expense	09/13	917.12
Ann Prestige	Travel Expense	09/02	80.00
Ann Prestige	Salary	09/15	1,052.51
Ann Prestige	Salary	09/30	1,052.51
Robert Bissen "Bob"	Travel Expense	09/27	51.42
Robert Bissen "Bob"	Salary	09/15	1,049.06
Mt. Republican State Committee	Party Transfer	09/13	10,000.00
Mt. Republican State Committee	Party Transfer	09/23	5,000.00

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DEBT AND OBLIGATION - line 9
Citizens for Cozzens Committee
Outstanding balance $529.98 for mailing services
Total payment this period - $0

COORDINATED EXPENDITURES

American Express
P.O.Box 1270
Newark, NJ 07101

Conrad Burns/Media 09/13 626.75

Interface	Conrad Burns/Media	09/13	2,655.31
Mt. Television Network Box 2557 Billings, MT 59103	Conrad Burns/Media	09/13	125.00
International Republican Committee	Media	09/13	680.52
TATI Recording Service 1347 S. Capitol St, SW Washington, DC 20003	Media	09/20	313.23
Interface	Media	09/29	718.53

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REPORT: Pre-General Report
COVERAGE DATES: 10/20/88 - 10/28/88

COMPANY	PURPOSE FOR EXPENSE	DATE	AMOUNT
Lee Vance	Salary	10/14	1,050.79
Lee Vance	Travel Expense	10/11	97.90
Jill Jackson	Salary	10/14	2,064.69
Ann Prestige	Salary	10/14	1,052.51
Ann Prestige	Travel Expense	10/18	631.57
Robert Bissen "Bob"	Travel Expense	10/18	483.96
Robert Bissen "Bob"	Salary	10/14	1,049.06
Mt. Republican State Committee	Party Transfer	10/05	15,000.00
Mt. Republican State Committee	Party Transfer	10/07	6,879.00
Mt. Republican State Committee	Party Transfer	10/18	16,000.00

DEBT AND OBLIGATION - line 9
Citizens for Cozzens Committee
Outstanding balance $529.98 for mailing services
Total payment this period - $0

EARMARK EXPENDITURE
For Conrad Burns Earmarked by Stephen Pistner 10/19 1,000.00

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REPORT: Post-General Report
COVERAGE DATES: 10/20/88 - 11/28/88

COMPANY	PURPOSE FOR EXPENSE	DATE	AMOUNT
JR Foster	List Development	11/09	1,794.00
JR Foster	Professional Service	11/04	45,000.00
Campaign Mail & Data	List Development	11/15	220.00
JR Foster	List Development	10/24	45,000.00
Lee Vance	Salary	10/31	1,050.79
Lee Vance	Travel Expense	11/02	67.53
Lee Vance	Salary	11/08	1,050.79
Lee Vance	Salary	11/28	1,050.79
Jill Jackson	Salary	11/28	2,064.69
Jill Jackson	Salary	10/31	2,064.69
Jill Jackson	Salary	11/15	2,064.69
Jill Jackson	Travel Expense	11/22	126.12
Ann Prestidge	Salary	10/31	1,052.51
Ann Prestidge	Salary	11/15	1,052.51
Robert Bissen "Bob"	Travel Expense	11/15	163.15
Robert Bissen "Bob"	Salary	11/28	1,049.06
Robert Bissen "Bob"	Salary	10/31	1,049.06
Robert Bissen "Bob"	Salary	11/15	1,049.06
Mt. Republican State Committee	Party Transfer	11/15	5,200.00
Mt. Republican State Committee	Party Transfer	10/24	4,956.00
Mt. Republican State Committee	Party Transfer	10/25	4,900.00
Mt Republican State Committee	Party Transfer	10/31	32,110.00

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COMPANY	PURPOSE FOR EXPENSE	DATE	AMOUNT
JR Foster	List Development	11/09	1,794.00
Mt. Republican State Committee	Party Transfer	11/03	19,000.00

Debt and Obligation - line 9
Citizens for Cozzens Committee
Outstanding balance $529.98 for mailing services
Total payment this period - $0

IN-KIND CONTRIBUTIONS

Conrad Burns	US Postal Service/ Postage	11/01	250.00	Memo
Conrad Burns	Twin Lens/Photography	11/01	337.50	Memo
Conrad Burns	Frankenburry Laughilin/Media	11/01	1,405.19	Memo

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REPORT: Year End Report
COVERAGE DATES: 11/29/88 - 12/31/88

COMPANY	PURPOSE FOR EXPENSE	DATE	AMOUNT
Campaign Mail & Data	Direct Mail	12/07	3,512.71
Rexnord Data Systems	List Development	12/16	7,524.81
Lee Vance	Salary	12/22	1,050.79
Lee Vance	Salary	12/15	1,050.79
Rexnord Data Systems	Direct Mail Expense	12/07	8,316.29
Rexnord Data Systems	List Development	12/07	8,163.35
Lee Vance	Travel Expense	12/21	306.06
Jill Jackson	Salary	12/22	385.66
Jill Jackson	Salary	12/15	2,064.69
Ann Prestige	Salary	12/15	1,052.51
Ann Prestige	Travel Expense	12/21	212.49
Ann Prestige	Travel Expense	12/01	1,453.58
Ann Prestige	Salary	12/22	1,052.51
Robert Bissen "Bob"	Salary	12/15	1,049.06
Robert Bissen "Bob"	Salary	12/22	1,049.06

DEBT AND OBLIGATION - line 9
Citizens for Cozzens Committee
Outstanding balance $529.98 for mailing services
Total payment this period - $0

24043583713

REPORT: Post-General Report
COVERAGE DATES: 10/01/88 - 11/30/88

COMPANY	PURPOSE FOR EXPENSE	DATE	AMOUNT
James R. Foster	Printing	10/25 10/22 11/01	4,956.00 60,533.00 32,110.00
Rexnord Data Systems	Labels	10/26	430.84
Campaign Mail & Data	Computer Printout	11/10	1,442.39
James R. Foster	Printing	10/07 10/15 10/21	6,879.01 3,145.00 1,930.00

DEBT AND OBLIGATIONS - line 10
James R. Foster & Associates
Outstanding balance $9,604.85
Total payment this period - $0

REPORT: Year-End Report
COVERAGE DATES: 12/01/88 - 12/31/88

COMPANY	PURPOSE FOR EXPENSE	DATE	AMOUNT
James R. Foster	Printing	12/12	9,604.85
Rexnord Political Services	Label-mailing	12/12	354.00

DEBT AND OBLIGATIONS - line 10
James R. Foster & Associates
Outstanding balance $9,604.85
Total payment this period - $0

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 7, 1994

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

RE: MUR 3204

Dear Mr. Baran:

Based on a complaint filed with the Federal Election Commission on July 13, 1990, and information supplied by your clients, the Commission, on May 21, 1991, found that there was reason to believe the National Republican Senatorial Committee and its treasurer violated 2 U.S.C. §§ 441a(f), 441a(h), 434(b) and 439(a), and instituted an investigation of this matter.

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

The Commission may or may not approve the General Counsel's recommendation. Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within 15 days of your receipt of this notice, you may file with the Secretary of the Commission a brief (ten copies if possible) stating your position on the issues and replying to the brief of the General Counsel. (Three copies of such brief should also be forwarded to the Office of the General Counsel, if possible.) The General Counsel's brief and any brief which you may submit will be considered by the Commission before proceeding to a vote of whether there is probable cause to believe a violation has occurred.

If you are unable to file a responsive brief within 15 days, you may submit a written request for an extension of time. All requests for extensions of time must be submitted in writing five days prior to the due date, and good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

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Should you have any questions, please contact Abigail Shaine, at (202) 219-3690.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Brief

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
National Republican Senatorial Committee and Sonya M. Vasquez, as treasurer	)	MUR 3204
	)	

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

This matter was initially generated by a complaint (MUR 3087) filed on July 13, 1990, by Kelly Addy, Speaker Pro Tempore of the Montana House of Representatives. On December 20, 1990, Common Cause filed a complaint (MUR 3204) that made almost identical allegations.

On May 21, 1991, the Commission found reason to believe that: the National Republican Senatorial Committee and its treasurer ("NRSC"), violated 2 U.S.C. §§ 441a(f), 441a(h), 434(b) and 439(a). The Commission also determined to merge MUR 3087 with MUR 3204. See General Counsel's Report dated May 6, 1991.

On June 10, 1992, this Office also received a referral (Pre-MUR 263) from the Montana Commission of Political Practices.

During the course of this investigation, this Office has gathered extensive information from responses to interrogatories and document requests, as well as from newspaper articles. This Office has also interviewed several people, including Terry and

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Neida Merica,[1] the Montana Commissioner of Political Practices and the Montana Commission's special prosecutor.

With the Federal Elections Commission's approval, this Office also requested a FIFO analysis from Audit to determine the extent to which federal funds were being used by MRP for certain mailings during the 1988 election cycle.[2]

II. ANALYSIS OF THE MAILINGS

The Commission found reason to believe that the NRSC violated 2 U.S.C. § 441a(f) by making coordinated party expenditures on behalf of the Burns campaign which exceed the limits in 2 U.S.C. § 441a(d). The Commission took this step because of the information suggesting that the NRSC controlled the use of its funds by MRP for the mailings in question. See First General Counsel's Report, May 6 1991, p. 33 n. 5. These excessive coordinated expenditures, in part, consisted of direct mailings on behalf of the Burns campaign. The Commission also found reason to believe that the NRSC had violated 2 U.S.C. § 434(b).

A. The Law

The Federal Election Campaign Act of 1971, as amended ("the Act"), provides that no multicandidate political committee,

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1. Terry and Neida Merica are both former employees of the Montana Republican Committee. During the period of the events in question, Terry Merica was employed as Executive Director of the Montana Republican Party, while his wife, Neida Merica, was employed as administrative secretary. The Mericas filed a civil suit in 1989 against MRP, NRSC, and certain individuals, alleging that they were fired from their jobs unjustly because they complained to officials from MRP and the NRSC about expenditures made on behalf of Conrad Burns. Their civil suit was settled in late 1992.

2. The FIFO analysis utilizes the standard First-in, First-out approach to establish the availability of non-national party funds during the period of the expenditures in question.

including a state party committee, may make contributions in excess of $5,000.00 per election to a candidate for federal office.[3] 2 U.S.C. § 441a(a)(2)(A). The Act permits additional expenditures by the national party committee and state party committees on behalf of candidates for federal office in the general election, but limits those expenditures according to a formula set out in 2 U.S.C. § 441a(d)(3)(A). See also, 11 C.F.R. § 110.7(b).[4] Annual increases in 2 U.S.C. § 441a(d) expenditure limitations are based on the percentage of increases in the consumer price index, as certified by the Secretary of Labor. 2 U.S.C. § 441a(c); 11 C.F.R. § 110.9(c). For 1988, the expenditure limitation under 2 U.S.C. § 441a(d) for Montana for the U.S. Senate election was $46,100 for the state party committee and $46,100 for the federal party committees. The national and state political party committees may authorize another committee, such as the NRSC, to make these coordinated party expenditures. DSCC v. FEC, 454 U.S. 27 (1980). Commission regulations further provide that national, state and local party committees cannot make expenditures independent of a candidate to advocate that candidate's election or defeat. 11 C.F.R. § 110.7(b)(4).

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3. The Act defines contributions to include any gift of money, services or anything of value made for the purpose of influencing any federal election. 2 U.S.C. § 431(8)(A)(i). Commission regulations explain that "anything of value" includes any in-kind contribution or any gift of goods or services at less than the usual and normal charge for such goods or services. 11 C.F.R. § 100.7(a)(1)(iii).

4. The regulations cited throughout this section are the regulations which were in effect in 1988. Thus, the regulations cited may differ from the current regulations.

In addition, the Act provides that either the Democratic or Republican Senate Campaign Committee may contribute $17,500 to a candidate for nomination for election, or for election to the United States Senate during a year in which an election is held. 2 U.S.C. § 441a(h).[5]

The Act also provides that no political committee, or officer or employee of a political committee, shall knowingly accept any contribution or make any expenditure on behalf of a candidate, in violation of any limitations imposed on contributions and expenditures under this section. 2 U.S.C. § 441a(f).

Certain payments made by a state political party committee in connection with volunteer activities are exempt from the definitions of "contribution" and "expenditure." See 2 U.S.C. §§ 431(8)(B)(x) and 431(9)(B)(viii); 11 C.F.R. §§ 100.7(b)(15) and 100.8(b)(16). A state political party committee may pay for the costs of campaign materials used by the committee in connection with volunteer activities on behalf of nominees of such party, provided that:

> (1) such payment is not for costs incurred in connection with any "direct mail" or similar type of general public communication or political advertising;[6]
>
> (2) such payments are made from contributions subject to the limitations and prohibitions of

5. MRP authorized the NRSC to utilize MRP's $46,100 section 441a(d) expenditure limit, leaving MRP with only its $5,000 contribution limit to use in Burns' campaign. The NRSC's monthly reports for 1988 shows $91,492.72 in coordinated expenditures and $17,477.54 in section 441a(h) contributions to the Burns Committee. MRP did not report any contributions to the Burns campaign.

6. The term "direct mail" as used here means any mailings by a commercial vendor or any mailings made from "commercial lists." 11 C.F.R. §§ 100.7(b)(15(i) and 100.8(b)(16)(i).

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the Act; and

(3) such payments are not made from contributions designated for a particular candidate.

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

Commission regulations require that campaign materials paid for by the state political parties be distributed by volunteers and not by commercial or for-profit operations in order to qualify for the volunteer exemption. 11 C.F.R. §§ 100.7(b)(15)(iv) and 100.8(b)(16)(iv). Commission regulations also prohibit such expenditures from qualifying under this exemption if the materials in question are purchased with national committee funds. 11 C.F.R. § 100.7(b)(15)(vii). (If all of the above conditions are met, such payments must still be reported by the state political party committee's disbursements, but need not be allocated to specific candidates in committee reports. 11 C.F.R. §§ 100.7(b)(15)(vii) and 100.8(b)(16)(vii).)

The Commission's advisory opinions have addressed the issue of what type of communications are subject to the limitations of section 441a(d). The Commission has concluded that the cost of communications is subject to the limitations of section 441a(d) when the communications are sent for the purpose of influencing the general election, depict a clearly identified candidate, and convey an electioneering message. See, A.O. 1984-15. But see FEC v. Colorado Republican Federal Campaign Committee, Civil Action No. 89-N-1159 (D. Co. Aug. 30, 1993), appeal pending (concluding that in order to find that a communication is "in connection with" the general election campaign and thus subject to section 441a(d)(3) limitations, the communication must

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constitute express advocacy).

The Act also requires that communications, which advocate the election or defeat of a clearly identified candidate and which are distributed through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public political advertising, include a disclaimer. The disclaimer is required to state who paid for the communication and, if the communication is made by other than an authorized political committee, whether the communication was authorized by the candidate. 2 U.S.C. § 441d.

Commission regulations permit unlimited transfers among committees of the same political party. 11 C.F.R. § 102.6(a)(1). Commission regulations also provide that expenditures made on behalf of more than one candidate shall be attributed to each candidate in proportion to the benefit reasonably expected to be derived and shall be so reported. 11 C.F.R. § 106.1(a). The regulations further explain, however, that expenditures for rent, personnel, overhead, general administrative, fundraising, and other day-to-day costs of political committees and money spent for voter registration and get-out-the-vote (GOTV) drives, need not be attributed to individual candidates unless the expenditures are made on behalf of a clearly identified candidate and the expenditure can be directly attributed to that candidate. 11 C.F.R. § 106.1(c).

The Act also addresses violations of law that are knowing and willful. See 2 U.S.C. §§ 437g(a)(5)(C) and 437g(d). During the House debates on the Conference Report for the 1976 Amendments, Congressman Hays stated that the phrase "knowing and willful"

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referred "to actions taken with full knowledge of all of the facts and a recognition that the action is prohibited by law." 122 Cong. Rec. H 3778 (daily ed. May 3, 1986)(remarks of Congressman Hays). The knowing and willful standard has also been addressed by the courts. In Federal Election Commission v. John A. Dramesi for Congress Committee, 640 F. Supp. 985 (D.N.J. 1986), the court noted that the knowing and willful standard requires knowledge that one is violating the law.

B. The Commission's Investigation

As previously noted, the Commission obtained information from this investigation from many external sources. A summary of the information obtained with respect to the mailings by MRP, and the reasons for the General Counsel's recommendations with respect to this conduct are discussed below.

1. Response from MRP

In its initial response (see November 14, 1990 response, pg. 2), MRP admitted that it had mailed "letters to a number of individuals advocating the election of Senator Burns." However, in an effort to demonstrate that the expenditure of funds by MRP for these mailings did not violate the Act, MRP also asserted that because volunteers were "involved in every mailing," the mailings qualified for the volunteer exemption from the definition of expenditure. Specifically, MRP stated that NRSC funds were not used for the mailings produced by Foster and Associates, and that MRP had sufficient non-national party funds to cover the expenditures for the mailings.

The Commission sent interrogatories to MRP seeking, inter alia, additional information about the circumstances surrounding

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the mailings. In its response to these interrogatories MRP stated that it was unable to contact Terry and Neida Merica because of the civil suit between the Mericas and MRP. MRP stated further that their inability to obtain certain documents which they believed were in the Mericas' possession meant that their response was based only on a review of the limited materials in their possession and on interviews with officers of and counsel to MRP during 1988. Accordingly, MRP indicated that it was unable to provide any details regarding volunteer involvement in the mailings on behalf of Conrad Burns stating only that "[i]t appears that documentation verifying the use of volunteers for [MRP] mailings is missing or was not filed and retained in a way which is readily retrievable."

In response to a question about the source of payments to Foster and Associates of Carrollton, Texas ("Foster and Associates"), the professional mailing house that prepared the mailing in question, MRP stated that the records maintained by the Mericas were not very clear, and that the Mericas' accounting system made it difficult "to pin down the source and purpose of the funds." Although MRP had denied in its initial submission to the Commission that NRSC funds were used to pay Foster and Associates, MRP admitted in answering the interrogatories that funds received from the NRSC "may have been used to pay for mailings or mailing materials."

In response to questions concerning the extent to which the NRSC was directly involved in MRP mailings, MRP stated that the Mericas were the only persons from MRP who had contact with Ms. Prestidge, the field coordinator for the NRSC. MRP asserted that

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it did not appear that Ms. Prestidge had any role or involvement with MRP. MRP stated further that it did not appear that anyone from MRP reported to or was supervised by her, while acknowledging that information was exchanged with her during the course of daily contacts with the Mericas. MRP was unable to explain why several monetary transfers made by the NRSC coincided with the amounts and dates of payments to Foster and Associates from MRP.

MRP also stated that the Mericas were given instructions from "all officers and counsel of the party to comply with the law and rely upon the advice and instructions of the donors ...." MRP's response suggests that any improper conduct by MRP with respect to these mailings was entirely the fault of the Mericas, stating:

> "[a]fter the departure of the Mericas, the inadequacy of their accounting procedures became apparent, as the accounts and reports for the 1988 election cycles were examined in detail. It also became apparent that certain records and accounts were either missing or inadequately maintained. The Montana Republican Party undertook a review of the source documents giving rise to various transactions, even referring to microfilm records from banks of deposits made during 1988. Substantial and wide-ranging discrepancies in the party accounts and records as maintained and prepared by the Mericas were revealed during the post-Merica review. Ultimately, many of those accounting and reporting records were discovered to be missing, incomplete, or garbled beyond use."

2. Response from NRSC

The NRSC alleged in its initial responses to the complaints filed in this matter (see November 19, 1990 Letter, pg. 7, and February 19, 1991 Letter, pg. 4) that it provided substantial support to MRP throughout the 1987-1988 election cycle, and that

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this support was permissible pursuant to 2 U.S.C. § 441a(a)(4), which exempts intra-party committee transfers from the expenditure limits. NRSC also stated that the complaints did not provide evidence that NRSC funds were used for activities that would have qualified as exempt volunteer activities if there were no evidence that national party funds were used.

The NRSC stated in response to the Commission's interrogatories that it "does not believe that its transfers to the Montana Party were used for 'direct mail'." NRSC stated further that the funds were transferred to MRP to assist MRP with its "administrative and overhead expenses," and that it believes that all such transfers were used for "non-allocable, permissible, activities." NRSC's response included an affidavit from Ann Prestidge, who stated that the transfers from NRSC to MRP were to assist MRP with its "administrative and overhead expenses," and that it was her understanding that MRP "was aware that the transfers from the NRSC were intended for general overhead expenses and were not designated for any particular use."

NRSC did not answer the specific question posed in the Commission's interrogatories relating to transfers from the NRSC to MRP which coincided with the date and amount of payments to Foster and Associates. Ms. Prestidge's affidavit stated that she was "not personally aware of whether the NRSC made any transfers in the amounts that coincide with payments by the Montana Republican Party to James R. Foster and Associates."

3. Foster and Associates' Response

The response of Foster and Associates, the company that did

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the mailings in question, to the Commission's discovery requests indicated that MRP paid Foster a total of $114,884.86 for 596,556 pieces of printed material. Mr. Foster stated that work provided to MRP consisted of "copywriting, design, and print production of mail pieces for the state party including absentee ballot mailings, "get-out-the-vote" mailings, and graphic mailers." MRP paid Foster and Associates $60,533.00 by wire on October 28, 1988, $32,793.00 by check on November 3, 1988, and $9,604.85 by check for additional printing on December 19, 1988. MRP also sent Foster and Associates $3,145.00 for postage.[7]

As to whether Foster and Associates had any agreement with the NRSC or someone acting on its behalf to perform certain tasks, Mr. Foster stated that "he had no agreement with Ms. Prestidge, the NRSC or any other employee or agent of the NRSC."

4. Information Obtained From Terry and Neida Merica.

As noted above, on December 4, 1991, staff from this Office informally interviewed Terry Merica and Neida Merica, the Executive Director of MRP and the administrative secretary respectively at the time of the events of this MUR. The Mericas also subsequently signed affidavits describing what they had observed of the NRSC's control of funds expended by MRP on behalf

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7. In response to the Commission's interrogatory concerning the services provided to the Conrad Burns for U.S. Senate Committee, Mr. Foster stated that Foster and Associates did some fundraising specifically for the Conrad Burns for U.S. Senate Committee during the first half of 1988, which included writing and producing fundraising packages for the Committee's campaign. Mr. Foster stated further that Foster and Associates did "computer work to help the Burns Committee build a prospect fundraising file, copywriting, design and production." Foster and Associates were paid a fee of $23,451.22 for their services by the Burns Committee.

of Burns. According to the Mericas, the NRSC was using MRP as a conduit to pay for mailings advocating the election of Conrad Burns. The Mericas indicated that they had questioned officials from MRP and the NRSC on more than one occasion about the legality of some these mailings. Mr. Merica stated that in response to such questions, Ann Prestidge, an NRSC field agent, complained to the MRP chairperson, Barbara Campbell, who instructed Mrs. Merica to "follow Ann's instructions."

Mrs. Merica stated that when she was preparing MRP's July Quarterly FEC report for 1988, she was instructed by Ms. Prestidge to report certain expenditures on the Schedule B form under operating expenditures rather than on the Schedule F as coordinated party expenditures, where she had originally recorded them. She stated further that she was instructed to use the word "volunteer" after each entry which applied to postage and mail handling. The Mericas also stated that they were instructed by Ms. Prestidge to send a copy of MRP's July Quarterly report to the NRSC staff attorney, Ben Ginsberg, so that it could be reviewed before it was mailed to the Commission. Mrs. Merica stated that on the next day Ginsberg called and told her that everything looked fine. She also stated that she asked him to put his approval in writing, but that he replied that "nothing is ever put in writing."

Mr. Merica also stated that he questioned MRP's counsel, Ward Shanahan, about the legality of the mailings produced by Foster and Associates and made him aware of the fact that Ms. Prestidge had given instructions to Mrs. Merica about payments to Foster and Associates. The Mericas provided the Office of the General

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Counsel with copies of letters which appear to substantiate the fact that this conversation took place.[8] A letter dated November 3, 1988, addressed to Ms. Prestidge from Mr. Shanahan, cautioned Ms. Prestidge about giving directives to Mr. Merica and his staff and also cautioned her about movement of funds in and out of MRP's accounts. This letter also requested an explanation from Ms. Prestidge. On the very next day, Mr. Shanahan sent another letter to Ms. Prestidge via facsimile transmission enclosing a copy of a bill from Foster and Associates, requesting that Ms. Prestidge "provide an explanation of this bill" so that it could be handled properly. Mr. Shanahan also stated in this letter that "[a]uthorization for this bill does not appear to have originated in the Helena office."

Mr. Merica expressly contradicted the response from MRP and from Foster and Associates denying that Ann Prestidge had a role in the preparation of these mailings. He stated that Ms. Prestidge controlled all of the Burns mailings produced by Foster and Associates, and that MRP was just used as a clearing house. Mr. Merica stated that he and his wife frequently received calls from Ms. Prestidge indicating that she was transferring money to cover the bills from Foster and Associates for the Burns mailings, and that they should pay the bills when they came in without seeing the mailings. Mr. Merica stated further that it was Ms. Prestidge who gave the instructions to MRP to wire Foster and Associates $60,533.00 on October 28, 1988

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8. The Montana Office of Political Practices also provided staff from this Office with copy of the same letters during the informal interview.

for payment for mailings produced by Foster and Associates. Mr. Merica stated that he spoke to Barbara Campbell about his concerns about this payment because neither he nor his wife knew for what they were paying. Mr. Merica stated further that Ms. Campbell said to just follow Ms. Prestidge's instructions since it was the NRSC's funds.

The cover sheet of a facsimile transmission to Ms. Prestidge from Mr. Foster provided further evidence that Ms. Prestidge did in fact have some direction and control over the mailings produced by Foster and Associates. The facsimile transmission requested that Ms. Prestidge review and comment on the mailing advocating the election of Conrad Burns that was transmitted to her. In addition, a handwritten memo, dated December 12, 1988, addressed to Mr. Merica from Mr. Shanahan, stated "[I] think Barbara should sign this Foster check, since it was Ann Prestidge's idea." A copy of a check in the amount of $9,604.85 payable to Foster and Associates along with a copy of a November 3, 1988 invoice from Foster and Associates were enclosed with this memo.[9] The invoice was numbered 578, and indicated that a total of $9,604.85 was due for additional printing.[10]

Mr. Merica also stated that Mrs. Prestidge would often ask for an accounting of NRSC money, and once requested that Ms. Merica send her a written accounting of NRSC's funds. This Office has

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9. Foster and Associates reported receiving a check in this amount from MRP on December 19, 1988 for additional printing of one of the mailings in question.

10. Foster and Associates noted in its response that it received a payment of $9,604,85 for additional printing on some of the mailings in questions.

obtained a copy of a letter, dated November 16, 1988, addressing one such request, which indicated that the NRSC had transferred a total of $178,145.00 to the MRP, and that there was a balance of $18,155.95 left in NRSC funds. This letter showed that NRSC's funds were used to pay $31,744.22 in postage costs, $105,280.01 to Foster and Associates, $4,115.52 in copying expenses, $13,356.30 in employees salaries (see discussion below), and $5,493.00 of various other expenses.

5. Information received from investigation conducted by the Montana Office of Political Practices

The Commissioner of the Montana Office of Political Practices had also conducted an investigation in response to a complaint relating to many of the same issues presented in this investigation. Commissioner Colburg's investigation had concluded that the pattern of transfers of funds from the NRSC to MRP, which were subsequently expended by MRP, indicated that the MRP was used as a conduit to circumvent the spending limitations.

Commissioner Colburg concluded that during October and November 1988, MRP began making payments to Foster and Associates for "direct mailing of campaign material that was accomplished, by and large, without volunteer labor and advocated support of a number of clearly identified candidates. The emphasis of these direct mailings was in support of Senatorial candidate Conrad Burns." Commissioner Colburg's finding was based in part on a comparison of the dates of expenditures made by MRP for direct mailings with the dates of transfers of funds from the NRSC.

Commissioner Colburg provided staff from this office with the

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documents on which she based her findings.[11] The documents which this Office received from Commissioner Colburg's Office included copies of MRP's account ledgers for 1988, which showed funds received from the NRSC and expenditures made by MRP to Foster and Associates. The ledgers also reflected that MRP was keeping track of NRSC's funds by placing the letter "S" beside all expenditures for which NRSC funds were used. Mrs. Merica stated, and the ledgers confirm, that she sometimes put the notation "CB" next to the ledger entries to indicate that the NRSC funds in question were being used for Burns campaign expenditures. Mrs. Merica stated in her interview that she kept the books in this manner in order to enable her to apprise Mrs. Prestidge of the availability of NRSC funds

C. FECA Violations by NRSC

The discussion below analyzes the facts gathered during the investigation with respect to the mailings and discusses the alleged violations of the FECA. This Office will recommend that the Commission find that there is probable cause to believe that the NRSC violated 2 U.S.C. § 441a(f) by exceeding the limits established under 2 U.S.C. § 441a(d) by at least $140,512.01. This Office will also recommend that the Commission find that such violations were knowing and willful. We will also recommend that there is probable cause to believe that the NRSC knowingly and willfully violated 434(b).

1. Expenditures for the mailings were subject to the section

11. Some of these documents were the same documents received from the Mericas during this Office's informal interview. Also, some documents that were received from Commissioner Colburg's Office were duplicates of documents this Office received during the course of its investigation.

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441a(d) limits.

Respondents have argued that the mailings in this matter were not expenditures under the Act, and thus were not subject to the 441a(d) limits because they were get-out-the-vote materials and qualified for the volunteer exemption. The fact that national party funds were used to pay for some of these mailings is by itself sufficient to keep those mailings from qualifying for the volunteer exemption. 11 C.F.R. § 100.7(b)(15)(vii). Further, neither MRP nor Mr. Foster have been able to provide the Commission with any documentation verifying the use of volunteers for these mailings. Moreover, these mailings could not qualify as get-out-the-vote material or as exempt volunteer activity because the expenditures were made on behalf of a clearly identifiable candidate and were required to be attributed to that candidate. See A.O. 1984-15.

The NRSC has argued that these funds were not subject to 2 U.S.C. § 441a(d) limits because the funds were intended to assist MRP with administrative expenditures and were used for non-allocable, permissible activities. However, the specified mailings in question, for which NRSC funds were used, all appear to have had the purpose of influencing the outcome of the general election between Conrad Burns and John Melcher through mailings that depict a clearly identified candidate and convey an electioneering message. See A.O. 1984-15. For example, one of the mailings produced by Foster and Associates is the mailing billed in invoice # 537, dated October 22, 1988, and paid for on October 28, 1988, entitled "Hannah Letter." This mailing contained a personal message from the Montana House of

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Representatives Majority Leader, Tom Hannah, clearly identified Conrad Burns as a candidate and advocated the defeat of John Melcher. The mailing criticized John Melcher on issues such as family planning and abortions, and compared Conrad Burns' position on "issues of life" with John Melcher's position. This mailing concluded: I believe the question answers itself. Conrad Burns is the choice of life in this election. Thank you for your time. I appreciate your listening to my thoughts on this very important race. I sincerely hope you will join me in voting for Conrad Burns on November 8th.

Another example of the mailings produced by Foster and Associates is the one billed in invoice # 545, dated October 22, 1988, and paid for on October 28, 1988, entitled "Friends Bumpersticker and Postcards." The letter in this mailing contained a personal signed message from Conrad Burns asking for support of his campaign and language which advocated the defeat of John Melcher, stating:

> What I have found is an understanding around our state that John Melcher is out of touch with Montana's interests.
>
> Maybe John has been in Washington too long, and has forgotten the real values that are important to Montanans.
>
> There's a sense among the voters that he isn't representing them when he votes against tough anti-drug legislation and opposes the death penalty for drug kingpins.
>
> Or that he has not provided the strong, effective leadership needed to gain the respect and cooperation of other Senators in order to quickly resolve Montana's wilderness legislation....
>
> Now, I need your continued support more than ever. Only a few short weeks remain until election day. It is critical that you and I redouble our efforts to win this difficult race. (emphasis included)

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A bumpersticker that stated "Conrad Burns U.S. Senate" was enclosed with this mailing along with postcards. The letter asked the recipients to address the enclosed postcards to five of their friends and to put the bumpersticker on their vehicle. The postcards asked recipients to join their friends "in voting for Conrad Burns for the United States Senate on Tuesday, November 8."

A final example of the mailings is the one billed in invoice # 539, dated October 22, 1988, paid for on October 28, 1988, entitled "Taxes Piece." This mailing criticized John Melcher's voting record concerning tax increases and contrasted Conrad Burns' position on the issue of increasing taxes. This mailing also contained language which advocated the election of Conrad Burns concluding "he will be a friend of Montana taxpayers in the U.S. Senate." A signed letter from Conrad Burns, addressing Montana values, was a part of this mailing. The numerous other mailings that have been the subject of this investigation, which were all mailed between October and November of 1988, and which were paid for after October 27, 1988, also described the positions of the candidates on the issues, advocated the defeat of Melcher and identified Conrad Burns as the candidate to elect for the Senate. Therefore, the cost of these mailings would clearly count as expenditures under 2 U.S.C. § 441a(d).

One recent district court decision identifies a different standard for measuring whether expenditures by party committees should count against the committee's 441a(d) limit. In FEC v. Colorado Republican Federal Campaign Committee, et al., supra,

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the district court concluded that in order to find that a communication is "in connection with" the general election campaign and subject to section 441a(d)(3) limitations, the communication must constitute express advocacy. At this point this decision is of limited applicability as it is a decision by one district court and the Commission has appealed this decision. Nevertheless, even if the mailings in question here were analyzed in accordance with the decision, these mailings would constitute express advocacy and would be subject to the 441a(d)(3) limitations.

In deciding whether there is express advocacy, the Commission generally applies the standard set forth in Furgatch v. Federal Election Commission, 807 F.2d 857 (9th Cir.), cert. denied, 484 U.S. 850 (1987).[12] Each of the above indicated mailings would meet the standard for express advocacy set forth in Furgatch v. FEC. The purpose of each mailing is clear and unambiguous and can not be mistaken for anything other than a communication suggesting the election of Conrad Burns and the defeat of his opponent, John Melcher. Furthermore, these mailings all set forth a clear plea for action: o elect Conrad Burns, to defeat John Melcher or both. Indeed, in its initial response to the Commission, even MRP itself stated that MRP mailed "letters to a

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12. In that decision the Ninth Circuit held that a political communication constituted express advocacy if:
    1. The Communication "is unmistakable and unambiguous, suggestive of only one plausible meaning," even if "not presented in the clearest, most explicit language";
    2. The Communication "presents a clear plea for action"; and
    3. There can be no reasonable doubt about "what action is advocated."

number of individuals advocating the election of now Senator Burns."

2. NRSC funds were used for the mailings

In order to determine whether national party funds were used to pay for MRP's Burns mailings the Commission's Audit Division analyzed the state party's expenditures. Based on MRP's bank statements, its Federal Election Account, its Victory '88 account, and invoices relating to expenditures made by MRP from August 8 through December 20, 1988, Audit performed two FIFO (First-in-First out) analyses.[13] The first analysis assumed that MRP expended available non-national party funds for payments to Foster and Associates and for postage before expending funds transferred by NRSC. This analysis confirmed that a total of $41,270.80 in targeted expenditures for Foster and Associate mailings and postage could not have been paid by MRP without using funds from the NRSC. The second analysis, which assumed that funds expended for payments to Foster and Associates and postage were from transferred funds from NRSC, and that these funds were expended before MRP's non-national party funds, confirmed that $36,439.02 of MRP's expenditures could not have

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13. The modified FIFO analysis utilized the standard First-in, First-out approach to establish the application of funds until the dates of the expenditures in question. Then, the pool of funds available on the date of the expenditure is calculated to determine whether sufficient non-national funds were available to cover the expenditure in question. If sufficient non-national funds exist, then it is presumed that national committee (NRSC) funds were not used to make the expenditure. In order to evaluate instances where both national committee funds and non-national committee funds were received on the same date, the analysis was performed twice, first, assuming that if national committee funds and non-national committee funds were received on the same date, the latter were expended first, and second, assuming the former were expended first.

been paid by MRP without using funds from the NRSC. Thus, both FIFO analyses establish that MRP did not have enough non-national party funds to make payments to Foster and Associates and for postage from October 27, through November 1, 1988.[14]

Based upon Audit's review of MRP's account, MRP did not have adequate non-national party funds available in its account to cover disbursements totaling $41,270.80, made to Foster and Associates and the Billings Postmaster, during the period from

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14. The following is a list of invoices and job numbers for those items which expressly advocated the election of Conrad Burns for Senator, all of which were paid for after October 27:

INVOICE #		AMOUNT
537/322	Hannah Letter-Production	2,288.00
545/323	Friends Bumpersticker & Postcards - Production	4,948.00
538/335	Drugs Piece - Production	5,713.00
539/336	Taxes Piece - Production	5,658.00
540/337	JM/Duke Piece - Production	6,508.00
541/338	Wilderness Piece - Production	6,218.00
542/328	Pro Burns Piece - Production	10,772.00
543/339	Defense Piece - Production	2,678.00
544/329	Yellowstone Piece - Production	5,293.00
546/340	Friends/Coffee Pack. - Production	3,003.00
547/341	Friends/GOTV Piece - Production	2,498.00
572/341	Prepayment - Postage Reagan GOTV	4,956.00
564/341	Reagan GOTV Letter - Production	16,483.00
575/349	Gun Control Piece - Production	11,385.00
574/338	Wilderness - Production	4,925.00
578	Additional Printing on selected mail pieces	9,604.85
560/340	Prepayment - Postage Friends Pieces	1,930.00
537/322	Prepayment - Postage Hannah Pieces	1,000.00
545/323	Prepayment - Postage Friends Pieces	2,145.00
	Total	108,005.85

(See Attachment 1 of Foster and Associates response).
The following postage was paid directly by MRP:

Date		Amount
10/31	Billings Postmaster	$ 4,891.44
10/31	Billings Postmaster	$ 4,891.44
11/02	Billings Postmaster	$26,455.61
11/03	Helena Post Office	$ 5,194.81
	Total	$41,433.30

October 27, 1988 through November 2, 1988. On October 27, 1988, MRP received a $49,000.00 transfer from the NRSC, while on October 28, 1988, MRP made a $60,533.00 wire payment to Foster and Associates for mailings. The FIFO analyses demonstrate that $24,004.59 of this $60,533.00 payment from MRP was derived from funds received from the NRSC, as the MRP only had $32,003.25 of non-national party committee funds in its account at the time of the $60,533.00 transfer to Foster.

Audit's review also revealed three other disbursements for Burns mailings which MRP could not have made without using funds from the NRSC. On October 31, 1988, MRP received a $20,000 transfer from the NRSC. On the same day, MRP made two disbursements of the same amount ($4,891.44) to the Billings Postmaster, totaling $9,782.88. At the time of these disbursements, the only funds available in MRP's account were the NRSC funds. In addition, on November 1, 1988, with a balance of only $8,826.67 in non-national party funds available, MRP made a payment of $32,793.00 to Foster and Associates. On the very next day, the NRSC transferred $32,110.00 to MRP, an amount very close to what MRP paid to Foster and Associates. Audit has determined that a total of $7,483.33 was subsidized with NRSC funds.[15]

Documents obtained during this investigation further enable the Commission to determine approximately how much NRSC money was actually spent by MRP on the Burns campaign without having to limit its conclusions to the results of the FIFO analysis. For

15. The actual disbursement amount totaled $32,793; however, only $16,310 of that total was attributed to mailings which expressly advocated the election of Conrad Burns. Therefore, only $16,310 was treated as a targeted expenditure.

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example, a November 16, 1988 letter from MRP to Ann Prestidge indicates that the NRSC had transferred a total of $178,145 to MRP, of which $141,139.75 appears to have been spent on production, copying, and mailing of the direct mailings in question.

The Commission also has accounting ledgers which track the amount of funds transferred by the NRSC to the MRP that were spent. The letter "S" marks those funds which were transferred by the NRSC to MRP. The letters "CB" are placed beside certain transactions made with NRSC funds to indicate that they were spent for the Burns campaign. The total amount of expenditures reflected in the ledger appears to be about the same as the amount in the November 16, 1988 letter. This total was calculated by adding the amounts specified for those entries for mailing, copying, and postage for Burns campaign mailings, which were marked "CB" to those which this office can identify from other documents as amounts originating from the NRSC that were spent for Burns mailings.

The NRSC was permitted to contribute $17,500 to the Burns Senate campaign under 441a(h). The NRSC also was entitled to expend $46,100 under 441a(d), as well as the $46,100 441a(d) MRP expenditure limit which MRP had authorized the NRSC to expend. Thus, the NRSC was entitled to expend a total of $92,200 in coordinated party expenditures pursuant to 2 U.S.C. 441a(d). The NRSC reported spending $91,494.72 in coordinated expenditures and $17,477.54 in contributions to the Burns Committee for the 1988 election. This left the NRSC with a balance of $627.74 to spend on the Burns campaign. Although the NRSC denied in its responses

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that the NRSC's funds were used for direct mail and stated that its transfers were used for "administrative and overhead expenses," the documentary evidence obtained, which was confirmed by the Mericas' affidavits and the Commission's FIFO analyses, demonstrates that these mailings would not have been possible without NRSC funds.

3. The NRSC and MRP were involved in a scheme to circumvent the section 441a(d) limits.

Although the NRSC denied that NRSC funds were transferred to MRP to pay for mailings advocating the election of Conrad Burns, the contemporaneous documents received from both the Montana Office of Political Practices and the Mericas, as well as the Mericas' affidavits tell a very different story. The Mericas' sworn affidavits explicitly stated that the NRSC was using MRP as a conduit for Burns mailings. They described instances in which they received specific instructions from Ann Prestidge, a field coordinator for the NRSC, to pay Foster & Associate bills without seeing the mailings. Mrs. Merica also described instructions she received from Ms. Prestidge to report such expenditures as operating expenditures rather than as coordinated party expenditures and to designate certain tasks as having been performed by volunteers. They have provided this office with a letter written by MRP counsel cautioning Ms. Prestidge about giving directions to the Mericas and other MRP staff, as well as about movement of funds in and out of MRP accounts.

The Mericas also expressly stated that Ms. Prestidge had a role in the preparation of the mailings. In support of this claim they have provided such evidence as a cover to a facsimile

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requesting Ms. Prestidge to review and comment on a mailing advocating the election of Conrad Burns. Other information, including the MRP ledgers provided by the Montana Office of Political Practices, which in part track the extent to which NRSC funds transferred to MRP were expended for Burns' campaign, also provide strong evidence that the NRSC was directing that certain of its funds be used to support Burns' candidacy, including to pay for the mailings in question. The documents also indicate that MRP's officials, such as Barbara Campbell, the chairperson of MRP, Ward Shanahan, counsel to MRP, and the Mericas were active participants in this scheme.

All of this evidence leads this office to conclude that the NRSC and MRP were involved in a joint scheme to deliberately evade the section 441a(d) limits through transfers of NRSC funds reported as having been used for MRP administrative expenses when they were actually used to fund mailings on behalf of Burns. Further, acting pursuant to NRSC instructions, MRP deliberately misreported these mailings as having qualified for the volunteer exemption.

4. Conclusions

Based upon the foregoing, this Office recommends that the Commission find probable cause to believe that the NRSC knowingly and willfully violated 2 U.S.C. § 441a(f) by exceeding its limits under 2 U.S.C. § 441a(d) by $140,512.01. In addition, this Office recommends that the Commission find probable cause to believe that the NRSC knowingly and willfully violated 434(b) by misrepresenting the expenditures in question.

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III. EMPLOYEES' SALARIES

The complaint filed by Common Cause in this matter alleged that three individuals paid by MRP, Ken Knudsen, Elwood English and Tom Hannah, were actually employees of the NRSC. The complaint further alleged that these individuals, though paid by MRP, were working for the election of Conrad Burns, and that they were under the direction and control of the NRSC. The salaries of these individuals were listed as expenditures on reports filed by MRP. However, neither MRP nor the NRSC reported any of the salaries as coordinated expenditures.

A. The Law

As previously described in detail in section II.A above, the Act sets limitations on expenditures by the national party committee on behalf of candidates for federal office in the general election. 2 U.S.C. § 441a(d)(3)(A); 11 C.F.R. § 110.7(b). Additionally, no multicandidate political committee, including a state party committee, may make contributions in excess of $5,000.00 per election to a candidate for federal office. 2 U.S.C. § 441a(a)(2)(A). The national and state political committee may authorize another committee, such as the NRSC, to make these coordinated party expenditures. DSCC v. FEC, 454 U.S. 27 (1980). Commission regulations provide further that national, state and local party committees may not make independent expenditures to advocate a candidate's election or defeat. 11 C.F.R. § 110.7(b)(4).

B. Analysis

MRP denied that any of the three individuals in question worked for the NRSC, stating that they worked on MRP's voter

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identification project; however, MRP was unable to say whether their salaries were paid exclusively out of non-national party funds.[16] The NRSC also denied that Knudsen, English, and Hannah ever worked for it during 1988. In support of its denial, NRSC stated that it "did not have any agreement, written or oral, with the Montana Republican Party (or employee or agent thereof) by which the Montana Republican Party would pay all or a portion of the salary and/or expenses of these persons."

In response to the Commission's discovery request, Ken Knudsen described his responsibilities with MRP very differently than did MRP. Mr. Knudsen stated that he was employed by the MRP from August 10 through November 6, 1988, not for the state voter identification project, but as coordinator for the election of Conrad Burns and other Republicans in the Great Fall area. Mr. Knudsen's also stated that his duties consisted of running the Great Falls office for MRP and the Victory '88 Campaign. He noted that he primarily assisted in the election campaign of Conrad Burns, although he stated that he also assisted in the election of other state and federal Republican candidates. He also stated that he did not have an immediate supervisor, and that he did not receive instructions from Ann Prestidge or any other agents from the NRSC.

Mr. Knudsen stated further that he was paid $2,500 from MRP for each of the three months that he was employed, for a total of $7,500. He received his payment in the form of a check, but did

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16. MRP alleged that the reason they could not make this determination was because of the manner in which the Mericas accounted for receipts during this time.

not keep any stubs or any other document that would verify payment from MRP.

Mr. English's response to the Commission discovery request confirmed MRP's description of his responsibilities. Mr. English stated that from late August until the middle of September of 1988, he assisted the Montana State Republican Party in developing a voter identification list. He stated that Terry Merica secured voter registration lists from each of the county election offices in the State, and then by computer, he matched the lists with the telephone directories to try to obtain addresses. Mr. English also traveled across Montana in an attempt to complete the portion of the voter identification list for which he had been unable to provide an address or phone number using the telephone directories.

Mr. English set forth his understanding that MRP, the NRSC, and the Republican Governors Association were cooperatively working together on this project. Mr. English asserted that the Republican Governors Association paid a total of $3,200 for his services. He also stated that this project was a vital concern to the "Montana Republican Party, all of the candidates both state and local, as well as local party organizations."

During the month of October 1988 and through election day in November, Mr. English was employed by MRP as its Communications Director. He stated that his only supervisor was Barbara Campbell, and that he was paid a total of $4,000 for the job, which was paid in two $2,000 payments. The Office of the General Counsel was unable to locate Tom Hannah, and therefore, we did not receive a response from him.

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The evidence obtained during this investigation establishes that funds from the NRSC were used to pay at least portions of the salaries of Knudsen, English, and Hannah. As noted above, a letter dated November 16, 1988, addressing Ms. Prestidge's request for an accounting of NRSC's funds, showed a total of $11,500 paid towards these individuals salaries; however, the transfer of $11,500 to pay at least a portion of the salaries of these employees would not have been sufficient by itself to constitute a coordinated party expenditure subject to section 441a(d) limitations.

Commission regulations permit unlimited transfers among committees of the same political party. 11 C.F.R. § 102.6(a)(1). However, because Mr. Knudsen's primary responsibility was to assist in the election of Conrad Burns, there is probable cause to believe his salary was derived from NRSC funds provided in connection with a federal campaign, causing the NRSC to further exceed its 441a(d)(3) limits in violation of section 441a(f). The FIFO analysis demonstrates that MRP had sufficient funds to pay this expense with non-national party funds until October 27, 1988. Thus, we have only calculated the amount in violation for this issue to be $2,500, or the amount of the last monthly payment that Mr. Knudsen would have received.

Accordingly, there is probable cause to believe that the NRSC violated 2 U.S.C. § 441a(f) by exceeding its section 441a(d) limits. In this instance we do not now plan to recommend that the total amount of Mr. Knudsen's salary be added to the amount by which the NRSC exceeded its 441a(d) limitations in violation of section 441a(f) or the amount of its 434(b) violations. We do

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not have the same evidence of knowledge of the way in which the funds were expended and control by the NRSC with respect to the salaries that we have with respect to the Burns mailings.

IV. Daily Tracking Polls

On May 21, 1991, the Commission found reason to believe that the NRSC and its treasurer violated 2 U.S.C. § 441a(f) by making excessive coordinated expenditures on behalf of the Burns Committee and 2 U.S.C. § 434(b) by failing to accurately report these expenditures.

A. The Law

Much of the applicable law is set forth in detail in section II.A above. With regard to the allocation of polling expenses, other pertinent Commission regulations require that opinion poll results which are purchased by a political committee are to be treated as a contribution in-kind by the purchasing committee and as an expenditure by the candidate or candidate's authorized committee that accepts the poll results. 11 C.F.R. § 106.4(b). Valuation of the polling data must be determined using one of the following formulas:) the share of the overall cost which is allocable to each candidate, including State and local candidates or political committee, based upon the cost allocation formula of the polling firm from which the results were purchased; or 2) an amount computed by dividing the overall cost of the poll equally among candidates, including State and local, or political committees receiving the results; or 3) a proportion of the overall cost of the poll equal to the proportion that the number of question results received by the candidate or political committee bears to the total number of question results received

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by all candidates; or 4) an amount computed by any other method that reasonably reflects the benefits derived. 11 C.F.R. § 106.4(e).

B. Responses

The Gary Lawrence Company ("GLC") of Santa Ana, California, a provider of tracking poll and survey services, indicated that it entered into an oral agreement with both the NRSC and the Republican Governor's Association ("RGA") to provide tracking/polling services to both organizations for the 1988 Montana election.[17] In response to interrogatories, Gary Lawrence, the President of GLC, recalled that throughout the weeks of the tracking project, he was in contact with Jeff Willis of the NRSC, Michele Davis of the RGA, Eddie Mahe and Ladonna Lee, paid consultants to the Burns Committee, and Bill Lee, paid consultant to the Stephens Campaign. According to Mr. Lawrence, approximately two-thirds of the questions asked in the tracking poll were related to Conrad Burns, the Senatorial candidate in Montana, and one-third were related to Stan Stephens, the gubernatorial candidate. Mr. Lawrence stated that results of the tracking poll were transmitted by facsimile the morning after the completion of each evening's track and a hard summary copy of the results was mailed to each entity after the election. Mr. Lawrence stated that GLC transmitted the polling results to the Burns Committee through its consultants, Eddie Mahe and Ladonna Lee. The results provided to the the Burns Committee were only

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17. The Republican National Committee (RNC) has stated in its response that the RGA is the auxiliary organization of the RNC that deals with gubernatorial races.

for those questions pertaining to the Senatorial race.[18] Mr. Lawrence indicated that results pertaining to the Senatorial campaign were also faxed to Jeff Willis of the NRSC.

Pursuant to the oral agreement, GLC charged $13.50 for the first five polling questions and .50 per question per person surveyed thereafter for the polling in Montana. Mr. Lawrence stated that GLC was instructed by the NRSC and the RGA to send the invoices for the polling services to the RGA, the auxiliary organization of the RNC which deals with gubernatorial races, which was handling the paperwork. GLC sent out three invoices for the polling services: an invoice for $20,000 on October 4, 1988; an invoice for $15,000 on November 2, 1988; and an invoice for $15,100 on November 9, 1988. Mr. Lawrence indicated that GLC was paid in full for its services and received $49,650 from the RNC for the polling services. GLC indicated that it also received $450 from the Burns Committee for the addition of one question which the Burns Committee requested be added to the poll for a few tracking days toward the end of the tracking period.

In its response to the Commission's reason to believe findings and interrogatories, the RNC indicated that the RGA entered into an oral agreement with GLC to conduct tracking surveys for the RGA for the 1988 Montana Governor's race during October and November, 1988. The RNC stated that it appears that

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18. In response to interrogatories, the Burns Committee stated that its files contained partial results of the tracking poll which had been transmitted to its consultants on October 29, 1988, October 30, 1988, October 31, 1988, November 1, 1988, November 4, 1988, November 6, 1988, and November 7, 1988. The Burns Committee submitted copies of the results which it received from GLC.

the RGA and the NRSC agreed to each ask questions in a poll conducted in Montana by GLC. The RNC stated that the RGA has no recollection of any agreement made with the NRSC regarding the poll in question. Additionally, the RNC indicated that neither the RGA or the RNC shared results from the tracking poll with any candidate committee or received any poll data regarding the Burns campaign. The RNC stated that it paid $49,500 to GLC on behalf of RGA for the cost of the poll. According to the RNC, it has always been the practice of the RGA and the RNC that each organization responsible for including questions in a poll incur the proportionate costs of the poll in accordance with Commission regulations. The RNC stated that it appears that the RNC, on behalf of the RGA, sought and received reimbursement from the NRSC for its portion of the questions, the two-thirds of the tracking poll which dealt with the Senatorial campaign. The RNC stated that its 1988 reports disclose numerous transfers from the NRSC to the RNC and that some of the transfers made in October and November, 1988 were in sufficient amounts to reimburse the RNC for NRSC's share of the polling costs. The RNC stated that because of the activity in question dates back to 1988, it was unable to locate any background materials regarding the RNC's or RGA's arrangement with the NRSC.[19]

C. Analysis

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19. Previously, it appeared that Corey Lane was involved in the Voter Identification Project. However, the NRSC stated that Corey Lane was employed by the Montana Republican State Central Committee for the purpose of raising funds for the state party for its use in connection with party-building activities. Robert Bissen stated that Corey Lane was not involved in any way with the development or execution of the Montana Voter Identification Project.

When the Burns Committee received the tracking results, it received the relative benefit of the $33,100 payment made by the RNC for the costs of two-thirds of the daily tracking poll which related to the Senatorial race. The RNC states that it was standard procedure for the RNC and the RGA to ensure that any organization responsible for including questions in a poll incurred the proportionate costs of the poll. Thus, the RNC indicates that it would have sought and received reimbursement from the NRSC for the portion of the questions which the NRSC included in the poll. By reimbursing the RNC for the portion of the poll that dealt with the Senatorial campaign, the NRSC made excessive coordinated party expenditures on behalf of the Burns Committee.

Accordingly, there is probable cause to believe that the NRSC violated 2 U.S.C. § 441a(f) by making excessive coordinated party expenditures on behalf of the Burns Committee and 2 U.S.C. § 434(b) by failing to properly report the reimbursement payment to the RNC for the two-thirds of the tracking poll which related to the Senatorial campaign as coordinated party expenditures.

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V. VOTER IDENTIFICATION PROJECT

During the 1988 campaign, the NRSC spent approximately $180,000 on the development and enhancement of voter lists to assist Republican candidates in voter identification projects. Republican candidates such as Burns who used the lists, obtained them from vendors in the form of mailing labels, index cards, or both. The evidence obtained during this investigation indicates that the vendors in question charged candidates such as Burns for the normal cost of turning the lists into mailing labels or index

cards; however, no amount of the considerable list development cost was allocated to Burns or any other candidate who benefited from the list.

The applicable law is set forth in detail in section II.A above.

A. NRSC's Responses

In response to the complaints, the NRSC stated that the allegation that the costs of the Voter Identification Project were not properly reported as coordinated expenditures misconstrues the law regarding party-building activities such as development of voter lists. The NRSC states that the regulation governing the allocation of expenditures, 11 C.F.R. § 106.1(c)(1) states that expenditures for rent, personnel, overhead, general administrative, and other day-to-day costs of political committees need not be attributed to individual candidates unless these expenditures are made on behalf of a clearly identified candidate and the expenditure can be directly attributed to the candidate.

According to the NRSC, in the ordinary course of business, national party committees produce and maintain voter lists for their own use. The NRSC states that this type of standard party-building activity has long been sanctioned by the FEC within the exception of 11 C.F.R. § 106.1(c). According to the NRSC, lists developed and maintained by party committees need not be allocated to any particular candidate or candidate committee.

The NRSC indicated that the voter list in question was created for the entire State of Montana and that the Voter Identification Project was directed by Robert Bissen, Director of

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Special Projects/Voter Programs for the NRSC. In his affidavit, dated February 14, 1991, which was included in NRSC's response to the complaint, Robert Bissen stated that he was familiar with the Voter Identification Project undertaken by the various national party committees and the Montana Republican Party in Montana in 1987-1988 as a party-building activity. Mr. Bissen stated:

> "[b]ecause there was no statewide repository of registered voters in Montana, we collected lists of registered voters from each county in Montana. These lists were publicly available lists which did not distinguish between Republican and Democratic voters. There was then an attempt to enhance the list by identifying Republican, Democratic and Independent voters. The creation of this Montana list, a standard party-building activity, was not allocated to any particular candidate or candidate committee. The normal practice is that this enhanced list, when completed, would be jointly owned by the national party committees and the Montana Republican Party. Typically, once a list is created, any user, including the NRSC or the state party, must pay the vendor maintaining that list for its use."

In response to the Commission's reason to believe findings and interrogatories, the NRSC reiterated that the Voter Identification Project was a party-building project and that no federal candidate received voter lists without purchasing the lists from a vendor. The NRSC stated that the Montana Voter Identification Project operated as indicated by Robert Bissen, Special Projects/Voter Program Director of the NRSC, in his second affidavit dated July 29, 1991. In his July 29, 1991, affidavit, Mr. Bissen stated that the Montana Voter Identification Project "began in the Fall of 1987 as a joint effort of the Republican National, State and local Montana parties to create a list of voters in Montana and provide demographic and party affiliation data for those voters to the

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extent possible." According to Mr. Bissen, the execution of the voter list development and enhancement in Montana was accomplished in several stages.

Mr. Bissen stated that the first stage of the project required local Republican groups in Montana to visit county courthouses around the state in order to retrieve voter registration lists for each county. Mr. Bissen indicated that the voter registration lists were in the forms of floppy disks, magnetic tapes, computer cartridges, personal computer hard drives, or typewritten lists. According to Mr. Bissen, the Montana Republican State Central Committee initially paid for many of the retrieval costs to acquire the voter registration lists and was later reimbursed for the retrieval costs by the national party committees.

The next stage of the project as outlined by Mr. Bissen was standardizing the lists. Mr. Bissen indicated that the lists were sent to Data Dimensions, the vendor responsible for restructuring or converting the various voter lists into a standard format. According to Mr. Bissen, after the lists were put into a standard format, two list vendors, Rexnord Data Systems and Parity Political Planning, verified and supplemented the information collected from the counties using various software packages. Rexnord and Parity performed phone number, address, and zip code matches using commercial software packages that correct and update demographic data.

Mr. Bissen stated that even after processing by Rexnord and Parity, many entries still contained no demographic information or incorrect demographic information. Thus, the Montana

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Republican State Central Committee assigned portions of the newly created list to various local Republican groups in Montana to compare voter names with local telephone directories and to correct any erroneous information. Mr. Bissen indicated that Elwood English, working on behalf of the Montana Republican State Central Committee, coordinated the delivery and collection of materials with local parties and traveled throughout Montana in order to obtain the data.[20]

According to Mr. Bissen, the final stage in the creation of the voter list was to determine likely party affiliation. A vendor, Direct Communications, conducted a telephone bank using the prepared list to discern likely party affiliation. Each registered voter's likely party affiliation was then incorporated into the list. Mr. Bissen stated that at this point in time, the project was complete and a Montana voter list had been created. Mr. Bissen indicated that the voter list was then converted to magnetic tape from which output was available.

The NRSC indicated that once the generic list of voters in Montana was completed, the output from the master list or some identifiable portion was available to Republican entities through list vendors for the normal costs that the vendor charged to produce materials such as mailing labels or index cards. The NRSC further stated that no federal candidate was provided with

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20. Previously, it appeared that Corey Lane was involved in the Voter Identification Project. However, the NRSC stated that Corey Lane was employed by the Montana Republican State Central Committee for the purpose of raising funds for the state party for its use in connection with party-building activities. Robert Bissen stated that Corey Lane was not involved in any way with the development or execution of the Montana Voter Identification Project.

the voter list compiled by the Voter Identification Project and that the NRSC, the Burns Committee, the Montana Republican Party, and any other entity seeking access to the output from the voter list paid the vendor maintaining the list directly for the desired output.

B. Analysis

A party committee's operating expenditures are generally not attributable to any particular candidate. However, if the party committee's operating expenditures can be directly attributed to a clearly identified candidate, the expenditures are considered in-kind contributions or coordinated party expenditures and must be reported as such. If an expenditure is attributable or partly attributable to a clearly identified candidate, the committee must allocate a portion of the expenditure as an in-kind contribution or coordinated party expenditure to the candidate. If a party committee activity is truly generic and not conducted on behalf of a clearly identified candidate, the committee should report the expenditures as operating expenditures.

In the current matter, the NRSC's Voter Identification Project enabled federal, state and local Republican candidates in the state of Montana to purchase output from Montana voter lists which had been developed and enhanced by the NRSC. The NRSC reported paying the vendors involved in developing this list approximately $180,000. After the NRSC had spent this money on the development and enhancement of the lists that were retrieved from the courthouses, the NRSC provided the list to vendors who were in the business of making such lists into such usable products as mailing labels or index cards. Candidates or their

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committees could purchase the output from the master list or some identifiable portion of the master list through list vendors. The evidence in our investigation indicates that these vendors charged the Burns committee and any other federal candidate only the normal costs for producing materials such as mailing labels or index cards. Thus, the record indicates that the NRSC did not recoup any of the considerable sum that it spent to develop and enhance the Montana list.

Each federal candidate, including Burns, who purchased any form of output from the NRSC list, received the benefit of the approximately $180,000 that the NRSC spent to develop and enhance the list. Absent the development of the Montana voter list by the NRSC, a candidate committee would have had to make expenditures for the creation of a comparable list because no one had every previously developed a voter list for Montana. By creating the Montana voter list, the NRSC provided federal candidates or committees in Montana with a valuable commodity for only the costs paid to vendors for the retrieval of information from the lists. Thus, the NRSC made coordinated party expenditures on behalf of the Burns Committee and any other federal candidate committee for the unreimbursed value of the development and enhancement of the voter list for the portion of the list from which each committee purchased output. The expenditures made by the NRSC should have been directly attributed to each of the federal candidates that purchased output in any form from the list vendors.

This situation should be contrasted with the facts in MUR 2215. The issue presented in that matter was limited to the

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legitimacy of the amounts charged by a corporation for the use of its list by others. The Commission's determination to find no reason to believe turned on its conclusion that the corporation had charged its usual and normal charges for such goods. This should be distinguished from the present matter, in which the NRSC paid for the list development and made no effort to recoup its own costs.

Because the NRSC had already exceeded its coordinated party expenditure limitation on behalf of the Burns Committee, the portion of the Voter Identification Project attributable to the Burns Committee was an excessive coordinated party expenditure. Thus, there is probable cause to believe that the NRSC violated 2 U.S.C. § 441a(f) by exceeding its section 441a(d) expenditure limitations and 2 U.S.C. § 434(b) by misreporting the nature of the expenditures in question.

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VI. THE ALLEGEDLY EARMARKED CONTRIBUTIONS TO THE 1988 BURNS CAMPAIGN.

The complaint filed by Kelly Addy alleged that NRSC "bundled" contributions to the Burns campaign as part of a program which the complaint stated was identical to that found to have resulted in excessive contributions in Common Cause v. FEC, 729 F. Supp. 148 (D.D.C. 1990).[21] Reports filed by NRSC disclosed that the Burns committee received several large transfers from the NRSC of

21. The Court of Appeals subsequently concluded that the district court had been wrong to hold that the conclusion by three members of the Commission that the facts of that case did not constitute direction and control by the NRSC was an impermissible construction of the agency's regulations. FEC v. National Republican Senatorial Committee, 966 F.2d 1471 (D.C. Cir. 1992).

earmarked contributions totaling $132,1000 late in the campaign.[22] The Commission found reason to believe that the NRSC and its treasurer violated 2 U.S.C. § 441a(h) by making excessive contributions to the Burns Committee.

A. The Law

The Act requires that contributions that are earmarked to a candidate through any intermediary or conduit be reported to the recipient candidate and the Commission with the name of the original source, and treated as coming from the original source. 2 U.S.C. § 441a(a)(8). Commission regulations define earmarking and explain the reporting requirements for earmarked contributions. 11 C.F.R. § 110.6. A contribution is "earmarked" if it bears a designation, instruction or encumbrance which results in all or part of it being made to a clearly identified candidate. 11 C.F.R. § 110.6(b).

Commission regulations further explain that the conduit's or intermediary's contribution limitations are not affected by passing along an earmarked contribution unless the conduit or intermediary has exercised direction or control over the choice of the recipient candidate. If direction or control exists, then the contribution is considered as made by both the original contributor and the conduit or intermediary. 11 C.F.R. § 110.6(d). See FEC v. NRSC, 966 F.2d 1471 (D.C. Cir. 1992) (holding that it is reasonable interpretation of the statute to conclude that there is no direction and control even if: the

22. The Burns committee received $50,000 on October 21; $1,000 on October 24; $40,000 on October 25; $500 on November 4' and $600 on November 5, 1988.

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contributions are deposited in the intermediary's account before being forwarded to the candidate; and the intermediary chooses the candidates for whom the funds are solicited by determining who will be included in the campaign).

B. Analysis

In its initial response to the Commission, the NRSC stated that it had used a different method in the Burns campaign than the one which was initially found to have been improper in Common Cause v. FEC; however, NRSC's response did not describe the actual methods used to collect funds for Burns. In response to interrogatories, the NRSC indicated that the Burns' campaign principally received earmarked contributions from the NRSC as a result of two different solicitations. The NRSC explained that the earmarked contributions received from this solicitation differed from those involved in the solicitation programs which had been the subject of litigation. The NRSC described the essential attributes of the 1988 solicitation as follows: 1.) The solicitations clearly identified Conrad Burns as a candidate to receive the earmarked contribution; 2) Contributors designated in writing the committee to receive their contributions; and 3) Expenses for soliciting the contributions were borne by the candidate committees benefiting from those solicitations.

1. Direction and Control

The first NRSC mailing specifically requested that contributions be made to the Burns for U.S. Senate Committee and the Engeleiter Senate Committee. The letters sent by the NRSC identified only Conrad Burns and Susan Engeleiter as candidates who could receive contributions from this solicitation, and

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directed the recipients of the solicitations to make their checks out to the NRSC. The letter also said that the NRSC would see to it that the funds were divided evenly between Burns and Engeleiter, and did not suggest that the potential contributor had any other alternative. Those who responded to the program signed a statement that said "I've made my check payable to the National Republican Senatorial Committee. I direct you to divide my earmarked contribution evenly between Conrad Burns for U.S. Senate and Engeleiter for Senate Committee." NRSC represented that the proceeds were distributed equally between the two candidates, but not until expenses for this solicitation were paid for out of the gross receipts from the solicitation.

The second type of contributions earmarked for the Burns committee that the NRSC received were mailed to the NRSC as part of a program enabling the donor to receive an honorary designation as a member of the NRSC Trust (the title of an NRSC fundraising program). These contributions were made out directly to Burns. Unlike the first mailing, this mailing described the status of numerous campaigns. Although the mailing specifically noted that Conrad Burns and Earl Strinden were particularly in need of donations if they were to win, the letter also encouraged recipients to support any of a number of promising Republican candidates. Nor in this instance did the NRSC put forward a suggested method for dividing the funds among the candidates. The NRSC stated that in response to this solicitation it simply received checks made out to Burns and forwarded them to the Burns for U.S. Senate Committee. NRSC stated further that the Burns committee was charged a processing fee "to ensure that the

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expenses for the solicitation were borne by the candidate."

A look at all the factors surrounding the first solicitation suggests that the NRSC was not acting as a mere conduit. First, the solicitation identified only two candidates to whom contributions could be given, and did not suggest that potential donors had any other option. Second, the letter called for the contributions to be evenly divided between the two candidates, and did not suggest that a potential contributor had any other option. Third, the checks were made out to the NRSC, permitting the NRSC to exercise sufficient control over these funds to itself deduct some portion of its solicitation costs before forwarding the remaining funds to the candidate committees. Finally, the timing of the contributions was entirely within the control of the NRSC since the checks were made out to it. The reports filed by the NRSC at that time indicate that at least $130,000 was forwarded to the Burns committee as a result of this solicitation.

The NRSC's role was somewhat more passive with respect to the second solicitation, however. In this case, although the letter identified two candidates for whom money would be a significant factor in their success or failure, the NRSC also identified numerous other candidates whom the recipients should support. Further, the letter did not make any suggestions as to the way in which a contributor should allocate his funds. In addition, the checks sent to the NRSC in response to these letters were made out to the Burns Committee itself, not the NRSC. In this instance the NRSC charged the Burns Committee a processing fee rather than deducting its costs from funds received.

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Accordingly, there is probable cause to believe that the NRSC violated 2 U.S.C. § 441a(h) by making excessive contributions to the Burns Committee through the exercise of direction and control over $130,000 in earmarked contributions to the Burns Committee.

2. Solicitation Costs

The second question with respect to these contributions to Burns is whether any solicitation costs paid by the NRSC to solicit earmarked contributions were contributions by the NRSC to the Burns Committee, resulting in a violation of 2 U.S.C. § 434(b) for failing to report such costs as contributions and adding to the amount of the excessive contributions received by the Burns Committee from the NRSC.

The NRSC explicitly stated in its interrogatory answers that, with respect to the Burns and Engeleiter solicitation, it not only deducted the solicitation costs from the receipts, but recorded the costs in question as operating expenses. By taking on the expense of the solicitations in question, the NRSC conferred a benefit on each of the candidates, which should have been treated as a contribution to these candidates until the NRSC had been reimbursed and reported as such. Similarly, the expenses of the second solicitation should have been reported as a contribution on a proportionate basis with respect to the candidates named in the letter until such time as the NRSC had been fully reimbursed by each candidate for its expenses.

Additionally, the record indicates that the NRSC did not charge the Burns Committee for its full share of the solicitation costs with respect to either mailing. With respect to the first mailing, the NRSC indicates that it deducted

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its fees from the contributions received, indicating that once again the Burns Committee was only charged for the costs of successful solicitations. With respect to the NRSC Trust mailing, the NRSC explicitly acknowledges that it charged the Burns Committee only a fee for processing checks actually received.

Accordingly, this Office recommends that the Commission find probable cause to believe that the NRSC and its treasurer, Sonya M. Vasquez, exceeded its 441a(h) limit by failing to attribute an appropriate share of the costs of the unsuccessful solicitations to the Burns Committee and 434(b) by reporting its solicitation costs as operating expenditures rather than as contributions.

VII. FILING REPORTS WITH THE APPROPRIATE STATE OFFICER

On May 21, 1991, the Commission found reason to believe that the NRSC and its treasurer, violated 2 U.S.C. § 439(a) because it appeared that the NRSC had failed to file its monthly reports for 1988 with the Montana Commission of Political Practices in a timely manner.

A. The Law

The Act requires that political committees other than the authorized committees of candidates file reports with the Commission on a prescribed schedule. 2 U.S.C. § 434(a) and 11 C.F.R. § 105.4. The Act also requires that such committees file a copy of each report with the Secretary of State or equivalent State officer of the appropriate State. 2 U.S.C. § 439(a). A copy of a report must be filed with the State officer at the same time the original report is filed with the Commission. 11 C.F.R. § 108.5.

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B. Analysis

In response to interrogatories, the NRSC stated that its 1988 reports were filed with the Federal Election Commission in a timely manner and that the 1988 reports have been available for public inspection since the date of the original filing. However, the NRSC confirmed that it had failed to file copies of its 1988 reports disclosing "its activities with regard to Burns for U.S. Senate Committee," with the Montana Commission of Political Practices until February 8, 1990. The NRSC also confirmed that it failed to file copies of its 1988 reports disclosing transfers to the Montana Republican Party with the Montana Commission of Political Practices until April 27, 1990.

According to the Montana Commission of Political Practices, the NRSC filed the reports in question only after the Commissioner called the NRSC in January, 1990 and requested that the NRSC file its 1988 reports with the Montana Commission as required by law. Thus, although the NRSC's 1988 reports were filed with the Federal Election Commission in a timely manner, the reports were not filed with the Montana Commission of Political Practices until more than a year after the 1988 election, and then only after the Commissioner requested that the NRSC file the reports.

Therefore, there is probable cause to believe that the NRSC and Sonya M. Vasquez, as treasurer, violated 2 U.S.C. § 439(a) by failing to file copies of its 1988 disclosure reports with the Montana Commission of Political Practices in a timely manner.

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VIII. GENERAL COUNSEL'S RECOMMENDATIONS

1. Find probable cause to believe the National Republican Senatorial Committee and Sonya M. Vasquez, as treasurer, knowingly and willfully violated 2 U.S.C. §§ 434(b) and 441a(f) regarding the mailings produced by Foster and Associates.

2. Find probable cause to believe the National Republican Senatorial Committee and Sonya M. Vasquez, as treasurer, violated 2 U.S.C. §§ 434(b), 441a(f) and 439(a) regarding the salary of Mr. Ken Knudsen, the daily tracking polls, the voter identification project and failure to file state disclosure reports.

3. Find probable cause to believe the National Republican Senatorial Committee and Sonya M. Vasquez, as treasurer, violated 2 U.S.C. § 441a(h) regarding the earmarked contributions.

1/7/94
Date

Lawrence M. Noble
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 7, 1994

Robert Edd Lee, Esquire
Crowley, Haughey, Hanson,
Toole & Dietrich
490 North 31st Street
P.O. Box 2529
Billings, Montana 59103-2529

RE: MUR 3204

Dear Mr. Lee:

Based on a complaint filed with the Federal Election Commission on July 13, 1990, and information supplied by your clients, the Commission, on May 21, 1991, found that there was reason to believe the Montana Republican Party Central Committee and Shirley J. Warehime, as treasurer violated 2 U.S.C. §§ 441a(f), 441d, 434(b), and instituted an investigation of this matter.

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

The Commission may or may not approve the General Counsel's recommendation. Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within 15 days of your receipt of this notice, you may file with the Secretary of the Commission a brief (ten copies if possible) stating your position on the issues and replying to the brief of the General Counsel. (Three copies of such brief should also be forwarded to the Office of the General Counsel, if possible.) The General Counsel's brief and any brief which you may submit will be considered by the Commission before proceeding to a vote of whether there is probable cause to believe a violation has occurred.

If you are unable to file a responsive brief within 15 days, you may submit a written request for an extension of time. All requests for extensions of time must be submitted in writing five days prior to the due date, and good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

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Should you have any questions, please contact Abigail Shaine, at (202) 219-3690.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Brief

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Montana Republican State Central Committee and Shirley J. Warehime, as treasurer	)	MUR 3204
	)	

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

This matter was initially generated by a complaint (MUR 3087) filed on July 13, 1990, by Kelly Addy, Speaker Pro Tempore of the Montana House of Representatives. On December 20, 1990, Common Cause filed a complaint (MUR 3204) that made almost identical allegations.

On May 21, 1991, the Commission found reason to believe that the Montana Republican State Central Committee and Shirley J. Warehime, as treasurer ("MRP"), violated 2 U.S.C. §§ 441a(f), 441d, and 434(b). The Commission also determined to merge MUR 3087 with MUR 3204. See General Counsel's Report dated May 6, 1991.

On June 10, 1992, this Office also received a referral (Pre-MUR 263) from the Montana Commission of Political Practices.

During the course of this investigation, this Office has gathered extensive information from responses to interrogatories and document requests, as well as from newspapers. This Office has also interviewed several people, including Terry and Neida

Merica[1], the Montana Commissioner of Political Practices and the Montana Commission's special prosecutor.

With the Federal Elections Commission's approval, this Office also requested a FIFO analysis from Audit to determine the extent to which federal funds were being used by MRP for certain mailings during the 1988 election cycle.[2]

II. ANALYSIS OF THE MAILINGS

The Commission found reason to believe that MRP violated 2 U.S.C. § 441a(f) by using funds transferred from the NRSC to pay for direct mail activity on behalf of the Burns campaign, which resulted in the limits in 2 U.S.C. § 441a(d) being exceeded. The Commission also found reason to believe that MRP violated 2 U.S.C. § 441d by failing to include a disclaimer stating whether the mailings were authorized by the candidate. In addition, because MRP did not properly report the transfers of the funds also used for the mailings from the NRSC, the Commission found reason to believe that MRP violated 2 U.S.C. § 434(b).

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1. Terry and Neida Merica are both former employees of the Montana Republican Committee. During the period of the events in question, Terry Merica was employed as Executive Director of the Montana Republican Party, while his wife, Neida Merica, was employed as administrative secretary. The Mericas filed a civil suit in 1989 against MRP, NRSC, and certain individuals, alleging that they were fired from their jobs unjustly because they complained to officials from MRP and the NRSC about expenditures made on behalf of Conrad Burns. Their civil suit was settled in late 1992.

2. The FIFO analysis utilizes the standard First-in, First-out approach to establish the availability of non-national party funds during the period of the expenditures in question.

A. The Law

The Federal Election Campaign Act of 1971, as amended ("the Act"), provides that no multicandidate political committee, including a state party committee, may make contributions in excess of $5,000.00 per election to a candidate for federal office. 2 U.S.C. § 441a(a)(2)(A).[3] The Act permits additional expenditures by the national party committee and state party committees on behalf of candidates for federal office in the general election, but limits those expenditures according to a formula set out in 2 U.S.C. § 441a(d)(3)(A). See also, 11 C.F.R. § 110.7(b).[4] Annual increases in 2 U.S.C. § 441a(d) expenditure limitations are based on the percentage of increases in the consumer price index, as certified by the Secretary of Labor. 2 U.S.C. § 441a(c); 11 C.F.R. § 110.9(c). For 1988, the expenditure limitation under 2 U.S.C. § 441a(d) for Montana for the U.S. Senate election was $46,100 for the state party committee and $46,100 for the federal party committees. The national and state political party committees may authorize another committee, such as the NRSC, to make these coordinated party expenditures. DSCC v. FEC, 454 U.S. 27 (1980). Commission

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3. The Act defines contributions to include any gift of money, services or anything of value made for the purpose of influencing any federal election. 2 U.S.C. § 431(8)(A)(i). Commission regulations explain that "anything of value" includes any in-kind contribution or any gift of goods or services at less than the usual and normal charge for such goods or services. 11 C.F.R. § 100.7(a)(1)(iii).

4. The regulations cited throughout this section are the regulations which were in effect in 1988. Thus, the regulations cited may differ from the current regulations.

regulations further provide that national, state and local party committees cannot make expenditures independent of a candidate to advocate that candidate's election or defeat. 11 C.F.R. § 110.7(b)(4).

In addition, the Act provides that either the Democratic or Republican Senate Campaign Committee may contribute $17,500 to a candidate for nomination for election, or for election to the United States Senate during a year in which an election is held. 2 U.S.C. § 441a(h). [5]

The Act also provides that no political committee, or officer or employee of a political committee, shall knowingly accept any contribution or make any expenditure on behalf of a candidate, in violation of any limitations imposed on contributions and expenditures under this section. 2 U.S.C. § 441a(f).

Certain payments made by a state political party committee in connection with volunteer activities are exempt from the definitions of "contribution" and "expenditure." See 2 U.S.C. §§ 431(8)(B)(x) and 431(9)(B)(viii); 11 C.F.R. §§ 100.7(b)(15) and 100.8(b)(16). A state political party committee may pay for the costs of campaign materials used by the committee in connection with volunteer activities on behalf of nominees of such party, provided that:

(1) such payment is not for costs incurred in

5. MRP authorized the NRSC to utilize MRP's $46,100 section 441a(d) expenditure limit, leaving MRP with only its $5,000 contribution limit to use in Burns' campaign. The NRSC's monthly reports for 1988 shows $91,492.72 in coordinated expenditures and $17,477.54 in section 441a(h) contributions to the Burns Committee. MRP did not report any contributions to the Burns campaign.

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connection with any "direct mail" or similar type of general public communication or political advertising;[6]

(2) such payments are made from contributions subject to the limitations and prohibitions of the Act; and

(3) such payments are not made from contributions designated for a particular candidate.

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

Commission regulations require that campaign materials paid for by the state political parties be distributed by volunteers and not by commercial or for-profit operations in order to qualify for the volunteer exemption. 11 C.F.R. §§ 100.7(b)(15)(iv) and 100.8(b)(16)(iv). Commission regulations also prohibit such expenditures from qualifying under this exemption if the materials in question are purchased with national committee funds. 11 C.F.R. § 100.7(b)(15)(vii). (If all of the above conditions are met, such payments must still be reported by the state political party committee's disbursements, but need not be allocated to specific candidates in committee reports. 11 C.F.R. §§ 100.7(b)(15)(vii) and 100.8(b)(16)(vii).)

The Commission's advisory opinions have addressed the issue of what type of communications are subject to the limitations of section 441a(d). The Commission has concluded that the cost of communications is subject to the limitations of section 441a(d) when the communications are sent for the purpose of influencing the general election, depict a clearly identified candidate, and

6. The term "direct mail" as used here means any mailings by a commercial vendor or any mailings made from "commercial lists." 11 C.F.R. §§ 100.7(b)(15(i) and 100.8(b)(16)(i).

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convey an electioneering message. See, A.O. 1984-15. But see FEC v. Colorado Republican Federal Campaign Committee, Civil Action No. 89-N-1159 (D. Co. Aug. 30, 1993), appeal pending, (concluding that in order to find that a communication is "in connection with" the general election campaign and thus subject to section 441a(d)(3) limitations, the communication must constitute express advocacy).

The Act also requires that communications, which advocate the election or defeat of a clearly identified candidate and which are distributed through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public political advertising, include a disclaimer. The disclaimer is required to state who paid for the communication and, if the communication is made by other than an authorized political committee, whether the communication was authorized by the candidate. 2 U.S.C. § 441d.

Commission regulations permit unlimited transfers among committees of the same political party. 11 C.F.R. § 102.6(a)(1). Commission regulations also provide that expenditures made on behalf of more than one candidate shall be attributed to each candidate in proportion to the benefit reasonably expected to be derived and shall be so reported. 11 C.F.R. § 106.1(a). The regulations further explain, however, that expenditures for rent, personnel, overhead, general administrative, fundraising, and other day-to-day costs of political committees and money spent for voter registration and get-out-the-vote (GOTV) drives, need not be attributed to individual candidates unless the

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expenditures are made on behalf of a clearly identified candidate and the expenditure can be directly attributed to that candidate. 11 C.F.R. § 106.1(c).

The Act also addresses violations of law that are knowing and willful. See 2 U.S.C. §§ 437g(a)(5)(C) and 437g(d). During the House debates on the Conference Report for the 1976 Amendments, Congressman Hays stated that the phrase "knowing and willful" referred "to actions taken with full knowledge of all of the facts and a recognition that the action is prohibited by law." 122 Cong. Rec. H 3778 (daily ed. May 3, 1986)(remarks of Congressman Hays). The knowing and willful standard has also been addressed by the courts. In Federal Election Commission v. John A. Dramesi for Congress Committee, 640 F. Supp. 985 (D.N.J. 1986), the court noted that the knowing and willful standard requires knowledge that one is violating the law.

B. The Commission's Investigation

As previously noted, the Commission obtained information from this investigation from many external sources. A summary of the information obtained with respect to the mailings by MRP, and the reasons for the General Counsel's recommendations with respect to this conduct are discussed below.

1. Response from MRP

In its initial response (see November 14, 1990 response, pg. 2), MRP admitted that it had mailed "letters to a number of individuals advocating the election of Senator Burns." However, in an effort to demonstrate that the expenditure of funds by MRP for these mailings did not violate the Act, MRP also asserted

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that because volunteers were "involved in every mailing," the mailings qualified for the volunteer exemption from the definition of expenditure. Specifically, MRP stated that NRSC funds were not used for the mailings produced by Foster and Associates, and that MRP had sufficient non-national party funds to cover the expenditures for the mailings.

The Commission sent interrogatories to MRP seeking, inter alia, additional information about the circumstances surrounding the mailings. In its response to these interrogatories MRP stated that it was unable to contact Terry and Neida Merica because of the civil suit between the Mericas and MRP. MRP stated further that their inability to obtain certain documents which they believed were in the Mericas' possession meant that their response was based only on a review of the limited materials in their possession and on interviews with officers of and counsel to MRP during 1988. Accordingly, MRP indicated that it was unable to provide any details regarding volunteer involvement in the mailings on behalf of Conrad Burns stating only that "[i]t appears that documentation verifying the use of volunteers for [MRP] mailings is missing or was not filed and retained in a way which is readily retrievable."

In response to a question about the source of payments to Foster and Associates of Carrollton, Texas ("Foster and Associates"), the professional mailing house that prepared the mailing in question, MRP stated that the records maintained by the Mericas were not very clear, and that the Mericas' accounting system made it difficult "to pin down the source and purpose of

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the funds." Although MRP had denied in its initial submission to the Commission that NRSC funds were used to pay Foster and Associates, MRP admitted in answering the interrogatories that funds received from the NRSC "may have been used to pay for mailings or mailing materials."

In response to questions concerning the extent to which the NRSC was directly involved in MRP mailings, MRP stated that the Mericas were the only persons from MRP who had contact with Ms. Prestidge, the field coordinator for the NRSC. MRP asserted that it did not appear that Ms. Prestidge had any role or involvement with MRP. MRP stated further that it did not appear that anyone from MRP reported to or was supervised by her, while acknowledging that information was exchanged with her during the course of daily contacts with the Mericas. MRP was unable to explain why several monetary transfers made by the NRSC coincided with the amounts and dates of payments to Foster and Associates from MRP.

MRP also stated that the Mericas were given instructions from "all officers and counsel of the party to comply with the law and rely upon the advice and instructions of the donors ...." MRP's response suggests that any improper conduct by MRP with respect to these mailings was entirely the fault of the Mericas, stating:

> After the departure of the Mericas, the inadequacy of their accounting procedures became apparent, as the accounts and reports for the 1988 election cycles were examined in detail. It also became apparent that certain records and accounts were either missing or inadequately maintained. The Montana Republican Party undertook a review of the source documents giving rise to various transactions, even referring

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to microfilm records from banks of deposits made during 1988. Substantial and wide-ranging discrepancies in the party accounts and records as maintained and prepared by the Mericas were revealed during the post-Merica review. Ultimately, many of those accounting and reporting records were discovered to be missing, incomplete, or garbled beyond use.

2. Response from NRSC

The NRSC alleged in its initial responses to the complaints filed in this matter (see November 19, 1990 Letter, pg. 7, and February 19, 1991 Letter, pg. 4) that it provided substantial support to MRP throughout the 1987-1988 election cycle, and that this support was permissible pursuant to 2 U.S.C. § 441a(a)(4), which exempts intra-party committee transfers from the expenditure limits. NRSC also stated that the complaints did not provide evidence that NRSC funds were used for activities that would have qualified as exempt volunteer activities if there were no evidence that national party funds were used.

The NRSC stated in response to the Commission's interrogatories that it "does not believe that its transfers to the Montana Party were used for 'direct mail'." NRSC stated further that the funds were transferred to MRP to assist MRP with its "administrative and overhead expenses," and that it believes that all such transfers were used for "non-allocable, permissible, activities." NRSC's response included an affidavit from Ann Prestidge, who stated that the transfers from NRSC to MRP were to assist MRP with its "administrative and overhead expenses," and that it was her understanding that MRP "was aware that the transfers from the NRSC were intended for general

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overhead expenses and were not designated for any particular use."

NRSC did not answer the specific question posed in the Commission's interrogatories relating to transfers from the NRSC to MRP which coincided with the date and amount of payments to Foster and Associates. Ms. Prestidge's affidavit stated that she was "not personally aware of whether the NRSC made any transfers in the amounts that coincide with payments by the Montana Republican Party to James R. Foster and Associates."

3. Foster and Associates' Response

The response of Foster and Associates, the company that did the mailings in question, to the Commission's discovery requests indicated that MRP paid Foster a total of $114,884.86 for 596,556 pieces of printed material. Mr. Foster stated that work provided to MRP consisted of "copywriting, design, and print production of mail pieces for the state party including absentee ballot mailings, "get-out-the-vote" mailings, and graphic mailers." MRP paid Foster and Associates $60,533.00 by wire on October 28, 1988, $32,793.00 by check on November 3, 1988, and $9,604.85 by check for additional printing on December 19, 1988. MRP also sent Foster and Associates $3,145.00 for postage.[7]

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7. In response to the Commission's interrogatory concerning the services provided to the Conrad Burns for U.S. Senate Committee, Mr. Foster stated that Foster and Associates did some fundraising specifically for the Conrad Burns for U.S. Senate Committee during the first half of 1988, which included writing and producing fundraising packages for the Committee's campaign. Mr. Foster stated further that Foster and Associates did "computer work to help the Burns Committee build a prospect fundraising file, copywriting, design and production." Foster and Associates were paid a fee of $23,451.22 for their services

As to whether Foster and Associates had any agreement with the NRSC or someone acting on its behalf to perform certain tasks, Mr. Foster stated that "he had no agreement with Ms. Prestidge, the NRSC or any other employee or agent of the NRSC."

4. Information Obtained From Terry and Neida Merica.

As noted above, on December 4, 1991, staff from this Office informally interviewed Terry Merica and Neida Merica, the Executive Director of MRP and the administrative secretary respectively at the time of the events of this MUR. The Mericas also subsequently signed affidavits describing what they had observed of the NRSC's control over funds it gave to MRP to pay for Burns mailings. According to the Mericas, the NRSC was using MRP as a conduit to pay for mailings advocating the election of Conrad Burns. The Mericas indicated that they had questioned officials from MRP and the NRSC on more than one occasion about the legality of some these mailings. Mr. Merica stated that in response to such questions, Ann Prestidge, an NRSC field agent, complained to the MRP chairperson, Barbara Campbell, who instructed Mrs. Merica to "follow Ann's instructions."

Mrs. Merica stated that when she was preparing MRP's July Quarterly FEC report for 1988, she was instructed by Ms. Prestidge to report certain expenditures on the Schedule B form under operating expenditures rather than on the Schedule F as coordinated party expenditures, where she had originally recorded them. She stated further that she was instructed to use the word

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(Footnote 7 continued from previous page)
by the Burns Committee.

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"volunteer" after each entry which applied to postage and mail handling. The Mericas also stated that they were instructed by Ms. Prestidge to send a copy of MRP's July Quarterly report to the NRSC staff attorney, Ben Ginsberg, so that it could be reviewed before it was mailed to the Commission. Mrs. Merica stated that on the next day Ginsberg called and told her that everything looked fine. She also stated that she asked him to put his approval in writing, but that he replied that "nothing is ever put in writing."

Mr. Merica also stated that he questioned MRP's counsel, Ward Shanahan, about the legality of the mailings produced by Foster and Associates and made him aware of the fact that Ms. Prestidge had given instructions to Mrs. Merica about payments to Foster and Associates. The Mericas provided the Office of the General Counsel with copies of letters which appear to substantiate the fact that this conversation took place.[8] A letter dated November 3, 1988, addressed to Ms. Prestidge from Mr. Shanahan, cautioned Ms. Prestidge about giving directives to Mr. Merica and his staff and also cautioned her about movement of funds in and out of MRP's accounts. This letter also requested an explanation from Ms. Prestidge. On the very next day, Mr. Shanahan sent another letter to Ms. Prestidge via facsimile transmission enclosing a copy of a bill from Foster and Associates, requesting that Ms. Prestidge "provide an explanation of this bill" so that it could

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8. The Montana Office of Political Practices also provided staff from this Office with copy of the same letters during the informal interview.

be handled properly. Mr. Shanahan also stated in this letter that "[a]uthorization for this bill does not appear to have originated in the Helena office."

Mr. Merica expressly contradicted the response from MRP and from Foster and Associates denying that Ann Prestidge had a role in the preparation of these mailings. He stated that Ms. Prestidge controlled all of the Burns mailings produced by Foster and Associates, and that MRP was just used as a clearing house. Mr. Merica stated that he and his wife frequently received calls from Ms. Prestidge indicating that she was transferring money to cover the bills from Foster and Associates for the Burns mailings, and that they should pay the bills when they came in without seeing the mailings. Mr. Merica stated further that it was Ms. Prestidge who gave the instructions to MRP to wire Foster and Associates $60,533.00 on October 28, 1988 for payment for mailings produced by Foster and Associates. Mr. Merica stated that he spoke to Barbara Campbell about his concerns about this payment because neither he nor his wife knew for what they were paying. Mr. Merica stated further that Ms. Campbell said to just follow Ms. Prestidge's instructions since it was the NRSC's funds.

The cover sheet of a facsimile transmission to Ms. Prestidge from Mr. Foster provided further evidence that Ms. Prestidge did in fact have some direction and control over the mailings produced by Foster and Associates. The facsimile transmission requested that Ms. Prestidge review and comment on the mailing advocating the election of Conrad Burns that was transmitted to

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her. In addition, a handwritten memo, dated December 12, 1988, addressed to Mr. Merica from Mr. Shanahan, stated "[I] think Barbara should sign this Foster check, since it was Ann Prestidge's idea." A copy of a check in the amount of $9,604.85 payable to Foster and Associates along with a copy of a November 3, 1988 invoice from Foster and Associates were enclosed with this memo.[9] The invoice was numbered 578, and indicated that a total of $9,604.85 was due for additional printing.[10]

Mr. Merica also stated that Mrs. Prestidge would often ask for an accounting of NRSC money, and once requested that Ms. Merica send her a written accounting of NRSC's funds. This Office has obtained a copy of a letter, dated November 16, 1988, addressing one such request, which indicated that the NRSC had transferred a total of $178,145.00 to the MRP, and that there was a balance of $18,155.95 left in NRSC funds. This letter showed that NRSC's funds were used to paid $31,744.22 in postage costs, $105,280.01 to Foster and Associates, $4,115.52 in copying expenses, $13,356.30 in employees salaries (see discussion below), and $5,493.00 of various other expenses.

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5. Information received from investigation conducted by the Montana Office of Political Practices

The Commissioner of the Montana Office of Political Practices had also conducted an investigation in response to a complaint

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9. Foster and Associates reported receiving a check in this amount from MRP on December 19, 1988 for additional printing of one of the mailings in question.

10. Foster and Associates noted in its response that it received a payment of $9,604,85 for additional printing on some of the mailings in questions.

relating to many of the same issues presented in this investigation. Commissioner Colburg's investigation had concluded that the pattern of transfers of funds from the NRSC to MRP, which were subsequently expended by MRP, indicated that the MRP was used as a conduit to circumvent the spending limitations.

Commissioner Colburg concluded that during October and November 1988, MRP began making payments to Foster and Associates for "direct mailing of campaign material that was accomplished, by and large, without volunteer labor and advocated support of a number of clearly identified candidates. The emphasis of these direct mailings was in support of Senatorial candidate Conrad Burns." Commissioner Colburg's finding was based in part on a comparison of the dates of expenditures made by MRP for direct mailings with the dates of transfers of funds from the NRSC.

Commissioner Colburg provided staff from this office with the documents on which she based her findings.[11] The documents which this Office received from Commissioner Colburg's Office included copies of MRP's account ledgers for 1988, which showed funds received from the NRSC and expenditures made by MRP to Foster and Associates. The ledgers also reflected that MRP was keeping track of NRSC's funds by placing the letter "S" beside all expenditures for which NRSC funds were used. Mrs. Merica stated, and the ledgers confirm, that she sometimes put the notation "CB"

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11. Some of these documents were the same documents received from the Mericas during this Office's informal interview. Also, some documents that were received from Commissioner Colburg's Office were duplicates of documents this Office received during the course of its investigation.

next to the ledger entries to indicate that the NRSC funds in question were being used for Burns campaign expenditures. Mrs. Merica stated in her interview that she kept the books in this manner in order to enable her to apprise Mrs. Prestidge of the availability of NRSC funds

C. FECA Violations by MRP

The discussion below analyzes the facts gathered during the investigation with respect to the mailings and discusses the alleged violations of the FECA. This Office will recommend that the Commission find that there is probable cause to believe that MRP violated 2 U.S.C. § 441a(f) by exceeding the limits established under 2 U.S.C. § 441a(d) by at least $135,512.01. This Office will also recommend that the Commission find that such violations were knowing and willful. We will also recommend that there is probable cause to believe that MRP knowingly and willfully violated 434(b).

1. Expenditures for the mailings were subject to the section 441a(d) limits.

Respondents have argued that the mailings in this matter were not expenditures under the Act, and thus were not subject to the 441a(d) limits because they were get-out-the-vote materials and qualified for the volunteer exemption. The fact that national party funds were used to pay for some of these mailings is by itself sufficient to keep those mailings from qualifying for the volunteer exemption. 11 C.F.R. § 100.7(b)(15)(vii). Further, neither MRP nor Mr. Foster have been able to provide the Commission with any documentation verifying the use of volunteers

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for these mailings. Moreover, these mailings could not qualify as get-out-the-vote material or as exempt volunteer activity because the expenditures were made on behalf of a clearly identifiable candidate and were required to be attributed to that candidate. See A.O. 1984-15.

The NRSC argued that these funds were not subject to 2 U.S.C. § 441a(d) limits because the funds were intended to assist MRP with administrative expenditures and were used for non-allocable, permissible activities. However, the specified mailings in question, for which NRSC funds were used, all appear to have had the purpose of influencing the outcome of the general election between Conrad Burns and John Melcher through mailings that depict a clearly identified candidate and convey an electioneering message. See A.O. 1984-15. For example, one of the mailings produced by Foster and Associates is the mailing billed in invoice # 537, dated October 22, 1988, and paid for on October 28, 1988, entitled "Hannah Letter." This mailing contained a personal message from the Montana House of Representatives Majority Leader, Tom Hannah, clearly identified Conrad Burns as a candidate and advocated the defeat of John Melcher. The mailing criticized John Melcher on issues such as family planning and abortions, and compared Conrad Burns' position on "issues of life" with John Melcher's position. This mailing concluded: I believe the question answers itself. Conrad Burns is the choice of life in this election. Thank you for your time. I appreciate your listening to my thoughts on this very important race. I sincerely hope you will join me in

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voting for Conrad Burns on November 8th.

Another example of the mailings produced by Foster and Associates is the one billed in invoice # 545, dated October 22, 1988, and paid for on October 28,1988, entitled "Friends Bumpersticker and Postcards." The letter in this mailing contained a personal signed message from Conrad Burns asking for support of his campaign and language which advocated the defeat of John Melcher, stating:

> What I have found is an understanding around our state that John Melcher is out of touch with Montana's interests.
> Maybe John has been in Washington too long, and has forgotten the real values that are important to Montanans.
>
> There's a sense among the voters that he isn't representing them when he votes against tough anti-drug legislation and opposes the death penalty for drug kingpins.
>
> Or that he has not provided the strong, effective leadership needed to gain the respect and cooperation of other Senators in order to quickly resolve Montana's wilderness legislation....
>
> Now, I need your continued support more than ever. Only a few short weeks remain until election day. It is critical that you and I redouble our efforts to win this difficult race. (emphasis included)

A bumpersticker that stated "Conrad Burns U.S. Senate" was enclosed with this mailing along with postcards. The letter asked the recipients to address the enclosed postcards to five of their friends and to put the bumpersticker on their vehicle. The postcards asked recipients to join their friends "in voting for Conrad Burns for the United States Senate on Tuesday, November 8."

A final example of the mailings is the one billed in invoice

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539, dated October 22, 1988, paid for on October 28, 1988, entitled "Taxes Piece." This mailing criticized John Melcher's voting record concerning tax increases and contrasted Conrad Burns' position on the issue of increasing taxes. This mailing also contained language which advocated the election of Conrad Burns concluding "he will be a friend of Montana taxpayers in the U.S. Senate." A signed letter from Conrad Burns, addressing Montana values, was a part of this mailing. The numerous other mailings that have been the subject of this investigation, which were all mailed between October and November of 1988, and which were paid for after October 27, 1988, also described the positions of the candidates on the issues, advocated the defeat of Melcher and identified Conrad Burns as the candidate to elect for the Senate. Therefore, the cost of these mailings would clearly count as expenditures under 2 U.S.C. § 441a(d).

One recent district court decision identifies a different standard for measuring whether expenditures by party committees should count against the committee's 441 a(d) limit. In FEC v. Colorado Republican Federal Campaign Committee, et al., supra, the district court concluded that in order to find that a communication is "in connection with" the general election campaign and subject to section 441a(d)(3) limitations, the communication must constitute express advocacy. At this point this decision is of limited applicability as it is a decision by one district court and the Commission has appealed this decision. Nevertheless, even if the mailings in question here were analyzed in accordance with the decision, the mailings in question would

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constitute express advocacy and would be subject to the 441a(d)(3) limitations.

In deciding whether there is express advocacy, the Commission generally applies the standard set forth in Furgatch v. Federal Election Commission, 807 F.2d 857 (9th Cir.), cert. denied, 484 U.S. 850 (1987).[12] Each of the above indicated mailings would meet the standard for express advocacy set forth in Furgatch v. FEC. The purpose of each mailing is clear and unambiguous and can not be mistaken for anything other than a communication suggesting the election of Conrad Burns and the defeat of his opponent, John Melcher. Furthermore, these mailings all set forth a clear plea for action: to elect Conrad Burns, to defeat John Melcher or both. Indeed, in its initial response to the Commission, even MRP itself stated that MRP mailed "letters to a number of individuals advocating the election of now Senator Burns."

2. NRSC funds were used for the mailings

In order to determine whether national party funds were used to pay for MRP's Burns mailings the Commission's Audit Division analyzed the state party's expenditures. Based on MRP's bank statements, its Federal Election Account, its Victory '88

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12. In that decision the Ninth Circuit held that a political communication constituted express advocacy if:
    1. The Communication "is unmistakable and unambiguous, suggestive of only one plausible meaning," even if "not presented in the clearest, most explicit language";
    2. The Communication "presents a clear plea for action"; and
    3. There can be no reasonable doubt about "what action is advocated."

account, and invoices relating to expenditures made by MRP from August 8 through December 20, 1988, Audit performed two FIFO (First-in-First out) analyses.[13] The first analysis assumed that MRP expended available non-national party funds for payments to Foster and Associates and for postage before expending funds transferred by NRSC. This analysis confirmed that a total of $41,270.80 in targeted expenditures for Foster and Associate mailings and postage could not have been paid by MRP without using funds from the NRSC. The second analysis, which assumed that funds expended for payments to Foster and Associates and postage were from transferred funds from NRSC, and that these funds were expended before MRP's non-national party funds, confirmed that $36,439.02 of MRP's expenditures could not have been paid by MRP without using funds from the NRSC. Thus, both FIFO analyses establish that MRP did not have enough non-national party funds to make payments to Foster and Associates and for

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13. The modified FIFO analysis utilized the standard First-in, First-out approach to establish the application of funds until the dates of the expenditures in question. Then, the pool of funds available on the date of the expenditure is calculated to determine whether sufficient non-national funds were available to cover the expenditure in question. If sufficient non-national funds exist, then it is presumed that national committee (NRSC) funds were not used to make the expenditure. In order to evaluate instances where both national committee funds and non-national committee funds were received on the same date, the analysis was performed twice, first, assuming that if national committee funds and non-national committee funds were received on the same date, the latter were expended first, and second, assuming the former were expended first.

postage from October 27, through November 1, 1988.[14]

Based upon Audit's review of MRP's account, MRP did not have adequate non-national party funds available in its account to cover disbursements totaling $41,270.80, made to Foster and Associates and the Billings Postmaster, during the period from October 27, 1988 through November 2, 1988. On October 27, 1988, MRP received a $49,000.00 transfer from the NRSC, while on

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14. The following is a list of invoices and job numbers for those items which expressly advocated the election of Conrad Burns for Senator, all of which were paid for after October 27:

INVOICE #		AMOUNT
537/322	Hannah Letter-Production	2,288.00
545/323	Friends Bumpersticker & Postcards - Production	4,948.00
538/335	Drugs Piece - Production	5,713.00
539/336	Taxes Piece - Production	5,658.00
540/337	JM/Duke Piece - Production	6,508.00
541/338	Wilderness Piece - Production	6,218.00
542/328	Pro Burns Piece - Production	10,772.00
543/339	Defense Piece - Production	2,678.00
544/329	Yellowstone Piece - Production	5,293.00
546/340	Friends/Coffee Pack. - Production	3,003.00
547/341	Friends/GOTV Piece - Production	2,498.00
572/341	Prepayment - Postage Reagan GOTV	4,956.00
564/341	Reagan GOTV Letter - Production	16,483.00
575/349	Gun Control Piece - Production	11,385.00
574/338	Wilderness - Production	4,925.00
578	Additional Printing on selected mail pieces	9,604.85
560/340	Prepayment - Postage Friends Pieces	1,930.00
537/322	Prepayment - Postage Hannah Pieces	1,000.00
545/323	Prepayment - Postage Friends Pieces	2,145.00
	Total	108,005.85

(See Attachment 1 of Foster and Associates response). The following postage was paid directly by MRP:

Date		Amount
10/31	Billings Postmaster	$ 4,891.44
10/31	Billings Postmaster	$ 4,891.44
11/02	Billings Postmaster	$26,455.61
11/03	Helena Post Office	$ 5,194.81
	Total	$41,433.30

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October 28, 1988, MRP made a $60,533.00 wire payment to Foster and Associates for mailings. The FIFO analyses demonstrate that $24,004.59 of this $60,533.00 payment from MRP was derived from funds received from the NRSC, as the MRP only had $32,003.25 of non-national party committee funds in its account at the time of the $60,533.00 transfer to Foster.

Audit's review also revealed three other disbursements for Burns mailings which MRP could not have made without using funds from the NRSC. On October 31, 1988, MRP received a $20,000 transfer from the NRSC. On the same day, MRP made two disbursements of the same amount ($4,891.44) to the Billings Postmaster, totaling $9,782.88. At the time of these disbursements, the only funds available in MRP's account were the NRSC funds. In addition, on November 1, 1988, with a balance of only $8,826.67 in non-national party funds available, MRP made a payment of $32,793.00 to Foster and Associates. On the very next day, the NRSC transferred $32,110.00 to MRP, an amount very close to what MRP paid to Foster and Associates. Audit has determined that a total of $7,483.33 was subsidized with NRSC funds.[15]

Documents obtained during this investigation further enable the Commission to determine approximately how much NRSC money was actually spent by MRP on the Burns campaign without having to limit its conclusions to the results of the FIFO analysis. For example, a November 16, 1988 letter from MRP to Ann Prestidge

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15. The actual disbursement amount totaled $32,793; however, only $16,310 of that total was attributed to mailings which expressly advocated the election of Conrad Burns. Therefore, only $16,310 was treated as a targeted expenditure.

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indicates that the NRSC had transferred a total of $178,145 to MRP, of which $141,139.75 appears to have been spent on production, copying, and mailing of the direct mailings in question.

The Commission also has accounting ledgers which track the amount of funds transferred by the NRSC to the MRP that were spent. The letter "S" marks those funds which were transferred by the NRSC to MRP. The letters "CB" are placed beside certain transactions made with NRSC funds to indicate that they were spent for the Burns campaign. The total amount of expenditures reflected in the ledger appears to be about the same as the amount in the November 16, 1988 letter. This total was calculated by adding the amounts specified for those entries for mailing, copying, and postage for Burns campaign mailings, which were marked "CB" to those which this office can identify from other documents as amounts originating from the NRSC that were spent for Burns mailings.

The NRSC's coordinated expenditure limit was $92,200 for Conrad Burns' campaign. The MRP had designated its entire section 441a(d) limit to the NRSC. Thus, the only funds available to MRP to spend on the Burns campaign was its $5,000 multicandidate contribution limit. Although the NRSC denied in its responses that the NRSC's funds were used for direct mail and stated that its transfers were used for "administrative and overhead expenses," the documentary evidence obtained, which was confirmed by the Mericas' affidavits and the Commission's FIFO analyses, demonstrates that these mailings would not have been

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possible without NRSC funds. Accordingly, there is probable cause to believe that MRP violated 2 U.S.C. § 441a(f) by exceeding its section 441a(d) limit by $135,512.01.[16]

3. The NRSC and MRP were involved in a scheme to circumvent the section 441a(d) limits.

Although the NRSC denied that NRSC funds were transferred to MRP to pay for mailings advocating the election of Conrad Burns, the contemporaneous documents received from both the Montana Office of Political Practices and the Mericas, as well as the Mericas' affidavits tell a very different story. The Mericas' sworn affidavits explicitly stated that the NRSC was using MRP as a conduit for Burns mailings. They described instances in which they received specific instructions from Ann Prestidge, a field coordinator for the NRSC, to pay Foster & Associate bills without seeing the mailings. Mrs. Merica also described instructions she received from Ms. Prestidge to report such expenditures as operating expenditures rather than as coordinated party expenditures and to designate certain tasks as having been performed by volunteers. They have provided this office with a letter written by MRP counsel cautioning Ms. Prestidge about giving directions to the Mericas and other MRP staff, as well as about movement of funds in and out of MRP accounts.

The Mericas also expressly stated that Ms. Prestidge had a

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16. This amount is calculated as follows. First, the NRSC transferred at least $141,139.75 to MRP for use in the Burns mailings. Since the NRSC still had $627.74 available to expend on the Burns campaign, however, this resulted in an excessive transfer of $140,512.01. Of this amount, which MRP expended on Burns mailings, MRP was entitled to itself make a $5,000 contribution.

role in the preparation of the mailings. In support of this claim they have provided such evidence as a cover to a facsimile requesting Ms. Prestidge to review and comment on a mailing advocating the election of Conrad Burns. Other information, including the MRP ledgers provided by the Montana Office of Political Practices, which in part track the extent to which NRSC funds transferred to MRP were expended for Burns' campaign, also provide strong evidence that the NRSC was directing that certain of its funds be used to support Burns' candidacy, including to pay for the mailings in question. The documents also indicate that MRP's officials, such as Barbara Campbell, the chairperson of MRP, Ward Shanahan, counsel to MRP, and the Mericas were active participants in this scheme.

All of this evidence leads this office to conclude that the NRSC and MRP were involved in a joint scheme to deliberately evade the section 441a(d) limits through transfers of NRSC funds reported as having been used for MRP administrative expenses when they were actually used to fund mailings on behalf of Burns. Further, acting pursuant to NRSC instructions, MRP deliberately misreported these mailings as having qualified for the volunteer exemption.

4. Conclusions

Based upon the foregoing, this Office recommends that the Commission find probable cause to believe that MRP knowingly and willfully violated 2 U.S.C. § 441a(f) by exceeding its limits under 2 U.S.C. § 441a(d) by $135,512.01. In addition, this Office recommends that the Commission find probable cause to

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believe that MRP knowingly and willfully violated 434(b) by misrepresenting the expenditures in question.

D. Lack of Disclaimer

The Commission found reason to believe that MRP violated 2 U.S.C. § 441d by failing to include a disclaimer stating whether the mailings were authorized by the candidate. The Commission only found reason to believe against MRP, since payments for these mailings were made from its accounts, even though NRSC's funds were used to paid for the mailings. The mailings in this matter carried the following disclaimer: "Paid for by the Montana State Central Committee."

As noted above, communications which advocate the election or defeat of a clearly identified candidate and which are distributed by direct mail shall include a disclaimer stating who paid for the communication and, where the communication is made by other than an authorized political committee, whether it was authorized by the candidate. 2 U.S.C. § 441d.

MRP, in its initial response, acknowledged that the mailings did not contain a statement as to the authorization from the candidate. The response stated, however, that the mailings were clearly identified as originating from MRP. Since these mailings advocated the election of a specific candidate and were sent by direct mail (see discussion above), the lack of a proper disclaimer is a violation of the Act.

Accordingly, the General Counsel recommends that the Commission find probable cause to believe that the Montana Republican Party violated 2 U.S.C. § 441d by failing to include a

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proper disclaimer stating whether the mailings were authorized by the candidate.

III. EMPLOYEES' SALARIES

The complaint filed by Common Cause in this matter alleged that three individuals paid by MRP, Ken Knudsen, Elwood English and Tom Hannah, were actually employees of the NRSC. The complaint further alleged that these individuals, though paid by MRP, were working for the election of Conrad Burns, and that they were under the direction and control of the NRSC. The salaries of these individuals were listed as expenditures on reports filed by MRP. However, neither MRP nor the NRSC reported any of the salaries as coordinated expenditures.

A. The Law

As previously described in detail in section II.A above, the Act sets limitations on expenditures by the national party committee on behalf of candidates for federal office in the general election. 2 U.S.C. § 441a(d)(3)(A); 11 C.F.R. § 110.7(b). Additionally, no multicandidate political committee, including a state party committee, may make contributions in excess of $5,000.00 per election to a candidate for federal office. 2 U.S.C. § 441a(a)(2)(A). The national and state political committee may authorize another committee, such as the NRSC, to make these coordinated party expenditures. DSCC v. FEC, 454 U.S. 27 (1980). Commission regulations provide further that national, state and local party committees may not make independent expenditures to advocate a candidate's election or defeat. 11 C.F.R. § 110.7(b)(4).

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B. Analysis

MRP denied that any of the three individuals in question worked for the NRSC, stating that they worked on MRP's voter identification project; however, MRP was unable to say whether their salaries were paid exclusively out of non-national party funds.[17] The NRSC also denied that Knudsen, English, and Hannah ever worked for it during 1988. In support of its denial, NRSC stated that it "did not have any agreement, written or oral, with the Montana Republican Party (or employee or agent thereof) by which the Montana Republican Party would pay all or a portion of the salary and/or expenses of these persons."

In response to the Commission's discovery request, Ken Knudsen described his responsibilities with MRP very differently than did MRP. Mr. Knudsen stated that he was employed by the MRP from August 10 through November 6, 1988, not for the state voter identification project, but as coordinator for the election of Conrad Burns and other Republicans in the Great Fall area. Mr. Knudsen's also stated that his duties consisted of running the Great Falls office for MRP and the Victory '88 Campaign. He noted that he primarily assisted in the election campaign of Conrad Burns, although he stated that he also assisted in the election of other state and federal Republican candidates. He also stated that he did not have an immediate supervisor, and that he did not receive instructions from Ann Prestidge or any

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17. MRP alleged that the reason they could not make this determination was because of the manner in which the Mericas accounted for receipts during this time.

other agents from the NRSC.

Mr. Knudsen stated further that he was paid $2,500 from MRP for each of the three months that he was employed, for a total of $7,500. He received his payment in the form of a check, but did not keep any stubs or any other document that would verify payment from MRP.

Mr. English's response to the Commission discovery request confirmed MRP's description of his responsibilities. Mr. English stated that from late August until the middle of September of 1988, he assisted the Montana State Republican Party in developing a voter identification list. He stated that Terry Merica secured voter registration lists from each of the county election offices in the State, and then by computer, he matched the lists with the telephone directories to try to obtain addresses. Mr. English also traveled across Montana in an attempt to complete the portion of the voter identification list for which he had been unable to provide an address or phone number using the telephone directories.

Mr. English set forth his understanding that MRP, the NRSC, and the Republican Governors Association were cooperatively working together on this project. Mr. English asserted that the Republican Governors Association paid a total of $3,200 for his services. He also stated that this project was a vital concern to the "Montana Republican Party, all of the candidates both state and local, as well as local party organizations."

During the month of October 1988 and through election day in November, Mr. English was employed by MRP as its Communications

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Director. He stated that his only supervisor was Barbara Campbell, and that he was paid a total of $4,000 for the job, which was paid in two $2,000 payments. The Office of the General Counsel was unable to locate Tom Hannah, and therefore, we did not receive a response from him.

It appears that evidence obtained during this investigation establishes that funds from the NRSC were used to pay at least portions of the salaries of Knudsen, English, and Hannah. As noted above, a letter dated November 16, 1988, addressing Ms. Prestidge's request for an accounting of NRSC's funds, showed a total of $11,500 paid towards these individuals salaries; however, the transfer of $11,500 to pay at least a portion of the salaries of these employees would not have been sufficient by itself to constitute a coordinated party expenditure subject to section 441a(d) limitations.

Commission regulations permit unlimited transfers among committees of the same political party. 11 C.F.R. § 102.6(a)(1). However, because Mr. Knudsen's primary responsibility was to assist in the election of Conrad Burns, there is probable cause to believe his salary was derived from NRSC funds provided in connection with a federal campaign, causing the NRSC to further exceed its 441a(d)(3) limits in violation of section 441a(f). The FIFO analysis demonstrates that MRP had sufficient funds to pay this expense with non-national party funds until October 27, 1988. Thus, we have only calculated the amount in violation for this issue to be $2,500, or the amount of the last monthly payment that Mr. Knudsen would have received.

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Accordingly, there is probable cause to believe that MRP violated 2 U.S.C. § 441a(f) by making $2,500.00 in excessive contributions or expenditures to the Burns' committee. In addition, there is probable cause to believe that MRP violated 2 U.S.C. § 434(b) by failing to properly report Mr. Knudsen's salary as a coordinated expenditure or contribution made on behalf of Conrad Burns' campaign.

IV GENERAL COUNSEL'S RECOMMENDATIONS

1. Find probable cause to believe the Montana Republican State Central Committee and Shirley J. Warehime, as treasurer, knowingly and willfully violated 2 U.S.C. §§ 434(b) and 441a(f) regarding the mailings produced by Foster and Associates.

2. Find probable cause to believe the Montana Republican State Central Committee and Shirley J. Warehime, as treasurer, violated 2 U.S.C. §§ 434(b), 441a(f) and 441d regarding the salary of Mr. Ken Knudsen and by failing to include a proper disclaimer on mailings.

Date 1/7/94

Lawrence M. Noble
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 7, 1994

Richard E. Messick, Esquire
3445 Mt. Pleasant Street, N.W.
Washington, D.C. 20010

RE: MUR 3204

Dear Mr. Messick:

Based on a complaint filed with the Federal Election Commission on July 13, 1990, and information supplied by your clients, the Commission, on May 21, 1991, found that there was reason to believe the Conrad Burns/US Senate and Jim Swaine, as treasurer ("Committee") violated 2 U.S.C. § 441a(f), and instituted an investigation of this matter.

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

The Commission may or may not approve the General Counsel's recommendation. Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within 15 days of your receipt of this notice, you may file with the Secretary of the Commission a brief (ten copies if possible) stating your position on the issues and replying to the brief of the General Counsel. (Three copies of such brief should also be forwarded to the Office of the General Counsel, if possible.) The General Counsel's brief and any brief which you may submit will be considered by the Commission before proceeding to a vote of whether there is probable cause to believe a violation has occurred.

If you are unable to file a responsive brief within 15 days, you may submit a written request for an extension of time. All requests for extensions of time must be submitted in writing five days prior to the due date, and good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

A finding of probable cause to believe requires that the Office of the General Counsel attempt for a period of not less than 30, but not more than 90 days, to settle this matter through a conciliation agreement.

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Should you have any questions, please contact Abigail Shaine, at (202) 219-3690.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Brief

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Conrad Burns/US Senate and Jim Swain, as treasurer	)	MUR 3204
	)	
	)	

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

This matter was initially generated by a complaint (MUR 3087) filed on July 13, 1990, by Kelly Addy, Speaker Pro Tempore of the Montana House of Representatives. On December 20, 1990, Common Cause filed a complaint (MUR 3204) that made almost identical allegations.

On May 21, 1991, the Commission found reason to believe that Conrad Burns/U.S. Senate and Jim Swain, as treasurer, violated 2 U.S.C. § 441a(f). The Commission also determined to merge MUR 3087 with MUR 3204. See General Counsel's Report dated May 6, 1991.

On June 10, 1992, this Office also received a referral (Pre-MUR 263) from the Montana Commission of Political Practices.

II. THE ALLEGEDLY EARMARKED CONTRIBUTIONS TO THE 1988 BURNS CAMPAIGN.

The complaint filed by Kelly Addy alleged that NRSC "bundled" contributions to the Burns campaign as part of a program which the complaint stated was identical to that found to have resulted in excessive contributions in Common Cause v. FEC, 729 F. Supp.

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148 (D.D.C. 1990).[1] Reports filed by NRSC disclosed that the Burns committee received several large transfers from the NRSC of earmarked contributions late in the campaign totaling $132,1000.[2] The Commission found reason to believe that the Burns Committee violated 2 U.S.C. § 441a(f) by accepting such contributions.

A. The Law

The Act requires that contributions that are earmarked to a candidate through any intermediary or conduit be reported to the recipient candidate and the Commission with the name of the original source, and treated as coming from the original source. 2 U.S.C. § 441a(a)(8). Commission regulations define earmarking and explain the reporting requirements for earmarked contributions. 11 C.F.R. § 110.6. A contribution is "earmarked" if it bears a designation, instruction or encumbrance which results in all or part of it being made to a clearly identified candidate. 11 C.F.R. § 110.6(b).

Commission regulations further explain that the conduit's or intermediary's contribution limitations are not affected by passing along an earmarked contribution unless the conduit or intermediary has exercised direction or control over the choice

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1. The Court of Appeals subsequently concluded that the district court had been wrong to hold that the conclusion by three members of the Commission that the facts of that case did not constitute direction and control by the NRSC was an impermissible construction of the agency's regulations. FEC v. National Republican Senatorial Committee, 966 F.2d 1471 (D.C. Cir. 1992).

2. The Burns committee received $50,000 on October 21; $1,000 on October 24; $40,000 on October 25; $500 on November 4' and $600 on November 5, 1988.

of the recipient candidate. If direction or control exists, then the contribution is considered as made by both the original contributor and the conduit or intermediary. 11 C.F.R. § 110.6(d). See, FEC v. NRSC, 966 F.2d 1471 (D.C. Cir. 1992) (holding that it is reasonable interpretation of the statute to conclude that there is no direction and control even if: the contributions are deposited in the intermediary's account before being forwarded to the candidate; and the intermediary chooses the candidates for whom the funds are solicited by determining who will be included in the campaign).

B. Analysis

In its initial response to the Commission, the NRSC stated that it had used a different method in the Burns campaign than the one which was initially found to have been improper in Common Cause v. FEC; however, NRSC's response did not describe the actual methods used to collect funds for Burns. In response to interrogatories, the NRSC indicated that the Burns' campaign principally received earmarked contributions from the NRSC as a result of two different solicitations. The NRSC explained that the earmarked contributions received from this solicitation differed from those involved in the solicitation programs which had been the subject of litigation. The NRSC described the essential attributes of the 1988 solicitation as follows: 1.) The solicitations clearly identified Conrad Burns as a candidate to receive the earmarked contribution; 2) Contributors designated in writing the committee to receive their contributions; and 3) Expenses for soliciting the contributions were borne by the

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candidate committees benefiting from those solicitations.

1. Direction and Control

The first NRSC mailing specifically requested that contributions be made to the Burns for U.S. Senate Committee and the Engeleiter Senate Committee. The letters sent by the NRSC identified only Conrad Burns and Susan Engeleiter as candidates who could receive contributions from this solicitation, and directed the recipients of the solicitations to make their checks out to the NRSC. The letter also said that the NRSC would see to it that the funds were divided evenly between Burns and Engeleiter, and did not suggest that the potential contributor had any other alternative. Those who responded to the program signed a statement that said "I've made my check payable to the National Republican Senatorial Committee. I direct you to divide my earmarked contribution evenly between Conrad Burns for U.S. Senate and Engeleiter for Senate Committee." NRSC represented that the proceeds were distributed equally between the two candidates, but not until expenses for this solicitation were paid for out of the gross receipts from the solicitation.

The second type of contributions earmarked for the Burns committee that the NRSC received were mailed to the NRSC as part of a program enabling the donor to receive an honorary designation as a member of the NRSC Trust (the title of an NRSC fundraising program). These contributions were made out directly to Burns. Unlike the first mailing, this mailing described the status of numerous campaigns. Although the mailing specifically noted that Conrad Burns and Earl Strinden were particularly in

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need of donations if they were to win, the letter also encouraged recipients to support any of a number of promising Republican candidates. Nor in this instance did the NRSC put forward a suggested method for dividing the funds among the candidates. The NRSC stated that in response to this solicitation it simply received checks made out to Burns and forwarded them to the Burns for U.S. Senate Committee. NRSC stated further that the Burns committee was charged a processing fee "to ensure that the expenses for the solicitation were borne by the candidate."

A look at all the factors surrounding the first solicitation suggests that the NRSC was not acting as a mere conduit. First, the solicitation identified only two candidates to whom contributions could be given, and did not suggest that potential donors had any other option. Second, the letter called for the contributions to be evenly divided between the two candidates, and did not suggest that a potential contributor had any other option. Third, the checks were made out to the NRSC, permitting the NRSC to exercise sufficient control over these funds to itself deduct some portion of its solicitation costs before forwarding the remaining funds to the candidate committees. Finally, the timing of the contributions was entirely within the control of the NRSC since the checks were made out to it. The reports filed by the NRSC at that time indicate that at least $130,000 was forwarded to the Burns committee as a result of this solicitation.

The NRSC's role was somewhat more passive with respect to the second solicitation, however. In this case, although the letter

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identified two candidates for whom money would be a significant factor in their success or failure, the NRSC also identified numerous other candidates whom the recipients should support. Further, the letter did not make any suggestions as to the way in which a contributor should allocate his funds. In addition, the checks sent to the NRSC in response to these letters were made out to the Burns Committee itself, not the NRSC. This, in turn, forced the NRSC to charge the Burns Committee a processing fee rather than deducting its costs of the top.

Accordingly, there is probable cause to believe that the Burns Committee violated 2 U.S.C. § 441a(f) by accepting such contributions.

2. Solicitation Costs

The second question with respect to these contributions to Burns is whether any solicitation costs paid by the NRSC to solicit earmarked contributions were contributions by the NRSC to the Burns Committee, resulting in a violation of 2 U.S.C. § 434(b) for failing to report such costs as contributions and adding to the amount of the excessive contributions received by the Burns Committee from the NRSC.

The NRSC explicitly stated in its interrogatory answers that, with respect to the Burns and Engeleiter solicitation, it not only deducted the solicitation costs from the receipts, but recorded the costs in question as operating expenses. By taking on the expense of the solicitations in question, the NRSC conferred a benefit on each of the candidates, which should have been treated as a contribution to these candidates until the NRSC

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had been reimbursed and reported as such. Similarly, the expenses of the second solicitation should have been reported as a contribution on a proportionate basis with respect to the candidates named in the letter until such time as the NRSC had been fully reimbursed by each candidate for its expenses.

Additionally, the record indicates that just as in MUR 2314, the NRSC did not charge the Burns Committee for its full share of the solicitation costs with respect to either mailing. With respect to the first mailing, the NRSC indicates that it deducted its fees from the contributions received, suggesting that once again the Burns Committee was only charged for the costs of successful solicitations. With respect to the NRSC Trust mailing, the NRSC explicitly acknowledges that it charged the Burns Committee only a fee for processing checks actually received.

Accordingly, this Office recommends that the Commission find probable cause to believe that the Burns Committee received excessive contributions in violation of 2 U.S.C. § 441a(f) in the form of the costs of the unsuccessful solicitations by the NRSC for which the Burns Committee was not charged and 2 U.S.C. § 434(b) by failing to report these contributions.

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III. **GENERAL COUNSEL'S RECOMMENDATIONS**

1. Find probable cause to believe the Conrad Burns/US Senate and Jim Swain, as treasurer, violated 2 U.S.C. §§ 441a(f) and 434(b).

1/7/94
Date

Lawrence M. Noble
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 7, 1994

Janice P. Lacy, Esquire
310 First Street, S.E.
Washington, D.C. 20003

RE: MUR 3204

Dear Ms. Lacy:

Based on a complaint filed with the Federal Election Commission on July 13, 1990, and information supplied by your clients, the Commission, on May 21, 1991, found that there was reason to believe the Republican National Committee and Williams J. McManus, as treasurer ("Committee") violated 2 U.S.C. §§ 441a(f) and 434(b), and instituted an investigation of this matter.

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

The Commission may or may not approve the General Counsel's recommendation. Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within 15 days of your receipt of this notice, you may file with the Secretary of the Commission a brief (ten copies if possible) stating your position on the issues and replying to the brief of the General Counsel. (Three copies of such brief should also be forwarded to the Office of the General Counsel, if possible.) The General Counsel's brief and any brief which you may submit will be considered by the Commission before proceeding to a vote of whether there is probable cause to believe a violation has occurred.

If you are unable to file a responsive brief within 15 days, you may submit a written request for an extension of time. All requests for extensions of time must be submitted in writing five days prior to the due date, and good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

A finding of probable cause to believe requires that the Office of the General Counsel attempt for a period of not less than 30, but not more than 90 days, to settle this matter through a conciliation agreement.

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Should you have any questions, please contact Abigail Shaine, at (202) 219-3690.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Brief

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Republican National Committee and William J. McManus, as treasurer.	)	MUR 3204
	)	
	)	

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

This matter was initially generated by a complaint (MUR 3087) filed on July 13, 1990, by Kelly Addy, Speaker Pro Tempore of the Montana House of Representatives. On December 20, 1990, Common Cause filed a complaint (MUR 3204) that made almost identical allegations. On May 21, 1991, the Commission found reason to believe that the Republican National Committee ("RNC") and William J. McManus, as treasurer, violated 2 U.S.C. §§ 441a(f) and 434(b). The Commission also determined to merge MUR 3087 with MUR 3204. See General Counsel's Report dated May 6, 1991.

On June 10, 1992, this Office also received a referral (Pre-MUR 263) from the Montana Commission of Political Practices.

II. Daily Tracking Polls

On May 21, 1991, the Commission found reason to believe that the Republican National Committee ("RNC") and William McManus, as treasurer, violated 2 U.S.C. § 441a(f) by making excessive in-kind contributions or coordinated party expenditures and 2 U.S.C. § 434(b) by failing to properly report the in-kind contributions or coordinated party expenditures.

A. The Law

The Federal Election Campaign Act of 1971, as amended ("the Act"), limits expenditures by the national party committee on behalf of candidates for federal office in the general election according to a formula set out in 2 U.S.C. § 441a(d)(3)(A). See also, 11 C.F.R. § 110.7(b).[1] Annual increases in 2 U.S.C. § 441a(d) expenditure limitations are based on the percentage of increases in the consumer price index, as certified by the Secretary of Labor. 2 U.S.C. § 441a(c); 11 C.F.R. § 110.9(c).[2] For 1988, the expenditure limitation under 2 U.S.C. § 441a(d) for Montana for the U.S. Senate election was $46,100 for the state party committee and $46,100 for the federal party committees. The national and state political party committees may authorize another committee, such as the NRSC, to make these coordinated party expenditures. DSCC v. FEC, 454 U.S. 27 (1980). Commission regulations further provide that national, state and local party committees may not make independent expenditures to advocate a candidate's election or defeat. 11 C.F.R. § 110.7(b)(4).

In addition, the Act provides that either the Democratic or

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1. The regulations cited throughout this section are the regulations which were in effect in 1988. Thus, the regulations cited may differ from the current regulations.

2. The Act defines contributions to include any gift of money, services or anything of value made for the purpose of influencing any federal election. 2 U.S.C. § 431(8)(A)(i). Commission regulations explain that "anything of value" includes any in-kind contribution or any gift of goods or services at less than the usual and normal charge for such goods or services. 11 C.F.R. § 100.7(a)(1)(iii).

Republican Senate Campaign Committee may contribute $17,500 to a candidate for nomination for election, or for election to the United States Senate during a year in which an election is held. 2 U.S.C. § 441a(h).[3]

The Act also provides that no political committee, or officer or employee of a political committee, shall knowingly accept any contribution or make any expenditure on behalf of a candidate, in violation of any limitations imposed on contributions and expenditures under this section. 2 U.S.C. § 441a(f).

Commission regulations permit unlimited transfers among committees of the same political party. 11 C.F.R. § 102.6(a)(1). Commission regulations also provide that expenditures made on behalf of more than one candidate shall be attributed to each candidate in proportion to the benefit reasonably expected to be derived and shall be so reported. 11 C.F.R. § 106.1(a).

With regard to the allocation of polling expenses, other pertinent Commission regulations require that opinion poll results which are purchased by a political committee are to be treated as a contribution in-kind by the purchasing committee and as an expenditure by the candidate or candidate's authorized committee that accepts the poll results. 11 C.F.R. § 106.4(b). Valuation of the polling data must be determined using one of the following formulas: 1) the share of the overall cost which is allocable to each candidate, including State and local candidates

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3. The NRSC's monthly reports for 1988 shows $91,492.72 in coordinated expenditures and $17,477.54 in section 441a(h) contributions to the Burns Committee.

or political committee, based upon the cost allocation formula of the polling firm from which the results were purchased; or 2) an amount computed by dividing the overall cost of the poll equally among candidates, including State and local, or political committees receiving the results; or 3) a proportion of the overall cost of the poll equal to the proportion that the number of question results received by the candidate or political committee bears to the total number of question results received by all candidates; or 4) an amount computed by any other method that reasonably reflects the benefits derived. 11 C.F.R. § 106.4(e).

B. Responses

The Gary Lawrence Company ("GLC") of Santa Ana, California, a provider of tracking poll and survey services, indicated that it entered into an oral agreement with both the NRSC and the Republican Governor's Association ("RGA") to provide tracking/polling services to both organizations for the 1988 Montana election.[4] In response to interrogatories, Gary Lawrence, the President of GLC, recalled that throughout the weeks of the tracking project, he was in contact with Jeff Willis of the NRSC, Michele Davis of the RGA, Eddie Mahe and Ladonna Lee, paid consultants to the Burns Committee, and Bill Lee, paid consultant to the Stephens Campaign. According to Mr. Lawrence, approximately two-thirds of the questions asked in the tracking

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4. The Republican National Committee (RNC) has stated in its response that the RGA is the auxiliary organization of the RNC that deals with gubernatorial races.

poll were related to Conrad Burns, the Senatorial candidate in Montana, and one-third were related to Stan Stephens, the gubernatorial candidate. Mr. Lawrence stated that results of the tracking poll were transmitted by facsimile the morning after the completion of each evening's track and a hard summary copy of the results was mailed to each entity after the election. Mr. Lawrence stated that GLC transmitted the polling results to the Burns Committee through its consultants, Eddie Mahe and Ladonna Lee. The results provided to the the Burns Committee were only for those questions pertaining to the Senatorial race.[5] Mr. Lawrence indicated that results pertaining to the Senatorial campaign were also faxed to Jeff Willis of the NRSC.

Pursuant to the oral agreement, GLC charged $13.50 for the first five polling questions and .50 per question per person surveyed thereafter for the polling in Montana. Mr. Lawrence stated that GLC was instructed by the NRSC and the RGA to send the invoices for the polling services to the RGA, the auxiliary organization of the RNC which deals with gubernatorial races, which was handling the paperwork. GLC sent out three invoices for the polling services: an invoice for $20,000 on October 4, 1988; an invoice for $15,000 on November 2, 1988; and an invoice for $15,100 on November 9, 1988. Mr. Lawrence indicated that GLC

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5. In response to interrogatories, the Burns Committee stated that its files contained partial results of the tracking poll which had been transmitted to its consultants on October 29, 1988, October 30, 1988, October 31, 1988, November 1, 1988, November 4, 1988, November 6, 1988, and November 7, 1988. The Burns Committee submitted copies of the results which it received from GLC.

was paid in full for its services and received $49,650 from the RNC for the polling services. GLC indicated that it also received $450 from the Burns Committee for the addition of one question which the Burns Committee requested be added to the poll for a few tracking days toward the end of the tracking period.

In its response to the Commission's reason to believe findings and interrogatories, the RNC indicated that the RGA entered into an oral agreement with GLC to conduct tracking surveys for the RGA for the 1988 Montana Governor's race during October and November, 1988. The RNC stated that it appears that the RGA and the NRSC agreed to each ask questions in a poll conducted in Montana by GLC. The RNC stated that the RGA has no recollection of any agreement made with the NRSC regarding the poll in question. Additionally, the RNC indicated that neither the RGA or the RNC shared results from the tracking poll with any candidate committee or received any poll data regarding the Burns campaign. The RNC stated that it paid $49,500 to GLC on behalf of RGA for the cost of the poll. According to the RNC, it has always been the practice of the RGA and the RNC that each organization responsible for including questions in a poll incur the proportionate costs of the poll in accordance with Commission regulations. The RNC stated that it appears that the RNC, on behalf of the RGA, sought and received reimbursement from the NRSC for its portion of the questions, the two-thirds of the tracking poll which dealt with the Senatorial campaign. The RNC stated that its 1988 reports disclose numerous transfers from the NRSC to the RNC and that some of the transfers made in October

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and November, 1988 were in sufficient amounts to reimburse the RNC for NRSC's share of the polling costs. The RNC stated that because of the activity in question dates back to 1988, it was unable to locate any background materials regarding the RNC's or RGA's arrangement with the NRSC.[6]

C. Analysis

Because the RNC paid $49,650 directly to GLC for daily tracking polls relating to the 1988 election in Montana and GLC transmitted the tracking results relating to the Senatorial race to the Burns Committee, the RNC made coordinated expenditures on behalf of the Burns Committee. In this particular situation, when the Burns Committee received the tracking results, it received the relative benefit of the $33,100 payment made by the RNC for the costs of two-thirds of the daily tracking poll which related to the Senatorial race. Because the RNC had delegated its entire coordinated party expenditure limitation to the NRSC, the RNC's $33,100 payment to GLC resulted in excessive coordinated party expenditures in the amount of $33,100.[7]

Accordingly, there is probable cause to believe that the Republican National Committee and William McManus, as treasurer, violated 2 U.S.C. § 441a(f) by making coordinated party expenditures on behalf of the Burns Committee in excess of those permitted under section 441a(d) and 2 U.S.C. § 434(b) by failing

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6. The RNC made this statement in its response dated August 1, 1991.

7. We note that $17,477.54 of the $17,500 limit under 2 U.S.C. § 441a(h) was also reported as having been expended.

to properly report the payments to GLC for the Senatorial portion of the tracking polls as coordinated party expenditures.

III. GENERAL COUNSEL'S RECOMMENDATIONS

1. Find probable cause to believe the Republican National Committee and William McManus, as treasurer, violated 2 U.S.C. §§ 434(b) and 441a(f) regarding the daily tracking polls.

1/7/94
Date

Lawrence M. Noble
General Counsel

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RECEIVED
FEDERAL ELECTION COMMISSION
PUBLIC DISCLOSURE DIVISION
94 JAN 21 AM 9:30

RECEIVED
FEDERAL ELECTION COMMISSION
94 JAN 21 AM 9:58

Republican
National
Committee

Michael A. Hess
Chief Counsel

January 18, 1994

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

RE: MUR 3204

Dear Mr. Noble:

On behalf of the Republican National Committee (RNC), I am requesting an extension of time to respond to your probable cause brief in the above captioned Matter, received on January 10, 1994. We request an extension until February 25, 1994.

Based upon information in our files it appears that the last communication with the Commission regarding MUR 3204 was on August 2, 1991 when the RNC responded to the Commission's interrogatories and request for production of documents. Quite frankly, we were surprised to receive your probable cause brief, not realizing that the Commission was still actively pursuing this case after not hearing anything from the Agency for almost two and one-half years.

You will note in that in its August 1991 response the RNC complained that this case was already stale since it dealt with a 1988 election matter. The RNC argued how difficult it was to reconstruct the facts since the activity in question was not based upon a written agreement and that the complaint involved transactions almost three years old. A General Counsel recommendation received twenty-nine months later does not make the our response to the probable cause brief any less difficult. Also, since its August 1991 response, many more staff changes have occurred at the RNC making our attempt at providing an adequate response even more problematic. In that regard please address all correspondence regarding MUR 3204 and all other matters pending at the Commission to me as the RNC's Chief Counsel and not to Ms. Janice Lacy. Ms. Lacy had terminated her employment with the RNC over a year and a half ago.

Please contact me if you have any additional questions or problems with this request.

Sincerely,

Michael A. Hess

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OGC 0746

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
94 JAN 18 AM 10: 23

Richard E. Messick
Attorney at Law

Suite 700 Nendl Building
601 Pennsylvania Ave., N.W.
Washington, D.C. 20004

202/508-4088
202/737-5040 fax

January 18, 1994

Abigail Shane, Esq.
Federal Election Commission
Washington, D.C.

Via Fax

Dear Ms. Shane:

I called your office this morning to discuss an extension of time in MUR 3204. I did not call sooner because I was in Lima, Peru, on business from January 5th until the 14th.

The file in this case is both extensive and complex, and given that it has been two and one-half years since I prepared the last submission, I must admit that all the facts are not as fresh in my mind as they might be. Because the Commission's brief arrived while I was away, the case is complex, a great deal of time has transpired since I last reviewed the case, I simply will not be able to file within the time frame suggested in the Commission's letter.

Would you please call me so we can discuss an extension of time? Thank you for your assistance.

Sincerely,

Richard E. Messick

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OGC 0787

RECEIVED
FEDERAL ELECTION COMMISSION
GENERAL COUNSEL
94 JAN 24 AM 10:03

CROWLEY, HAUGHEY, HANSON, TOOLE & DIETRICH

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RICHARD WILSON
ROBERT EDD LEE
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RONALD B. LONGMIRE
CHARLES B. GARDNER
LAWRENCE B. GOSNEY
STEVEN RUFFATTO
ALLAN L. HARRIS
JAMES P. GIES
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JAMES M. HAUGHEY
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DONALD L. HARRIS
WILLIAM D. LARSON, III
WILLIAM J. MATTES
PETER F. HARRIS
MICHAEL S. DOCHERTY
MALCOLM H. GOODRICH
MARY SIMON
JON T. DYER
ERIC E. ANDERSON
BRUCE A. FREDRICKSON
RENEE L. MOONEY
JANICE L. REINBERG
JOE C. MAYNARD, JR.
JOHN B. LEE
STEVEN B. MILCH
MARY E. DUNCAN
SCOTT M. STEARD
LEONARD H. SMITH
NEIL G. WESTESEN
WILLIAM E. COFFEE
MICHAEL S. LAHR
ROBERT T. BELL

RETIRED
CALE CROWLEY
STUART W. CONNER

OFFICE DIRECT:
406/255-7261

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January 19, 1994

Abigail Shaine
Office of the General Counsel
Federal Election Commission, Room 659
999 E Street, N.W.
Washington, D.C. 20463

JM 24 9 15 AM '94

RECEIVED
FEDERAL ELECTION
COMMISSION
MAIL ROOM

Re: MUR 3204
The Montana Republican Party

Dear Ms. Shaine:

Pursuant to your telephone conversation on January 14, 1994 with Robert Edd Lee, who was formerly affiliated with this firm and who was the primary attorney on this matter, you are aware that it will be necessary for the Montana Republican Party to resolve certain representational questions before a response to your brief can be prepared.

Please consider this a request by The Montana Republican Party for an extension of time to respond to the General Counsel's Brief in this matter mailed by your office under cover letter of January 7, 1994, and received by this firm on January 12, 1994.

As discussed by Mr. Lee, the Montana Repulican Party and the attorneys need to determine who will be providing future representation in this matter. It will require that the new State Chairman to consult with his advisors around the state and then coordinate representational arrangements with the respective attorneys.

We anticipate that it may require three or four weeks to complete the discussions and clarify the representation. When that is done, it may be necessary to file a new designation of counsel.

We appriciate your courtesy and request at least 45 days to complete arrangements and notify you of the counsel who will proceed.

Very truly yours,

BRUCE A. FREDRICKSON

cc: Cal Winslow
Robert Edd Lee

9404358382 5

Richard E. Messick
Attorney at Law

Suite 700 North Building
601 Pennsylvania Ave., N.W.
Washington, D.C. 20004

202/508-4102
202/737-5949 fax

January 25, 1994

RECEIVED
FEDERAL ELECTION COMMISSION
94 JAN 25 PM 4:48

Abigail Shane, Esq.
Federal Election Commission
Washington, D.C.

Via Fax
Re: MUR 3204

Dear Ms. Shane:

Thank you for returning my call about the request for an extension of time contained in my January 18, 1994, letter.

As I indicated in our conversation, I have a pretrial statement due February 25th in a major civil trial set for the end of March before Judge Joyce Green here in the District. At the same time I also have hearings on a habeas corpus petition and a 23-110 motion in D.C. Superior Court that should be set down any moment. This is in addition to my major responsibility for the coming three months which is to organize an international conference here in D.C. with a Latin American head of state and the Vice President of the United States.

Given all this, and for the reasons set out in my January 18th letter, I would ask the Commission for an extension until April 10th.

Thank you for your consideration.

Sincerely,

Richard E. Messick

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RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

94 JAN 25 AM 10:45

WILEY, REIN & FIELDING

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

JAN WITOLD BARAN
(202) 429-7330

FACSIMILE
(202) 429-7049
TELEX 248349 WYRN UR

January 25, 1994

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

Re: MUR 3204 (National Republican Senatorial Committee and Sonya M. Vazquez, as Treasurer)

Dear Madame Secretary:

Enclosed please find a Motion to Dismiss the above captioned matter. An original and ten copies have been enclosed for distribution to the Commission.

Sincerely,

Jan Witold Baran

cc: Lawrence M. Noble (3 copies)

9404358827

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
National Republican Senatorial Committee and Sonya M. Vazquez, as Treasurer	)	MUR 3204
	)	

MOTION TO DISMISS MUR 3204

The National Republican Senatorial Committee and Sonya M. Vazquez, as Treasurer ("Respondents"), hereby move to dismiss Matter Under Review 3204 on the grounds that the Federal Election Commission's ("FEC" or "Commission") May 21, 1991 Reason to Believe finding and subsequent investigation are invalid because they were made by an unconstitutional agency and under the impermissible influence of representatives of Congress. As a result, any future proceeding in this action based on the prior unconstitutional acts of the Commission is invalid.

DISCUSSION

On January 7, 1994, the General Counsel informed Respondents that it was prepared to recommend that the Commission find probable cause to believe that Respondents violated the Act in this matter. The General Counsel enclosed a General Counsel's Brief purporting to state the basis upon which the General Counsel's Office was making this recommendation. That Brief failed to recognize or to discuss, however, the significance of the facts that this proceeding rests on a May 21, 1991, Reason to Believe finding

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that was made by an unconstitutionally composed body and that was directly influenced by representatives of Congress. Those facts require that this proceeding be dismissed.

That the Reason to Believe finding was made by an unconstitutional body is clear. On October 22, 1993, the United States Court of Appeals concluded that "Congress exceeded its legislative authority when it placed its agents, the Secretary of the Senate and the Clerk of the House of Representatives, on the independent Commission as non-voting *ex officio* members" in FEC v. NRA Political Victory Fund, 6 F.3d 821, 822 (D.C. Cir. 1993). Thus, the court held that the FEC's "composition violates the Constitution's separation of powers," id., and dismissed the action pending before it, stating that the Commission lacked constitutional authority to bring any enforcement actions.

Equally clear is the appearance and reality of improper legislative influence on the judicial aspect of the Commission's operations. In Pillsbury Co. v. FTC, 354 F.2d 952, 964 (5th Cir. 1966), the Court held that due process requires both the reality and the "appearance of impartiality, which cannot be maintained unless those who exercise the judicial function are free from powerful external influences" such as Congress. See id. at 964 n.4 (quoting Report on Congressional Oversight of Administrative Agencies of the Committee on Administrative Law of the

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Association of the Bar of the City of New York, 5 Record ABNYC 11 (1950) (It is an "established principle" that in administering the law an agency "is to be free of legislative influence"). In Pillsbury the impermissible legislative influence at least was public and open, and subject to some rebuttal. Here, by contrast, Congress sent its agents, the ex officio officers, into the Commission's secret deliberations, wielding influence behind closed doors and creating an ineradicable appearance that the judicial process was tainted.[1/]

There is no doubt that NRA's constitutional ruling applies to all pending enforcement proceedings as was this matter. See Harper v. Virginia Dept. of Taxation, 113 S. Ct. 2510, 2517 (1993) ("When this Court applies a rule of federal law to the parties before it, that rule is the controlling interpretation of federal law and must be given full retroactive effect in all cases still open on direct review and as to all events, regardless of whether such events predate or postdate our announcement of the rule.") Indeed, the Commission itself has recognized that it may not proceed with regard to pending enforcement matters due to the effect

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[1/] The Commission has recognized in recent court filings that the Commission had no authority to hold its organic statute unconstitutional. Thus, a prior objection to the Commission's composition or the participation of the ex officio officers would have been futile. In light of NRA, however, the Commission now can act on these promptly presented objections.

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of the NRA decision. See FEC Press Release dated November 10, 1993. However, neither the General Counsel's letter nor the General Counsel's Brief makes any mention of the NRA decision much less of the taint to the Reason to Believe finding.

The Commission cannot cure this problem simply by waiving the magic wand of "ratification." While the FEC believes that it has resurrected itself by purportedly excising the ex officio officers, the body that initiated this case and controlled it at the time of the reason to believe finding and subsequent investigation did not merely "lack" the necessary authority to take those actions, it was constitutionally prohibited from exercising that authority by the separation of powers doctrine.[2] There is no precedent holding that an agency may ratify the acts of one who was constitutionally forbidden to act. See Franklin Savs. Ass'n v. Director of Office of Thrift Supervision, 640 F. Supp. 1535, 1539 (D. Kan.) (original act must have been by constitutionally authorized body), rev'd on other grounds, 934 F.2d 1127 (10th Cir. 1990).

Moreover, ratification cannot be employed where it operates to impair important rights. In Swayne & Hoyt v.

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[2] We note for the record that the "new" FEC consist of the same Members who sat on the Commission prior to the NRA decision, less the ex-officio members whose deputies still maintain offices and activities at the agency.

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United States, 300 U.S. 297, 302 (1937), ratification was permitted where "the curative act impairs no substantive right or equity of appellants; their right to an administrative hearing and determination . . . have been fully preserved." Here, by contrast, respondents' right to have the series of discretionary judgments underlying this action made by a body consisting solely of officers of the United States has been denied by the prohibited and indelible participation of persons appointed solely by legislative bodies controlled by members of an opposing political party.

In addition, any supposed ratification would suffer from fundamental procedural defects. The Act requires the FEC to follow a series of steps -- allowing participation by the respondent -- and to exercise its executive discretion at several key points. Here, should the FEC merely choose to ratify its past actions it will not have followed any of the procedures required by the Act in order to find reason to believe or conduct an investigation. Moreover, it will have relied on invalid regulations promulgated by an unlawful

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body.[1] Thus, the FEC cannot remedy its prior invalid actions.

For these reasons, Matter Under Review 3204 should be dismissed.

Alternatively, should the Commission decide not to dismiss this matter or act on this motion at this time, respondents request that the Commission hold this matter in abeyance until such time as the courts currently considering NRA related issues have had an opportunity to rule on its effect on ongoing enforcement cases. This matter involves activity from the 1988 election cycle, and, as seen above, the Commission has not taken any action since its May 21, 1991 Reason to Believe finding. Indeed, references to the Commission's investigation indicate that it was complete as of the summer of 1992. Having already delayed this long, a short delay to allow the courts the opportunity to rule on

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[1] Furthermore, we object to all past and future activity in this matter attributable to the actions of the unconstitutionally constituted agency. Our objections include, but are not limited to, enforcement of rules not adopted by a constitutional agency, purported "ratification" of rules and actions, without findings or compliance with procedural steps mandated by the Administrative Procedures Act or the Federal Election Campaign Act, as well as "ratification" of actions tainted by deliberations influenced by the presence of non-executive branch personnel. Additionally, we believe that the Commission improperly reconstituted itself in response to the NRA decision and therefore its current proceedings are likewise constitutionally suspect. We expressly do not waive any objections to the present form of the Commission.

the NRA related issues now pending will in no way prejudice the Commission or the public.

Respectfully submitted,

Jan Witold Baran
Carol A. Laham

Attorneys for Respondents
National Republican Senatorial
Committee and Sonya M. Vazquez,
as Treasurer

DATED: January 25, 1994

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JANUARY 25, 1994

Bruce A. Fredrickson, Esquire
Crowley, Haughey, Hanson, Toole & Dietrich
500 Transwestern Plaza II
490 North 31st Street
P.O. Box 2529
Billings, Montana 59103-2529

RE: MUR 3204
Montana Republican State Central Committee and Shirley J. Warehime, as treasurer

Dear Mr. Fredrickson:

This is in response to your letter dated January 19, 1994, which we received on January 24, 1994, requesting an extension to respond to the General Counsel's Brief in the above-referenced matter. After considering the circumstances presented in your letter, the Office of the General Counsel has granted an extension of 45 days in order to permit you to resolve the representational problems and respond to the Brief. Accordingly, your response is due by the close of business on March 14, 1994.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Jeffrey D. Long
Paralegal

2043583835

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JANUARY 25, 1994

Michael A. Hess, Chief Counsel
Republican National Committee
310 First Street, Southeast
Washington, D.C. 20003

RE: MUR 3204
Republican National Committee
and William J. McManus, as treasurer

Dear Mr. Hess:

This is in response to your letter dated January 18, 1994, which we received on January 21, 1994, requesting an extension until February 25, 1994, to respond to the General Counsel's Brief in the above-referenced matter. After considering the circumstances presented in your letter, the Office of the General Counsel has granted the requested extension. Accordingly, your response is due by the close of business on February 25, 1994.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Jeffrey D. Long
Paralegal

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 27, 1994

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

RE: MUR 3204
National Republican
Senatorial Committee
and Sonya M. Vazquez, as
Treasurer

Dear Mr. Baran:

We have received the Motion to Dismiss MUR 3204 that you filed on behalf of the NRSC. Our office is still awaiting a reply to the Probable Cause brief that was forwarded to you on January 7, 1994 and that was due 15 days after the date that the brief was received by you.

Sincerely,

Abigail A. Shaine

Abigail A. Shaine
Assistant General Counsel

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OGC 0929

WILEY, REIN & FIELDING

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

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(202) 429-7049
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FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
94 FEB -4 AM 9:48

JAN WITOLD BARAN
(202) 429-7330

February 2, 1994

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

Attn: Abigail A. Shaine

Re: MUR 3204 (National Republican Senatorial Committee and Sonya M. Vazquez, as Treasurer)

Dear Mr. Noble:

I am in receipt of Ms. Shaine's letter of January 27, 1994 notifying me that your office has received the Motion to Dismiss in Matter Under Review 3204 filed with the Secretary of the Commission on behalf of the National Republican Senatorial Committee and Sonya M. Vazquez, as Treasurer ("Respondents" or "NRSC"). Ms. Shaine's letter further states that your office is awaiting a reply to the General Counsel's Probable Cause Brief in this matter.

I have personally confirmed with Ms. Shaine that there have been no findings in this matter against our client except for the May 21, 1991 "reason to believe" findings. Under FEC v. NRA Political Victory Fund, 6 F.3d 821 (D.C. Cir. 1993), petition for cert. filed, (U.S. Jan. 18, 1994) (No. 93-1151) ("NRA"), those are findings by an unconstitutional agency. Under the Act, the Commission cannot proceed to Probable Cause where there has been no valid "reason to believe" finding nor can the Commission deny a respondent the opportunity to file a brief except by following the procedures mandated in the Act. Thus, it is our position that Probable Cause briefing at this time is procedurally improper.

Moreover, we object to all past and future activity in this matter attributable to the actions of the unconstitutional agency. Our objections include, but are not

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limited to, enforcement of rules not adopted by a constitutional agency, purported "ratification" of rules and actions, without findings or compliance with procedural steps mandated by the Administrative Procedures Act or the Federal Election Campaign Act, as well as "ratification" of actions tainted by deliberations influenced by the presence of non-executive branch personnel. Additionally, we believe the Commission improperly reconstituted itself in response to the NRA decision and therefore its current proceedings are likewise constitutionally suspect. We expressly do not waive any objections to the present form of the Commission and suggest that continued proceedings in this matter under these circumstances are improper.

Against this backdrop, we note that the Motion to Dismiss asked that:

> should the Commission decide not to dismiss this matter or act on this motion at this time, respondents request that the Commission hold this matter in abeyance until such time as the courts currently considering NRA related issues have had an opportunity to rule on its effect on ongoing enforcement cases. This matter involves activity from the 1988 election cycle, and, as seen above, the Commission has not taken any action since its May 21, 1991 Reason to Believe finding. Indeed, references to the Commission's investigation indicate that it was complete as of the summer of 1992. Having already delayed this long, a short delay to allow the courts the opportunity to rule on the NRA related issues now pending will in no way prejudice the Commission or the public.

It is implicit within this request that the NRSC should be allowed to respond to the General Counsel's Brief if the Commission rules unfavorably on the pending Motion to Dismiss and request for a stay. Requiring the NRSC to file a Brief while these motions are pending would be impractical, costly to our client and not substantially justified by the Commission, in addition to being procedurally suspect.

Should the Commission deny the NRSC's request for a stay of this matter, then the NRSC would seek copies of several

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documents in order to prepare a reply to the General Counsel's Brief which states that:

> this Office has gathered extensive information from responses to interrogatories and document requests, as well as from newspaper articles. This Office has also interviewed several people, including Terry and Neida Merica, the Montana Commissioner of Political Practices and the Montana Commission's special prosecutor.
>
> With the Federal Elections (sic) Commission's approval, this Office also requested a FIFO analysis from Audit to determine the extent to which federal funds were being used by MRP for certain mailings during the 1988 election cycle.

Unfortunately, the NRSC has not been privy to these documents or discussions relied on by the General Counsel's Office in reaching its recommendations. Without these documents the NRSC would not be afforded a fair opportunity to respond completely to the General Counsel's Brief.

To facilitate the Commission's desire to expedite the resolution of this matter we hereby request the documents at this time without prejudice to our Motion to Dismiss and without waiving any of the procedural issues raised in that Motion or this letter. Each document has been specifically referenced in the General Counsel's Brief and relied upon by the General Counsel's Office:

page 2:	FIFO analysis from Audit;
page 7:	November 14, 1990 Response of the Montana Republican Party;
pp. 7-8:	Interrogatory Responses of the Montana Republican Party;
pp. 10-11:	Foster and Associates Response (also referenced on p.22);
pp. 11-15:	Notes of informal interviews with Terry and Neida Merica;

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Terry Merica Affidavit;

Neida Merica Affidavit;

Copies of letters identified on pp. 12-13 provided by the Mericas and by the Montana Office of Political Practices (note: these letters appear to be dated November 3 and 4, 1988);

Cover Sheet of a facsimile transmission to Ms. Prestidge from Mr. Foster;

December 12, 1988 handwritten memo from Mr. Shanahan to Mr. Merica and accompanying documentation;

November 16, 1988 letter from Montana Republican Party to Ann Prestidge referenced on pages 14-15 and on page 24;

pp. 15-16: A copy of Commissioner Colburg's findings referenced on page 15 and accompanying documents;

page 21: Two FIFO analyses preformed by the Audit Division and documentation used to perform these analyses.

page 28: Ken Knudsen response to the FEC's discovery request;

page 29: Elwood English's response to the FEC's discovery request;

page 32: Gary Lawrence Company responses to FEC interrogatories;

page 33: RNC response to Reason to Believe findings and interrogatories;

page 33: Burns Committee response to Interrogatories;

Further, we note that footnotes 19 and 20 on pages 34 and 39 are identical. The footnote appears to be relevant only to the text on page 39. Should there be an error we

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would like an accurate version of the General Counsel's Brief.

In the event of an unfavorable ruling on its Motion to Dismiss, the NRSC requests 60 days from our receipt of notice that its Motions to Dismiss or alternatively for a stay have been denied, or 60 days from our receipt of the documents requested above, whichever is later, in order to file a Respondent's Brief in reply to the General Counsel's Probable Cause Brief.

The General Counsel's Brief is lengthy and complex and involves several novel issues regarding activity that is several years old. The NRSC wishes a full opportunity to respond to each of the General Counsel's proposed findings without waiving any objections to the procedures used by the FEC. However, as you are well aware, it has been more than two years since the FEC has taken any action with respect to the NRSC. This request will in no way prejudice the resolution of this matter and is completely appropriate under the circumstances. In fact, should the Commission deny this request, it would severely prejudice the NRSC's ability to respond to this matter.

Finally, the NRSC requests a copy of the General Counsel's Brief, if any, containing your office's legal arguments and recommendation regarding the Motion to Dismiss and Motion for a Stay and an opportunity to reply to that Brief. This will provide the NRSC a full opportunity to respond to the General Counsel's recommendation regarding this motion consistent with the statutory requirements found in 2 U.S.C. § 437g and fundamental principles of due process.

We trust that you will act favorably upon these requests.

Sincerely,

Jan Witold Baran

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 3204
National Republican Senatorial Campaign Committee and Sonya M. Vasquez, as treasurer	)	

GENERAL COUNSEL'S REPORT

I. BACKGROUND

This matter was initially generated by a complaint (MUR 3087) filed on July 13, 1990, by Kelly Addy, Speaker Pro Tempore of the Montana House of Representatives. On December 20, 1990, Common Cause filed a complaint (MUR 3204) that made almost identical allegations.

On May 21, 1991, the Commission found reason to believe that: the National Republican Senatorial Committee and its treasurer ("respondents" or "the NRSC") violated 2 U.S.C. §§ 441a(f), 441a(h), 434(b) and 439(a). The Commission also determined to merge MUR 3087 with MUR 3204. See General Counsel's Report dated May 6, 1991.

On June 10, 1992, this Office also received a referral (Pre-MUR 263) from the Montana Commission of Political Practices.

On January 7, 1994, this Office forwarded the General Counsel's brief to counsel for these respondents. On January 25, 1994, counsel for respondents filed a Motion to Dismiss. (Attachment 1). In a telephone discussion with staff on January 31, 1994, counsel advised this office for the first time that he had not intended to file a response to the probable cause brief until the Commission had addressed this motion.

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II **FACTUAL AND LEGAL ANALYSIS**

Respondents' motion to dismiss is premised on the recent decision in FEC v. NRA Political Victory Fund, 6 F.3d 821, 828 (D.C. Cir. 1993) ("the NRA decision), holding that the Commission's "composition violates the Constitution's separation of powers." The NRSC argues that the Commission's 1991 reason to believe findings in this MUR and its subsequent investigation are invalid because "they were made by an unconstitutional agency and under the impermissible influence of representatives of Congress." Motion at 1. Citing Harper v. Virginia Dept. of Taxation, 113 S. Ct. 2510 (1993), counsel for respondents asserts that the Court of Appeals ruling applies to all pending enforcement proceedings, including this MUR, thus requiring dismissal. In the alternative, respondents request that the Commission hold this MUR in abeyance until the courts have had an opportunity to rule on the effect of the NRA decision on pending enforcement proceedings

Counsel for respondents also argues that the Commission cannot cure any constitutional defect by ratifying its reason to believe findings. Not only does counsel assert that the Commission lacks the authority to act in this manner, but also that any such ratification would suffer from fundamental procedural defects. Counsel states that the effect of ratification in this instance would be to deny respondents participation in the steps between a reason to believe finding and the consideration of probable cause recommendations.

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Moreover, counsel asserts that the FEC would be relying on invalid regulations promulgated by an unlawful body.

Preliminarily, this Office notes that, on November 9, 1993, the Commission considered the General Counsel's legal analysis of the effect of the NRA decision on Commission actions and adopted specific policies as to how to proceed in NRA affected matters. As the following discussion illustrates, Respondents have not posited any arguments that warrant deviation from the policies adopted by the Commission on November 9.

The NRA decision does not on its face vitiate prior Commission action.[1] Indeed, the Commission's prior reason to believe decision may be held valid on two separate grounds -- the de facto officer doctrine and the severability provision of the Federal Election Campaign Act, as amended, (the "Act").

The de facto officer doctrine provides that if a public officer holds office invalidly because of a defect of which both the officer and the public are unaware, the officer's acts nonetheless will be given effect even if they are otherwise invalid on substantive grounds. It is "well settled" that

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1. Harper v. Virginia Dep't. of Taxation, 113 S. Ct. 2511 (1993) (holding that new rule if applied to instant parties must be given full retroactive effect) does not preclude the use of pure prospectivity (application only to matters arising after announcement of the rule) in considering the remedy to be applied in other cases. Thus, the NRA court's implication that Harper compels other courts to apply its decision in other enforcement cases, slip op. at 14 -- which under Harper would necessarily give retroactive effect to the court's dismissal -- may not be correct. It may also be possible to argue that the decision in Harper would not require dismissal since the Commission is no longer acting as an eight- member commission with ex officio members.

"'where there is an office to be filled and one acting under the color of authority fills the office and discharges its duties, his actions are those of an officer de facto and binding upon the public.'" Glidden Co. v. Zdanock, 370 U.S. 530, 535 (1962) (quoting McDowell v. United States, 159 U.S. 596, 602 (1895)). See also Andrade v. Lauer, 729 F.2d 1127, 1150 (D.C. Cir. 1984) ("Andrade I").[2]

In fact, although not applying the doctrine,[3] the NRA court acknowledged that the Supreme Court had relied upon the de facto officer doctrine, although not explicitly, in Buckley v. Valeo, 424 U.S. 1 (1976). In that case, the Supreme Court validated the Commission's past actions after finding that the Act's provision for the appointment of all the voting Commissioners was unconstitutional. Clearly, the de facto officer doctrine can be applied to the Commission's past actions. The application of this doctrine is even more appropriate here than in Buckley because all six Commissioners voting in this matter were de jure

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2. The court in Andrade I did delineate a narrow exception to application of the de facto officer doctrine. Under Andrade I the "doctrine does not prevent a specific, focused attack on an action taken by a de facto officer if the plaintiffs bring their suit at or around the time the action is taken and if the government has reasonable notice under all the circumstances of the defect claimed." Andrade I at 1500. Because respondent failed to raise the constitutionality of the ex officios in either its response to the complaint, response to the original reason to believe findings, or pursuant to 2 U.S.C. § 437h, the exception is not applicable.

3. The court decided simply to reverse the district court's judgment against NRA without regard to the merits because the court was "aware of no theory that would permit us to declare the Commission's structure unconstitutional without providing relief to the appellants in this case," NRA, slip. op. at 14.

officers at the time of the original reason to believe

Furthermore, the D.C. Circuit's opinion specifically recognized that the Act's severability clause (2 U.S.C. § 454) would permit the Commission to continue its administration of the Act in conformity with the NRA decision. Noting that the Act's "explicit severability clause" raises a "presumption that Congress would wish the offending portion of the statute -- creating the ex officio members of the Commission -- to be severed from the rest," the court concluded that no congressional action was required to reconstitute the Commission. Slip op. at 13.

> Congress is not even required after our decision, as it was after Buckley [v. Valeo, 424 U.S. 1 (1976)], to amend the statute. Since what remains of the FECA is not 'unworkable and inequitable,' id. at 252 (Burger, C.J., concurring in part and dissenting in part), the unconstitutional ex officio membership provision can be severed from the rest of the FECA.

Id. The Commission promptly voted to reconstitute itself, pending any further judicial action, as a six-member commission without ex officio members, thereby conforming with the court of appeal's decision.

An additional argument can be made in response to the assertion that the Commission's investigation in this matter is invalid under NRA. The Supreme Court has made clear that the Commission's investigative activities are not subject to separation of powers attacks that have been raised against its enforcement actions. In Buckley v. Valeo, 424 U.S. 1, 137 n.175 (1976), the Supreme Court determined that certain Commission actions were not jeopardized by the participation of voting

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members, appointed in varying degrees by Congress, stating:

> Insofar as the powers confided in the Commission are essentially of an investigative and informative nature, falling in the same general category as those powers which Congress might delegate to one if its own committees, there can be no question that the Commission as presently constituted may exercise them.

Id. at 137. Accord, McGrain v. Daugherty, 273 U.S. 135 (1927). Thus, the investigation authorized by the Commission and conducted by this Office in this MUR does not pose the separation of powers problem addressed in NRA.

Even if past Commission actions in this matter are not considered valid in themselves, the Commission has adopted other corrective procedures out of an abundance of caution. In this matter, these procedures would require that at such time that this Office brings to the Commission recommendations with respect to probable cause, this Office also would recommend whether to ratify the original reason to believe findings. In Andrade v. Lauer, (discussed above in connection with the de facto officer doctrine), the official with a constitutionally defective appointment ratified his own prior actions after the appointment was made constitutional. On remand from the Court of Appeals' refusal to apply the de facto officer doctrine, the district court, in an unpublished opinion, affirmed the officer's act (the institution of a reduction in force) on three grounds, including that the act was properly ratified after the official's appointment became constitutional. On appeal, the D.C. Circuit said that any of the three grounds cited by the district court could potentially be a proper basis for upholding the RIF,

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including ratification. The Court chose to affirm on another ground, however. Andrade v. Regnery, 824 F.2d 1253 (D.C. Cir. 1987).

Respondent's reliance on Franklin Savings Ass'n v. Office of Thrift Supervision, 740 F. Supp. 1535 (D. Kan. 1990) (holding that a constitutionally appointed Director of the Office of Thrift Supervision could not ratify an action taken by his unconstitutionally appointed predecessor because there had never been a principal authorized to take the original action) appears to be misplaced in this instance.[4] Unlike the OTS, where the individual who initially took the actions never became a constitutional officer, the Commission would be ratifying actions that were originally approved by six properly qualified federal officials.

Respondents also argue that a decision by the Commission to ratify its reason to believe findings would have the effect of denying them the right to have full consideration of all decisions previously made in this matter by a properly constituted Commission. In support of his argument respondents' counsel relies on the Supreme Court's decision in Swayne & Hoyt v. United States, 300 U.S. 297, 302 (1937), to permit ratification only because "the curative act impairs no

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4. The final decision of the district court in Franklin was published at 742 F. Supp. 1089 (D. Kan. 1990), and this decision was reversed by the Tenth Circuit. 934 F.2d 1127 (10th Cir. 1991), cert. denied, 112 S. Ct. 1475 (1992). The Tenth Circuit's decision never reached the ratification issue because it found the prior director's actions valid under the de facto officer's doctrine.

substantive right or equity of appellants; their right to an administrative hearing and determination . . . have been fully preserved." Not only does this decision not support respondents' argument, however, but would instead seem to strengthen the argument that ratification of the Commission's original reason to believe findings by the newly constituted Commission would be appropriate.

A decision by the newly constitued Commission to ratify its earlier reason to believe findings would not impair any of respondents' due process rights. Respondents will have the decision whether to ratify reason to believe findings and make probable cause determinations considered by a six-member Commission without any participation of the ex officio members. Respondents will also have the opportunity to engage in statutorily mandated conciliation negotiations with the newly constituted Commission if the Commission makes any probable cause findings in this matter. For this reason, together with all the other reasons set forth above, this Office recommends that the Commission deny respondent's motion to dismiss.

Nor does this Office believe that it would be appropriate to grant respondents' motion to hold this matter in abeyance until such time as the courts determine how and whether the NRA decision effects ongoing enforcement matters. As counsel knows, the Commission has publicly announced that, having reconstituted itself, this agency intends to enforce the federal election law without interruption. To grant this motion would have the opposite effect, resulting in a complete disruption of progress

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in enforcement matters. Nor has counsel provided a basis for treating this matter differently than other matters affected by the NRA decision. In addition, this specific MUR involves 1988 activity and is the subject of a suit under 2 U.S.C. § 437(a)(8). This Office has recently devoted considerable time and effort to moving this case toward resolution as rapidly as possible. Accordingly, this Office also recommends that the Commission deny respondent's motion to hold this matter in abeyance.

Respondents' response to the General Counsel's probable cause brief was due on approximately January 27, 1994. Although respondents filed their Motion to Dismiss on January 25, 1994, they have not filed a response brief in this matter, nor have they requested an extension of time to respond to the brief. When staff from this office contacted Counsel for respondents regarding the brief, Counsel responded that he does not intend to file a response until the Commission has decided these motions. Although counsel has not formally requested an extension, should the Commission decide to deny these motions, we recommend that the Commission provide the respondents with a one-time extension of 10 days from the receipt of notice of the Commission's decision in which to file a response to the brief. The Commission should note that this matter is subject of a suit pursuant to 2 U.S.C. § 437g(a)(8).

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III. GENERAL COUNSEL'S RECOMMENDATIONS

1. Deny respondents' Motion to Dismiss.

2. Deny respondents' Motion to Hold This Matter in Abeyance.

3. Notify respondents that they have a one-time extension of 10 days from receipt of notice of the Commission's decision in which to respond to the General Counsel's Brief.

4. Approve the appropriate letter.

2-2-94
Date

Lawrence M. Noble
General Counsel

Attachment
1. Motion to Dismiss
2. Memorandum of November 5, 1993 re: Recommendations in Light of NRA
3. Memorandum of November 9, 1993 re: Vote Regarding NRA Recommendations

Staff assigned: Abigail A. Shaine

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
National Republican Senatorial Campaign Committee and Sonya M. Vasquez, as treasurer.	)	MUR 3204
	)	
	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on February 3, 1994, the Commission decided by a vote of 5-0 to take the following actions in MUR 3204:

1. Deny respondents' Motion to Dismiss.

2. Deny respondents' Motion to Hold This Matter in Abeyance.

3. Notify respondents that they have a one-time extension of 10 days from receipt of notice of the Commission's decision in which to respond to the General Counsel's Brief.

(continued)

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4. Approve the appropriate letter, as recommended in the General Counsel's Report dated February 2, 1994.

Commissioners Aikens, Elliott, McDonald, McGarry, and Thomas voted affirmatively for the decision; Commissioner Potter recused himself and did not vote.

Attest:

2-3-94
Date

for Delores Hardy
Marjorie W. Emmons
Secretary of the Commission

Received in the Secretariat: Wed., Feb. 02, 1994 11:15 a.m.
Circulated to the Commission: Wed., Feb. 02, 1994 4:00 p.m.
Deadline for vote: Thurs., Feb. 03, 1994 4:00 p.m.

dmd

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FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

February 4, 1994

HAND DELIVERY

Jan Witold Baran, Esquire
Carol A. Laham, Esquire
Wiley, Rein & Fielding
1776 K Street, NW
Washington, DC 20006

RE: MUR 3204
National Republican Senatorial Committee
Sonya M. Vasquez, as treasurer

Dear Mr. Baran and Ms. Laham:

This is in response to your letter dated January 25, 1994, and to the Motion to Dismiss MUR 3204 enclosed therewith. In this Motion you also asked for dismissal of this enforcement action or, as an alternative, that the Commission hold this matter in abeyance pending judicial resolution of the effect of the decision in FEC v. NRA Political Victory Fund, 6 F.3d 821 (D.C. Cir. 1993) upon the Commission's pending enforcement proceedings.

On February 3, 1994, the Commission considered your requests and voted to deny both the Motion to Dismiss and the Motion to Hold This Matter in Abeyance. The Commission also instructed the Office of the General Counsel to notify your clients that they have a one-time extension of 10 days from receipt of this notice of the Commission's decision in which to respond to the General Counsel's Brief in this matter which was forwarded to you on January 7, 1994.

If you have any questions, please contact Abigail A. Shaine, Assistant General Counsel, at (202) 219-3400.

Sincerely,

Lois G. Lerner
Associate General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 3204
National Republican Senatorial Campaign Committee and Sonya M. Vasquez as treasurer	)	

GENERAL COUNSEL'S REPORT

I. BACKGROUND

This matter was initially generated by a complaint (MUR 3087) filed on July 13, 1990, by Kelly Addy, Speaker Pro Tempore of the Montana House of Representatives. On December 20, 1990, Common Cause filed a complaint (MUR 3204) that made almost identical allegations.

On May 21, 1991, the Commission found reason to believe that: the National Republican Senatorial Committee and its treasurer ("respondents") violated 2 U.S.C. §§ 441a(f), 441a(h), 434(b) and 439(a). The Commission also determined to merge MUR 3087 with MUR 3204. See General Counsel's Report dated May 6, 1991.

On June 10, 1992, this Office also received a referral (Pre-MUR 263) from the Montana Commission of Political Practices.

On October 22, 1993, the United States Court of Appeals for the District of Columbia Circuit announced its decision in FEC v. NRA Political Victory Fund, 6 F.3d 821, 828 (D.C. Cir. 1993) ("the NRA decision"), holding that the Commission's "composition violates the Constitution's separation of powers."

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On January 7, 1994, this Office forwarded the General Counsel's Brief to respondents. On January 25, 1994, respondents filed a Motion to Dismiss. (Attachment 1). In a telephone discussion with staff on January 31, 1994, counsel advised this office for the first time that respondents had not intended to file a response to the probable cause brief until the Commission had addressed this motion.

On February 3, 1994, the Commission decided to deny Respondent's Motion to Dismiss or, in the Alternative to Hold this Matter in Abeyance, and requested this Office to notify respondents that they had a one time extension of 10 days to respond to the General Counsel's Brief.

Late on the afternoon of February 3, 1994, counsel for respondents notified staff that he had mailed a letter to the Commission on February 3, 1995. (Attachment 1). He stated, inter alia, that the letter asked for access to certain documents cited in the General Counsel's Brief, as well as for sixty days from the time of access to such documents or the Commission's decision on his motion, whichever is later, to respond to the General Counsel's Brief. At staff's suggestion, counsel faxed a copy of this letter to the Commission the evening of February 3, 1994.

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II **FACTUAL AND LEGAL ANALYSIS**

As we have previously noted to the Commission, respondents' response to the General Counsel's Brief was due at about the time that he submitted his Motion to Dismiss. Since the NRA decision was made in late October, respondents

could have filed a Motion to Dismiss any time after that decision. Respondents also could have sought leave from the Commission to file a Motion to Dismiss in lieu of responding to the Brief, which was mailed on January 7, 1994, prior to the date on which their response was due. Similarly, respondents could have requested access to the documents cited in the General Counsel's Brief, which they now seek, prior to the date on which their response was due.

Instead, respondents waited until the end of their time for responding to the General Counsel's Brief to file the Motion to Dismiss. [1] It was not until approximately one week after their response to the Brief was due that respondents suddenly requested numerous documents cited in the General Counsel's Brief. In addition, at this late date, respondents finally formally requested an extension of time for responding to the General Counsel's Brief. To grant respondents access to documents which are not routinely provided to respondents when they did not even make the request until after their time for responding had run, and to grant them an additional extension at this time would unnecessarily delay the progress of this matter.

In addition, this matter involves 1988 activity, and is the subject of a suit under 2 U.S.C. § 437(a)(8). This

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1. We note that, at least in some of the other cases in which counsel is representing respondents, he has sent in letters noting his objection for the record rather than filing a Motion to Dismiss.

Office has been devoting considerable efforts to moving this case toward resolution as rapidly as possible. Accordingly, this Office recommends that the Commission deny respondents' request for access to the requested documents, as well as their request for an extension of an additional fifty days. We also recommend that the letter informing respondents of the Commission's decision include the basis for the recommendation in this report as an explanation of the Commission's decision.

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III **GENERAL COUNSEL'S RECOMMENDATIONS**

1. Deny respondents' request for access to the requested documents.
2. Deny respondents' request for an extension of an additional 50 days.
3. Approve the appropriate letter.

2-4-94
Date

LMNoble(JP2)
Lawrence M. Noble
General Counsel

Attachment
1. Letter from Jan Beran of February 2, 1994.

Staff assigned: Abigail A. Shaine

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
National Republican Senatorial Campaign Committee and Sonya M. Vasquez as treasurer.	)	MUR 3204
	)	
	)	

CERTIFICATION

I, Delores Hardy, recording secretary for the Federal Election Commission executive session on February 8, 1994, do hereby certify that the Commission decided by a vote of 5-0 to take the following actions in MUR 3204:

1. Deny respondents' request for access to the requested documents in its entirety, instead, provide the respondents' access to those documents in the record that the General Counsel's Office deem appropriate.

2. Deny respondents' request for an extension of an additional 50 days, and instead grant an extension until February 18, 1994.

3. Approve the appropriate letter, as recommended in the General Counsel's Report dated February 4, 1994.

Commissioners Aikens, Elliott, McDonald, McGarry, and Thomas voted affirmatively for the decision; Commissioner Potter recused himself from this matter and was not present.

Attest:

February 8, 1994
Date

Delores Hardy
Delores Hardy
Administrative Assistant

9404358860

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 8, 1994

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

RE: MUR 3204
National Republican
Senatorial Committee and
Sonya M. Vasquez, as
Treasurer

Dear Mr. Baran:

On January 7, 1994, this Office forwarded the General Counsel's Brief to you, on behalf of your clients, together with a letter advising you that a response to the Brief was due within fifteen days of receipt. On January 25, 1994, you filed a motion to dismiss this matter or in the alternative to hold it in abeyance. On February 3, 1994, the Commission decided to deny the motion and requested this Office to notify your clients that they had a one time extension of 10 days to respond to the General Counsel's Brief.

On the afternoon of February 3, 1994, you faxed a letter dated February 2, 1994, to the Commission asking, inter alia, for access to numerous documents cited in the General Counsel's Brief, as well as for sixty days from the time of access to such documents or the Commission's decision on his motion, whichever is later, to respond to the General Counsel's Brief.

On February 8, 1994, the Commission considered your requests. Initially, the Commission voted to provide you with the enclosed documents. In addition, based on a review of the circumstances of this matter, the Commission denied your request for an additional 60 days from the date on which you receive access to the requested documents to file your response to the General Counsel's Brief. Rather, the Commission has granted you an extension until February 18, 1994, to file your response to the General Counsel's Brief. The Commission has also stated that there will be no further extensions granted to you for filing your response.

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I have also enclosed a replacement page for page 34 of the General Counsel's Brief. The inclusion of the duplicate footnote on page 34 was an error, as you had thought.

Sincerely,

Lois G. Lerner
Associate General Counsel

Enclosures

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 1, 1994

MEMORANDUM

TO: The Commission

FROM: Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

SUBJECT: MUR 3204
Request for Extension of Time

On January 7, 1994, this Office sent a General Counsel's brief to Richard E. Messick, who represents Conrad Burns/US Senate and Jim Swain, as treasurer. In a letter dated January 18, 1994, Mr. Messick sent a letter to this office explaining that he had been out of the country until January 14, 1994. He stated further that he would not be able to file his response in a timely fashion because of the complexity of the matter and the time that had passed since he had last worked on the case. (Attachment 1).

By letter dated January 25, 1994, Mr. Messick requested an extension, until April 10, 1994, to respond to the General Counsel's Brief. (Attachment 2). In addition to noting the time that had passed since he had last worked on the matter, Mr. Messick describes other commitments which would prevent him from filing until April, including organizing an international conference in which the Vice President of the United States will be involved.

This Office has already granted extensions to two other respondents in this matter. The Republican National Committee has been granted an extension until February 25, 1994. The Montana Republican Party has been granted an extension until March 14, 1994. We agreed to the length of the latter request largely

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because the firm that has represented the Montana Republican Party split apart, requiring that respondent to first resolve the issue of what counsel would represent it.[1]

The Office of the General Counsel recommends that the Commission deny the requested extension. While counsel's existing commitments, together with the complexity of this case, would have made it difficult for him to file a response in a timely fashion, this office does not believe the extension he has requested is reasonable for the circumstances. This Office made a recommendation of a probable cause finding against this respondent with respect to only one issue in this matter. Other respondents, which to date have received shorter extensions, have many more issues to address. Nor does this Office believe that the other responsibilities which Mr. Messick has described warrant impeding the progress of this matter a full four weeks after the extended due date of the other respondents in this matter. In order to accomodate respondents' need for additional time, while continuing to move this matter forward, this Office recommends that the Commission instead grant the same extensions this Office has given to the Montana Republican Party, until March 14, 1994.

RECOMMENDATIONS

1. Deny Conrad Burns/US Senate and Jim Swain, as treasurer, the requested extension until April 10, 1994.

2. Approve an extension until March 12, 1994.

3. Approve the appropriate letter.

Attachments
1. First Request for Extension
2. Second Letter regarding Request for Extension

Staff Assigned: Abigail A. Shaine
Jeffrey Long

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1. The fourth respondent in this MUR, the National Republican Senatorial Committee, has filed a Motion to Dismiss this MUR in light of FEC v. NRA Political Victory Fund, No. 91-5360 (D.C. Cir. Oct. 22, 1993), but filed no response to the probable cause brief. By letter dated January 27, 1994, this Office advised the NRSC that a response to the probable cause brief should have been submitted within fifteen days of receipt of the General Counsel's brief.

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Conrad Burns/U.S. Senate and Jim Swain, as treasurer--Request for Extension of Time.	)	MUR 3204

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on February 7, 1994, the Commission decided by a vote of 5-0 to take the following actions in MUR 3204:

1. Deny Conrad Burns/U.S. Senate and Jim Swain, as treasurer, the requested extension until April 10, 1994.

2. Approve an extension until March 12, 1994, as recommended in the General Counsel's Memorandum dated February 1, 1994.

3. Approve the appropriate letter, as recommended in the General Counsel's Report dated February 1, 1994.

Commissioners Aikens, Elliott, McDonald, McGarry, and Thomas voted affirmatively for the decision; Commissioner Potter recused himself from this matter and did not vote.

Attest:

2-7-94
Date

Delores Hardy
for Marjorie W. Emmons
Secretary of the Commission

Received in the Secretariat: Tues., Feb. 01, 1994 4:57 p.m.
Circulated to the Commission: Wed., Feb. 02, 1994 11:00 a.m.
Deadline for vote: Mon., Feb. 07, 1994 4:00 p.m.

bjr

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 8, 1994

Richard E. Messick, Esq.
Attorney at Law
Suite 700 North Building
601 Pennsylvania Avenue N.W.
Washington, D.C. 20004

RE: MUR 3204
Conrad Burns/U.S. Senate and Jim Swain, as treasurer. Request for Extension of Time

Dear Mr. Messick:

This is in response to your letters dated January 18 and January 25, 1994, requesting an extension of time until April 10, 1994, to respond to the General Counsel's Brief.

On February 7, 1994, the Commission voted to deny your request but agreed to extend your time for a response to the General Counsel's Brief until March 12, 1994. Because that date falls on a Saturday, the response is due by close of business on Monday, March 14, 1994. 11 C.F.R. § 111.2(a).

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Abigail Shaine

Abigail Shaine
Assistant General Counsel

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OGC 0064

WILEY, REIN & FIELDING

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

JAN WITOLD BARAN
(202) 429-7330

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February 16, 1994

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

Re: MUR 3204 (National Republican Senatorial Committee and Sonya M. Vazquez, as Treasurer)

Dear Madame Secretary:

Enclosed please find a Motion to Reconsider Respondents' Motion to Stay the above captioned matter.

Sincerely,

Jan Witold Baran

cc: Chairman Trevor Potter
Vice Chairman Danny Lee McDonald
Commissioner Joan D. Aikens
Commissioner Lee Ann Elliot
Commissioner John Warren McGarry
Commissioner Scott E. Thomas
Lawrence M. Noble

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
National Republican Senatorial Committee and Sonya M. Vazquez, as Treasurer	)	MUR 3204
	)	

MOTION FOR RECONSIDERATION

The National Republican Senatorial Committee and Sonya M. Vazquez, as Treasurer ("Respondents"), hereby seek Reconsideration of their Motion to Stay Matter Under Review 3204 pending resolution by the courts of the effect of NRA on ongoing enforcement actions.[1] This Motion for Reconsideration is based on the several significant developments which occurred subsequent to the Commission's denial of Respondents' January 25 Motion.

1) On February 14, 1993, the Commission, through the General Counsel's Office, asked the United States Court of Appeals for the District of Columbia Circuit to hold both the Dukakis and Simon cases in abeyance pending the Court's resolution of the LaRouche and Robertson cases already pending before the Court of Appeals. The Commission's Motions were grounded on the belief that substantial resources could be saved by awaiting authoritative resolution of the NRA issues. Thus, the Commission itself is asking the Court of Appeals for the very same relief which Respondents

[1] This motion does not seek reconsideration of Respondents' Motion to Dismiss.

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sought and were refused by the Commission in this matter. This alone is grounds for reconsideration.

2) On February 8, 1993, the district court in FEC v. NRSC, No. 93-1612 (TFH), an action between the very same parties at issue here, ordered that a hearing be held on March 29, 1994 on the NRSC's pending Motion to Dismiss. NRA has been raised as a grounds for dismissal in that action and will be heard by the Court on March 29.

3) Respondents have learned that the General Counsel's Office has granted extensions to other Respondents in this matter until March 14, 1994. The FEC has not stated any reason for the disparate treatment of Respondents.

4) The Commission has refused to provide Respondents with documents relied upon by the General Counsel's Office in making its probable cause to believe recommendations. Thus, Respondents have been put in the position of conducting their own investigation. Respondents' efforts have been impeded by the severe weather conditions which caused much of the Northeast to close down, including the Federal Government.

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Thus, the present timetable is unfairly short in any event.

Respectfully submitted,

Jan Witold Baran
Carol A. Laham

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

Attorneys for Respondents
National Republican Senatorial
Committee and Sonya M. Vazquez,
as Treasurer

DATED: February 16, 1994

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
National Republican Senatorial)
Campaign Committee and Sonya M.)
Vasquez as treasurer)

MUR 3204

SENSITIVE

GENERAL COUNSEL'S REPORT

I. **BACKGROUND**

On January 7, 1994, this Office forwarded the General Counsel's Brief to respondents. On January 25, 1994, respondents filed a Motion to Dismiss based on FEC v. NRA Political Victory Fund, 6 F.3d 821, 828 (D.C. Cir. 1993) ("the NRA decision"). On February 3, 1994, the Commission voted to deny Respondents' Motion to Dismiss or, in the Alternative to Hold this Matter in Abeyance, and requested this Office to notify respondents that they had a one time extension of 10 days to respond to the General Counsel's Brief.

A letter received in this Office the evening of February 3, 1994, asked for access to certain documents cited in the General Counsel's Brief, as well as for sixty days from the time of access to such documents or the Commission's decision on his motion, whichever is later, to respond to the General Counsel's Brief. On February 8, 1994, the Commission voted to provide respondents with certain documents. The Commission denied respondents' request for a lengthy extension to file their response to the General Counsel's Brief. Rather, the Commission granted respondents an extension until February 18, 1994, and asked this Office to notify respondents that there would be no

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further extensions.

This Office faxed a courtesy copy of a letter notifying counsel for respondents of the Commission's decisions on February 8, 1994. The documents were made available to respondents at 10:00 a.m. on February 9, 1994.

On February 16, 1994, respondents filed a Motion to Reconsider Respondents' Motion to Stay the above caption matter. (Attachment 1).

II. **ANALYSIS**

The Commission should deny the Motion. , Respondents' Motion is nothing more than a tactic for gaining additional time to respond to the General Counsel's Brief despite the Commission's admonition that there would be no further extensions. In this Motion, respondents repeat their argument that the Commission should await action in the courts that may bear on the issue of the Commission's authority to proceed with this and other enforcement matters in light of the NRA decision. Respondents offer no reason why this matter should be treated differently than any other enforcement matter. Nor do they suggest to the Commission any date on which the Commission will have definitive guidance from the courts because there is no way to calculate such a date at this time.[1] Rather, respondents support their argument by citing to the fact that on February 8, 1994, the

1. Further decisions by various district courts are subject to review by the circuit courts and, perhaps, ultimately by the Supreme Court. Thus, ultimate resolution of the impact of the NRA decision on enforcement matters pending at the time of that decision may be years away.

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district court in FEC v. NRSC, No. 93-1612, ordered that a hearing be held on March 29, 1994. Respondents state that that hearing will address, inter alia, whether the NRA decision is grounds for dismissal.

Respondents' description of the status of this case is a mischaracterization. This mischaracterization is particularly noteworthy because that court case also involves the NRSC. The NRSC's Motion to Dismiss FEC v. NRSC relied on challenges to the Commission's substantive allegations. It was only in their Reply Brief that respondents put forth an additional argument regarding the NRA issue. What respondents do not mention in their Motion for Reconsideration is that the very same order that set the time for the March 29 hearing in the court case also resolved the NRA-related issues in that case. The court stated:

> In accordance with NRA, the Commission has reconstituted itself as a constitutionally structured six-member agency to exclude ex officio members. The Commission has also ratified its earlier finding that there was probable cause to believe a violation occurred and its subsequent decision to institute this action.

In their Motion for Reconsideration, respondents also try to liken their Motion to Stay Matter Under Review, which the Commission previously denied, to a joint motion recently filed in the D.C. Circuit by the Commission and the other parties to two repayment determination review cases, Dukakis v. FEC and Simon v. FEC (Motion at 1-2.) The respondents claim (Motion at 2) that this supposed similarity justifies the Commission's granting their present Motion for Reconsideration. Respondents' situation

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is not at all analogous to Dukakis and Simon. No Matter Under Review involving the petitioners in either Dukakis or Simon or any other respondent has been stayed because of the NRA decision. Indeed, to hold this matter in abeyance for the reasons cited by respondents would require the Commission to stay virtually every other pending enforcement matter as well.

The Commission and the petitioners in Dukakis and Simon have asked the D.C. Circuit to hold those cases in abeyance in the interest of judicial economy. Two other repayment review cases, Robertson v. FEC and LaRouche v. FEC, are now pending before other panels of the D.C. Circuit, and those cases raise the exact same NRA issue that the petitioners in Dukakis and Simon would involve.[2] In these circumstances, it made no sense for the parties in Dukakis and Simon to make the same arguments before yet another panel of the D.C. Circuit.

We note that a decision in the Robertson and LaRouche cases on the effect of the NRA decision on completed repayment determinations will probably apply in the same manner to the Dukakis and Simon cases. The circumstances of these cases all differ significantly from those in MUR 3204. The repayment determination is an adjudicatory proceeding, and there is a three year statute of limitations for completion of such proceedings. In addition, the final determination in the repayment proceedings

2. In Robertson, petitioner and his committee raised NRA in a motion for summary reversal, and the Commission responded to that motion. The Court has had the matter under advisement since December. The issue has been briefed and argued (February 7, 1994) in LaRouche.

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was made by the pre-NRA Commission, whereas this Office's recommendations at the probable cause stage in this MUR will be considered by a properly reconstituted Commission.

Respondents also assert that they are being treated differently than other respondents who have been granted extensions until March 14, 1994. We note that all the other respondents in this matter asked for extensions in a timely fashion.

In summary, it appears that respondents are continuing to file motions in an attempt to obtain a de facto extension of time. Since the Commission has already given them two limited extensions of time and has explicitly stated that no further extensions will be granted, we believe it is important that the Commission immediately deny respondents' request and notify them that the original due date of February 18, 1994, will not be modified. Because respondents waited until two days before the expiration of their extension to file this Motion, it is likely that the due date will pass before they receive a response. This situation, however, is a direct result of their own actions, and the decision whether to abide by the Commission's approved extension and statement that no further extensions will be granted is solely within their discretion.

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GENERAL COUNSEL'S RECOMMENDATIONS

1. Deny respondents' Motion to Reconsider Respondents' Motion to Stay.

2. Approve the appropriate letter.

2/17/94
Date

Lawrence M. Noble
General Counsel

Attachment
1. Motion to Reconsider Respondents' Motion to Stay

Staff assigned: Abigail A. Shaine

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
National Republican Senatorial Campaign Committee and Sonya M. Vasquez, as treasurer.	)	MUR 3204
	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on February 18, 1994, the Commission decided by a vote of 5-0 to take the following actions in MUR 3204:

1. Deny respondents' Motion to Reconsider Respondents' Motion to Stay.

2. Approve the appropriate letter, as recommended in the General Counsel's Report dated February 17, 1994.

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

Attest:

2-18-94
Date

Marjorie W. Emmons
Secretary of the Commission

Received in the Secretariat: Thurs., Feb. 17, 1994 12:57 p.m.
Circulated to the Commission: Thurs., Feb. 17, 1994 1:30 p.m.
Deadline for vote: Fri., Feb. 18, 1994 4:00 p.m.

bjr

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

February 18, 1994

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

RE: MUR 3204
National Republican
Senatorial Committee and
Sonya M. Vasquez, as
Treasurer

Dear Mr. Baran:

On February 18, 1994, the Commission voted to deny respondents' Motion to Reconsider Respondents' Motion to Stay in MUR 3204. The Commission also requested that you be notified that the filing date for your response to the General Counsel's Probable Cause Brief remains February 18, 1994.

Sincerely,

Lois G. Lerner
Associate General Counsel

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Republican
National
Committee

Michael A. Hess
Chief Counsel

February 25, 1994

RE: MUR 3204

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

Dear Mr. Noble:

This is in response to your January 7, 1994 letter indicating that the Office of the General Counsel is prepared to recommend that the Commission find probable cause to believe that violations of 2 U.S.C. §§ 441a(f) and 434(b) have occurred in the above referenced matter under review.

At the outset, I must express our considerable surprise and concern that, given the overburdened resources of the Commission and its staff, that the Office of the General Counsel would recommend pursuit of this matter, which is based on events nearly six years distant.

The position of the Republican National Committee (RNC) in this matter was set out in detail in a response to the Office of the General Counsel's factual and legal analysis by Janice P. Lacy on August 2, 1991.[1] We continue to stand by that position, and continue to maintain that the six years that have intervened since the events in question took place make it impossible for the RNC to respond in any greater detail than has already taken place.

In pursuing this matter, the Office of the General Counsel has demonstrated an unfamiliarity with the realities of political party committees such as the RNC. Since the

[1] Your most recent correspondence was addressed to Ms. Lacy, who has not been affiliated with the RNC for several years. You may wish to update your records accordingly.

Dwight D. Eisenhower Republican Center • 310 First Street Southeast • Washington, D.C. 20003 • (202) 863-8638
TDD: (202) 863-8728 • FAX: (202) 863-8654

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events in question, *five* persons have served as Chairman of the RNC. With each change in the chairmanship, major changes in personnel have occurred. *No one* with any knowledge of the events in question remains at the RNC or the Republican Governors' Association (RGA).

While the RNC maintains all records required by law, the only relevant documents extant have already been provided to the Office of the General Counsel. While we continue to assert that while there is no written evidence that the transfers made by the Republican National Senatorial Committee (RNSC) to the RNC in 1988 were specifically intended to reimburse the RNC for the expenditures in question, there is no reason to believe that this was not the case. By demanding such evidence, the Office of the General Counsel is insisting that the RNC prove its innocence, when there is no *direct* evidence of a violation. If the Office of the General Counsel has such evidence that demonstrates that the facts could not have occurred as set forth in our 1991 response, I respectfully request that this be made available to us. If such evidence does exist, it would permit us to provide a response based on what *did, in fact* occur, not, as the Office of the General Counsel suggests, what *might* have occurred.

The Office of the General Counsel's January 7 brief is based on an understanding of the RGA that is not based in political or factual reality. The RGA is an auxiliary of the RNC which raises its own funds, and makes its own decisions about contributions and expenditures, subject to the legal advice of the RNC. As a service to the RGA, the RNC has historically provided administrative support, including the use of RNC or RNSEC accounts for deposit of RGA funds. The funds in question were RGA funds, drawn on an RNC account but debited internally from the RGA.

The RGA, as its name would imply, exists only to support Republican gubernatorial candidates. It is inconceivable that, whether in 1988 or 1994, the Republican *Governor's* Association would provide financial support in connection with a United States *Senate* race. It is equally inconceivable that, under the circumstances under review, the RGA -- through its accounts at the RNC -- would not have demanded and received reimbursement from the RNSC for those expenditures which were reasonably attributable to the 1988 race for Senate in Montana. Although no written documentation remains after six years to prove this definitively, there is no evidentiary basis for the Office of the General Counsel to maintain that this did not occur.

I have appended as exhibits to this response affidavits from two individuals who, while they have little specific memory of the financial transactions involved, were in 1988 in positions to attest to the normal course of political and financial activities at the RGA and the RNC.

Michelle Davis was the Executive Director of the RGA at the time in question, and, as such, had knowledge of all aspects of the RGA's political and financial activities. Because Ms. Davis resides in Oregon and is currently employed in a statewide political campaign in Tennessee, we located her with considerable difficulty, and then only two days ago. As a

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result, the attached statement has not yet been notarized. Ms. Davis is making arrangements to have the affidavit notarized and sent to us by overnight mail. As soon as the signed, notarized document is received, we will immediately supplement this response.

Her affidavit asserts that it was *always* the practice of the RGA to pay only the proportionate share of a poll related to a gubernatorial race. She furthers avers that, to the best of her memory, there was "no occasion where the data collected for any other entity was shared with the RGA, nor vice versa." In other words, the RGA would never have even had access to that part of the poll results relating to the Burns campaign. The logical inference is that if the Conrad Burns campaign received allocable data from the poll, it received such data from a source outside the RGA and the RNC.

Furthermore, Ms. Davis' affidavit indicates that the absence of a detailed paper trail under these circumstances was not unusual, given the heated context of political campaigns.

Also appended is an affidavit from E. Mark Braden, Esquire, who was Chief Counsel to the RNC at the time of the events in question. As Chief Counsel, he would have been in a position to review and approve *all* contributions or expenditures to or in connection with any federal and state candidate.

Mr. Braden's affidavit supports the assertions made by Ms. Davis that the circumstances suggested by the Office of the General Counsel would have been completely outside the standard operating procedures of both the RNC and the RGA. Both Mr. Braden and Ms. Davis have no recollection, nor any reason to believe that the 1988 events occurred in the manner purported by the Office of the General Counsel. The RNC does not dispute the General Counsel's contention that poll results were made available to the Burns campaign but, absent any evidence to the contrary, we maintain that some other person or entity was responsible for providing the poll results to the Burns campaign.

The Office of the General Counsel has not produced any direct evidence that the events in question *could not have occurred* in the manner set out in our 1991 response. We have appended sworn statements from the key personnel involved at the time of these events that state that the events *would not have occurred* in the manner set out by the Office of the General Counsel. Barring the existence of evidence to prove that the normal course of business was, for some inexplicable reason, not followed in the period at issue, this six-year-old matter should be closed. If such evidence exists, we respectfully request that it be made available so that we may be provided an opportunity to further investigate this matter and respond accordingly.

In any event, the RNC will resist any attempt to coerce it to admit to a violation of the Act unless convincing evidence of such a violation is produced.

For these reasons, the RNC and William McManus, as Treasurer, maintain that there should be no reason to believe that violations of 2 U.S.C. §§ 441a(f) and 434(b) have

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occurred, that the Commission should not find probable cause to believe that such violations did occur, and that this six-year-old matter should be closed.

Respectfully submitted,

Michael A. Hess

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AFFIDAVIT OF
MARK BRADEN

1. I, Mark Braden, in 1988 was Chief Counsel of the Republican National Committee. In that capacity, I provided legal advice to the Republican National Committee ("RNC") and the Republican Governors Association ("RGA").

2. I became aware this week for the first time of the allegations found in MUR 3204 that the RNC may have made excessive in-kind contributions or coordinated expenditures in 1988 in the Montana Senatorial race involving Senator Conrad Burns.

3. Since more than five and a quarter years have past since the alleged events of MUR 3204, the Commission cannot be surprised to learn that I have no memory of the specific poll in question. Since I have no present memory of these events, I can only relate the Committee's standard or normal practices in the 1988 election cycle.

4. It was the RNC and RGA's standard procedure for my office to review and approve contributions to or coordinated expenditures for candidates.

5. The RNC and RGA conducted many surveys. Often these surveys would be with other party organizations or political campaigns. It would have been routine for my office to have approved a survey for more than a single entity under two alternative basis (1) the other participating entities would pay their share of survey costs or (2) such costs be reported as an in-kind contribution or coordinated expenditure by the Committee pursuant to the Federal Election Commission's regulations or appropriate state campaign finance law.

6. In my opinion, it is very unlikely in light of the political and financial dynamics of this period that the RGA or RNC would use significant RNC/RGA financial resources for a Senatorial race. Financial support for Republican Senate campaigns was the principal responsibility of the National Republican Senatorial Committee ("NRSC") which had available resources to meet these responsibilities in 1988. I have no memory of the RNC in the 1988 election cycle providing significant financial support to any Republican Senatorial candidates.

7. I have no reason to believe that the Montana poll referenced in MUR 3204 was not handled with a reimbursement from the NRSC to the RNC or the vendor for that share of the overall cost of the poll which was allocable to the Burns campaign under the Commission's regulations. The cost would have been allocated to the participating entity pursuant to 11 C.F.R. § 106.4(e). For that not to have occurred would have been outside the standard and usual practice of the RNC and RGA and contrary to specific advice

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which I had provided the RGA Executive Director, Michelle Davis or/ and other RGA or RNC employee in other like circumstances.

Subscribed and sworn to this
25th day of February 1994.

Mark Braden

DISTRICT OF COLUMBIA

My Commission Expires:

My Commission Expires April 14, 1995

Notary Public

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Republican
National
Committee

Michael A. Hess
Chief Counsel

March 4, 1994

RE: MUR 3204

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

Dear Mr. Noble:

On February 25, 1994 I responded to your recommendation that the Commission find probable cause to believe in the above referenced matter under review. In support of my argument, I included an unnotarized version of an affidavit from Ms. Michelle Davis, and indicated that a notarized version would be forthcoming.

Enclosed find the notarized version. I would request that this be appended to my February 25 response. Thank you for your consideration.

Sincerely,

Michael A. Hess

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February 25, 1994

I, Michele Davis, affirm as follows:

1. I currently reside at 3131 Mountain Creek Road, Chattanooga, Tennessee.

2. I was Executive Director of the Republican Governors Association from February 1985 to February 1991, which included the period of time relative to MUR 3204.

My statement is as follows:

While over five years have passed since the 1988 Montana gubernatorial race took place and details of the payments paid to Gary Lawrence for statewide tracking are dim, at best, I can attest to the normal course of the RGA's activities in such cases.

In many instances during our dealings with campaigns, the RGA would be willing to "piggyback" on surveys for our targeted gubernatorial races -- one of which was certainly our 1988 Montana candidate. Likewise, it was not unusual for the RGA to allow other political entities within our circle to piggyback on surveys that we were sponsoring.

It was always our practice that each organization responsible for including questions in a poll would incur the proportionate costs of that portion of the survey. I can recall of no occasion where the data collected for any other entity was shared with the RGA, nor vice versa.

I would also add that the timing and nature of these political decisions were oftentimes made in a harried and hectic atmosphere and, based on our long-standing relationships with vendors, often did not require a paper trail as those decisions were made during "the heat of battle".

In all cases and at all times, we worked within the perameters of the appropriate state and federal legal guidelines.

I hereby swear and affirm under penalty of perjury that the above is correct and to the best of my knowledge and memory.

Michele M. Davis

Michele M. Davis

February 25, 1994

February 25, 1994

Sworn to and subscribed
to February 28, 1994

Notary Public
My commission expires: 7/13/94

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ROBERT EDD LEE
ATTORNEY AT LAW
200 TRANSWESTERN PLAZA ONE
404 NORTH 31ST STREET
P.O. BOX 7015
BILLINGS, MONTANA 59103-7015
TELEPHONE (406) 248-3113
FAX (406) 255-7125

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March 11, 1994

Abigail A. Shaine
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 3204 (Montana Republican State Central Committee and Shirley J. Warehime, as Treasurer)

Dear Ms. Shaine:

Enclosed is the original Reponse of the Montana Respondents to General Counsel's Brief.

Very truly yours,

Robert Edd Lee

REL/ajr

cc: Cal Winslow

encl: Response of Montana Respondents

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 3204
Montana Republican State Central Committee and Shirley J. Warehime, as Treasurer	)	

MONTANA REPUBLICAN PARTY CONSOLIDATED MOTIONS, REQUESTS FOR DOCUMENTS AND ADDITIONAL TIME FOR A FULL RESPONSE, AND PRELIMINARY RESPONSE

I. Designation of Substitute Counsel.

The Montana Republican State Central Committee and Shirley J. Warehime, as Treasurer ("Montana Respondents"), reflect the substitution of former counsel:

Crowley, Haughey, Hanson, Toole & Dietrich
P.O. Box 2529
Billings, Montana 59103-2529

and the designation of:

Robert Edd Lee
Attorney at Law
404 North 31st Street, Suite 200
P.O. Box 7015
Billings, Montana 59103-7015
(406) 245-3113

as counsel of record for proceedings after February 28, 1994.

II. Motion to dismiss MUR 3204 as invalid proceeding, or in alternative to stay proceedings.

The Montana Respondents move to dismiss Matter Under Review 3204 as against them, on the grounds and for the reasons that the Federal Election Commission ("FEC") proceedings to date, specifically all findings, investigations, and recommendations,

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are invalid for want of constitutional agency autonomy and authority, and for the improper influence of representatives of Congress in violation of constitutionally mandated separation of powers. Consequently, prior acts of the FEC in this proceeding are unconstitutional and invalid and can provide no legal basis for future actions in the proceeding.

DISCUSSION

On January 7, 1994, FEC General Counsel transmitted to the Montana Respondents a brief recommending that the Commission find probable cause to believe that the Montana Respondents "knowingly and willfully" violated the Act regarding mailings produced by a contractor and technically violated the Act regarding salary paid to one individual and by including an incomplete disclaimer on certain mailings.

This matter is a consolidation of proceedings on two separate complaints. MUR 3087 was initiated by a July 13, 1990 complaint of Kelly Addy. Five months later, MUR 3204 was initiated by the December 20, 1990 complaint of Common Cause. Both complaints relied upon a December 13, 1989 manifesto-style civil complaint filed by Terry Merica, former Executive Director of the Montana Republican Party, against the Montana Republican Party, its chairman, and the National Republican Senatorial Committee ("Merica Litigation").

On May 31, 1991, after consolidating MUR 3087 into MUR 3204, the FEC made a "reason to believe" determination that the Montana

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Republican Party and its treasurer violated the Act. The FEC Factual and Legal Analysis in MUR 3204 and certain additional Interrogatories and Requests for Documents were covered under the May 31, 1991 "reason to believe" letter mailed to the Montana Respondents.

The FEC "reason to believe" determination was made at a time the FEC was invalidly constituted on constitutional grounds. FEC v. NRA Political Victory Fund, 6 F.3d 821, 822 (D.C. Cir. 1993). The U.S. Court of Appeals has ruled that the participation of Congressional agents as non-voting ex officio members of the FEC violated the Constitution's separation of powers clause. On that basis, the Court dismissed the action pending before it on the grounds that the FEC lacked constitutional authority to bring any enforcement actions.

No unilateral rectification efforts by the FEC are sufficient to cure the constitutional invalidity inherent in the enabling legislation. A constitutionally infirm agency cannot "ratify" or "rectify" itself into good order when the constitutional taint arises out of the agency's enabling legislation. Any self-imposed quarantine of FEC members from the congressionally appointed ex officio members cannot cure constitutional defects retrospectively. The prior actions of the FEC during all proceedings in response to the underlying complaints, including the agency's discretionary review of the complaints, the evaluation of the materials relied upon by the

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complainants, and the "reason to believe" determination of May 31, 1991, are all the products of executive agency discretion and action, exercised in light of regulations and prior rulings which were adopted at a time when the FEC was a constitutionally invalid entity.

For these reasons, Matter Under Review 3204 (as consolidated) should be dismissed. In the alternative, General Counsel's Brief should be withdrawn and modified for the reasons stated below, and any further brief and recommendations should be stayed pending appeal of the cited case.

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III. Motion to dismiss MUR 3204 for want of "due process" to Montana Respondents.

The Montana Respondents move to dismiss Matter Under Review 3204 as against them, on the grounds that they have been deprived of due process in this matter for the following reasons:

First, all proceedings in this matter are based upon root accusations of Merica, who by his own admission has deceived the Montana Respondents and stands as an unreliable accuser, and upon ostensible Party records which were created, managed, and expropriated by the Mericas, after the fact, in order to sustain their accusations against the Montana Respondents for gain and revenge. Consequently, what have been treated as legitimate Party records and documents by General Counsel, and relied upon by him in reaching his recommendations, are inherently suspect and do not reflect actual Party business and activities as

intended and pursued by Party officers during 1988. In this matter, probably uniquely in these types of proceedings, the Montana Respondents have been prevented by the acts of their chief accusers from any meaningful access and review and analysis of their own records, because those records were manipulated by the Mericas, during 1988, with a view toward possible later accusations planned by the Mericas, which have indeed subsequently occurred.

Second, the Montana Commissioner of Political Practices and her staff have apparently provided to the FEC materials and information obtained by the Montana Commissioner under criminal investigative subpoena and subject to the secrecy provisions of a grand jury proceedings under Montana law. Montana First Judicial District, Lewis and Clark County, Cause No. 40 Spl (Special), October 31, 1991; Section 46-4-304(2), MCA. Apparently, the Montana Commissioner improperly transmitted such materials to the FEC in violation of the rights and protections of the Montana Respondents from abuse of process. Consequently, all findings and recommendations in this matter are constitutionally tainted by such improper conduct.

Third, numerous documents, referred to in the General Counsel's Brief, apparently influenced General Counsel's recommendations. None of the documents requested below have been made available to the Montana Respondents, who were unaware of their existence and use by General Counsel prior to receipt of

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General Counsel's Brief. To require a response to General Counsel's Brief, which contains the extraordinary recommendation of probable cause to believe that the Montana Respondents, through their officers and counsel Campbell and Shanahan, "knowingly and willfully" violated the Act, without ever making the underlying documents available to the Montana Respondents, deprives them of due process and renders these proceedings inherently unfair.

Fourth, General Counsel acted and based his recommendations upon an incomplete record. FEC counsel Lawrence Parrish, on two occasions during 1991, discussed the need and benefit for reviewing the depositions of the Mericas, Campbell, and Shanahan, with pertinent exhibits, which were to be conducted in the Merica Litigation, before completing the investigation and issuing recommendations in this matter. Obviously, that has changed since then, but the failure of General Counsel to examine the depositions and exhibits in the Merica Litigation, which resulted in the abandonment of the Merica Litigation and a judgment of dismissal with prejudice, taints the recommendations, especially those recommending probable cause to believe the Montana Respondents "knowingly and willingly" violated the Act.

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REQUEST FOR DOCUMENTS

The Montana Respondents request the following documents referred to in General Counsel's Brief and apparently relied upon in reaching the recommendations:

1. May 6, 1991 General Counsel's Report, page 1.

2. June 10, 1992 Referral of Montana Commissioner of Political Practices, page 1.

3. November 19, 1990 NRSC letter, page 10.

4. February 19, 1991 NRSC letter, page 10.

5. Affidavit of Ann Prestidge, filed with NRSC response, page 10.

6. Foster and Associates Response, page 11.

7. Notes of informal interviews with Terry and Neida Merica, page 12.

8. Terry Merica Affidavit, subsequently obtained, page 12.

9. Neida Merica Affidavit, subsequently obtained, page 12.

10. Copies of letters identified provided by the Mericas and by the Montana Commissioner of Political Practices, page 13.

11. Cover sheet of a facsimile transmission to Ms. Prestidge from Mr. Foster, page 14.

12. December 12, 1988 handwritten memo from Mr. Shanahan to Mr. Merica and accompanying documentation, page 15.

13. November 16, 1988 letter ostensibly from Montana Republican Party to Ann Prestidge, pages 15 and 32.

14. Ostensible "findings" of Montana Commissioner of Political Practices and accompanying documents, page 17.

15. Two FIFO analyses preformed by FEC Audit Division and all documentation used to perform these analyses, page 22.

16. Ostensible Montana Republican Party "ledgers," and all other documents and materials, provided by Montana Commissioner of Political Practices or any member of her staff, page 27.

17. Ken Knudsen response to FEC discovery requests, page 30.

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18. Elwood English response to FEC discovery requests, page 31.

19. Responses to FEC discovery requests and "reason to believe" determinations by other parties ostensibly involved in these consolidated proceedings, such as Burns Committee, NRSC, RNC, and any other persons purporting to have knowledge or participation in events related to wrongdoing believed to have been done by or with the Montana Respondents.

REQUEST FOR ADDITIONAL TIME FOR SUBSTANTIVE RESPONSE

Montana Respondents request an extension of time sufficient to review all documents and materials not previously available to them and to make a full response to General Counsel's Brief.

DISCUSSION

During 1988, the Montana Respondents were subjected to the intentional disruption of an ordinary election campaign and legitimate campaign process by a malcontent Executive Director, isolated and resentful because of imagined affronts, who knew his work had been challenged publicly during the July 1988 convention by a number of party regulars who had lost confidence in him as Executive Director.

Merica had originally contacted Campbell, in late 1987, with a proposed voter list project contract he was hoping to induce the Party to pursue through him because of his asserted computer experience. (Merica Deposition at 139-40.) When he was hired as Executive Director shortly afterward, he felt that his implementation of the voter list project was one of his principal

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duties for the Montana Party. (Merica Deposition at 143.) At the time of his engagement, Merica failed to disclose a number of questionable business activities and his precarious financial situation, hovering on the edge of bankruptcy. (Merica Deposition at 79-139, 145-48.) His unexpected and notorious bankruptcy in July 1988 was only one of the many problems with Merica as the Executive Director during July 1988.

After Merica was terminated in December 1988, the successor Executive Director attempted to reconstruct Party records and discovered the extent to which the Mericas' procedures diverged from accepted bookkeeping and accounting procedures for campaign finance reporting. (Shanahan Deposition at 100-02.) It was subsequently discovered that Merica had funnelled party funds, ostensibly paid to corporations, to his own personal bank account. (Merica Deposition at 128-29, 131-32, 225.)

Later in 1989, the Mericas' lawyers proposed that if the Montana Respondents paid them $600,000 and wrote letters complimenting them, there would be no need to make their "revelations" public and "tarnish" the Montana Republican Party. Otherwise,

> [t]hey are, however, ready, willing and able (with Democratic counsel and Common Cause chomping at the bit, I might add) to litigate and litigate and litigate.

(Merica Deposition at 249; Exhibit 39.)

The Mericas' pattern of deception was well developed by the time of their negotiation and preparation of their termination agreement. (Merica Deposition at 178-79.) Merica was

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concurrently managing press releases to key political reporters in Montana. (Merica Deposition at 209-210.) Merica admitted to removing a number of Party records prior to his departure. (Merica Deposition at 191-92.)

Merica's motives for revenge are clear from his July 4, 1989 letter to Shanahan. (Merica Deposition at 230-32, Exhibit 35.) Despite Merica's statement (in the termination agreement he wrote) that he had returned all Party property, Merica kept a large quantity of records and documents, including confidential communications by Shanahan to the Party. (Merica Deposition at 234-35.) Merica knew the Party documents in his possession were privileged, and his awareness was reflected in papers prepared by him, based on his own legal research, and later presented to his attorneys. (Merica Deposition at 242-44, Exhibit 37.)

Merica, indeed, only carried out his threats to publicize "wrongdoing" after his "peace at a price" overtures, summarized in his August 24, 1989 memorandum to Shanahan, had been rejected by the party as "blackmail." (Merica Deposition at 245-48, Exhibit 38.)

Campbell was a volunteer housewife who first got involved in Montana Party activities during 1980. Her role was primarily cheerleader. Her interest was in party building. Her work with the national committees was focused on general party building. (Campbell Deposition at 7-11, 53, 59.) After Merica was hired, Campbell observed a number of things raising doubts about

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Merica's veracity and qualifications. (Campbell Deposition at 25-30.) By summer of 1988, Campbell had concluded that Merica was not able to handle all aspects of his position, so she began to hire additional persons to do special projects which would ordinarily have been handled by the Executive Director. Campbell had received many complaints from state-wide Montana Party people about Merica. (Campbell Deposition at 59-62.)

Merica had a long-standing grudge against Campbell, based in part upon his mistaken belief that Campbell was intending to fire him and had solicited resumes for his replacement before an August 1988 meeting of the central committee. It was not until Campbell's deposition that Merica learned the actual events that occurred prior to the meeting. (Campbell Deposition at 39-42.)

Campbell's association with the national committees was for help and advice to get party programs in place that would strengthen the Montana Party. (Campbell Deposition at 53.) Although Campbell and Prestidge talked early in the campaign, it was not until late in the campaign that Campbell was called upon to mollify various individuals who were squabbling with each other during the closing days of the campaign. (Campbell Deposition at 54.)

Campbell's impression from discussions with Prestidge was that Merica was being deliberately obtuse about information Prestidge requested for administrative and overhead transfers of funds late in the campaign, as a result of a lack of good

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relationship between them. (Campbell Deposition at 55.) No one from a national committee hired, supervised, or controlled any employee of the Montana Party. (Campbell Deposition at 62, 68.) Campbell, with consultation, decided to fire Merica after the election for Party-related objectives that were prospective in nature and focused on getting an Executive Director in place who could do the job and perform better during the coming legislative session. (Campbell Deposition at 64.)

Most volunteer activity during 1988 was carried out by volunteers of the Montana Party situated outside Helena, the city where the Mericas maintained their office. (Shanahan Deposition at 84.) Merica's primary acquaintance with the out-of-Helena volunteer operations concerned sending down checks when requested. (Shanahan Deposition at 85.) Much of the volunteer activity took place at Billings. (Shanahan Deposition at 204-06.) Merica himself never traveled to Billings to review or inspect the volunteer activities there, ostensibly at the same time he was complaining to Shanahan about certain improprieties with regard to volunteer mailings from Billings. (Merica Deposition at 227-29.)

By August 1988, there was an awareness that a Republican would win the governorship and a U.S. Senate seat, so candidate representatives to the central committee were reluctant to fire Merica just before the election. As a compromise, it was decided that he could remain until the end of 1988. (Shanahan Deposition

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at 89-90.) Prior to the time Merica was notified during August 1988 that he would be terminated after the election, the Mericas never had any complaints to Shanahan about irregularities, only about turf battles with other Party employees and their dislike of Campbell and the Party leadership. (Shanahan Deposition at 94, 104-05.)

During September and October 1988, Shanahan would generally take things told to him by Merica at face value. Shanahan had not yet become aware of irregularities concerning checks presented by Merica for signature. (Shanahan Deposition at 95-96.) The Mericas developed a pattern of complaining to Shanahan about a few alleged "irregularities" and Merica's "incipient battle with the Senatorial Committee." (Shanahan Deposition at 97-98.) During early November 1988, Merica had ceased talking with national committee people trying to coordinate activities and get information, so Merica started to use Shanahan as a conduit for his communications. Whatever Merica told to Shanahan, Shanahan wrote in his letters. (Shanahan Deposition at 102-12.) Shanahan at that time was taking Merica at his word. (Shanahan Deposition at 112.) Shanahan's November 8, 1988 "Election Day" memo, which Shanahan had considered to be only a quick note for internal use, was based exclusively on things told to Shanahan by Merica which Shanahan accepted as true at the time. Shanahan was not making legal judgments. In fact he was relying upon the veracity of Merica and the quality of his conclusions for the

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characterizations which were reported in the memorandum. (Shanahan Deposition at 113-16.) Shanahan never authorized Merica to abscond with his memo or misuse it or publicize it. (Shanahan Deposition at 116-19.) Shanahan does not know whether the charges of irregularities by the Mericas were correct or incorrect. He just knew the Mericas were having a battle with Prestidge and Campbell. Shanahan himself had no personal contacts with Prestidge, after one telephone conversation with her which caused him to accept only the Merica's characterization that Prestidge was difficult to work with. (Shanahan Deposition at 134, 140.)

At no time that Shanahan was involved with the Montana Republican Party did he hear or learn that anyone in the Party had encouraged, directed or instructed Merica to violate any federal or state law in his capacity as Executive Director. (Shanahan Deposition at 138.)

Shanahan himself does not know about large transfers of money between the national committee and the Montana Party, from the things that Merica showed him and talked about with him. (Shanahan Deposition at 140-41.) Shanahan repeatedly encouraged Merica to contact expert counsel to resolve any irregularities he might have believed to exist, based upon expert advice and a follow-up of the facts. (Shanahan Deposition at 70-74, 131.)

During the time that Merica began alluding to "irregularities," he was called upon by Party officers to

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disclose them, look into them, correct them. Merica would neither disclose what the "irregularities" were specifically nor take any action to correct them. Ultimately, this unusual behavior led to a meeting and a letter to Merica in an attempt to pin the Mericas down with respect to the "irregularities." (Merica Deposition at 203-06.) Merica knew he could get capable assistance, experienced in FEC reporting, to clear up any of the so-called "irregularities" he was alluding to. (Shanahan Deposition at 122, 130-32.) In the context of the on-going Merica termination, Merica's allegations of "irregularity" seemed to be based mostly upon his attempts to extend his employment into 1989 as a resource to "clarify" the "irregularities" he was alluding to. (Merica Deposition at 206-08.)

As of December 14, 1988, when the Mericas were attempting to delay being fired, Neida Merica herself acknowledged that the records she maintained were inadequate; that no accounting system had been implemented by the Mericas; that the Mericas had relied upon a "simplified 'reporting method' of certain data;" and that "there are few, if any, among our board members who understand the complexity of what's involved in this office on a day to day basis." (Shanahan Deposition at 130-31; Exhibit 3.) The Mericas apparently knew the extent of the disarray they had caused the Party. Their stated position at the time was: either keep us around to avoid trouble, or pay the price.

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In 1991, during conversations with FEC counsel Parrish on October 18, 1991 and November 25, 1991, the indications were that General Counsel's staff would withhold recommendations until after reviewing the actual testimony of the Mericas, Campbell, and Shanahan in the civil case. Obviously, something changed. The presence of Parrish in Montana points to a great reliance by General Counsel on Merica and the Montana Commissioner, but General Counsel has made no contacts in Montana to hear and weigh the credibility of Campbell and Shanahan. Consequently, the recommendations have been made without any critical examination of the Mericas' motive and credibility and without any serious consideration having been given to what Campbell and Shanahan have to say about the events for which they are now being censured.

The Mericas were fired, and the price they have exacted has been dear indeed. But that does not make their accusations correct. Any conclusions based primarily on their records and documents are suspect.

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IV. Preliminary Response to General Counsel's Brief on Selected Points.

It is not simply an evasion to say that the Mericas left the Party without organized records sufficient to make a response. Many of the Party records seem to be in the hands of others, but more importantly, what are being treated as "Party records" in these proceedings seem to be documents and annotated summaries

structured by the Mericas to bolster their accusations and support their retrospective interpretation of the events of 1988.

A. Information Obtained from Mericas.

The so-called "records" of the Montana Respondents were in fact "working sheets" prepared by the Mericas during a period when they were asserting alleged "wrongdoing" in an effort to discredit Campbell and secure their tenure in their current positions. Much of the correspondence attributed to the Montana Respondents was generated by the Mericas during a time when their own motivations should be suspect. When viewed in the context of the 1988 activities, the Merica papers should be seen as an effort by them to insinuate a pattern of wrongdoing into Party records and documents in order to bolster their own attempts to enhance job security. The Mericas disrupted and selectively copied party records before they left. As the situation worsened during November and December 1988, the Mericas laid the groundwork for their "patsy" defense by widespread but non-specific insinuations of "wrongdoing." Merica has admitted in his deposition that in 1988 he was lying about material matters, including his representation by counsel, his own preparation of his termination agreement, and his return of Party property, even as he was orchestrating efforts to avoid his departure.

Since his departure, Merica has shopped his story to persons and organizations anxious to accept it at face value. He continues to channel information structured by him and his wife

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to impugn Campbell and Shanahan. Merica ignores or minimizes his own participation in, and the extent to which is own inadequate and inaccurate records led to, the very events upon which he now bases his accusations. Party officers, counsel, and others relied upon Merica and took it at face value that his fiscal records were orthodox and accurate. Much of the Merica situation can be more properly seen as his own attempt, perhaps based on his own awareness that his records and activities would not stand scrutiny, to deflect blame to others. By prepositioning himself as a "patsy," Merica has been able to avoid much responsibility that is his alone. He has deflected attention from himself to others. He has indeed gotten his revenge on Campbell.

By focusing on only part of the materials available, by accepting the Merica worksheets as "Party records," and by ignoring the unreliability of the Mericas as principal accusers, the recommendations of the General Counsel are the products of a process that is inherently unfair to the Montana Respondents.

The list of materials referred to in the General Counsel's Brief illustrates the skill with which the Mericas, their "Democratic counsel," and "Common Cause" (already chomping at the bit in October 1989?) have managed the documents which were generated and removed from Party files by the Mericas. Because privileged material was pleaded <u>in haec verba</u> in the Mericas' manifesto-style civil complaint, and then broadcast throughout the press, all the world assumes that it is Shanahan, rather than

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Merica, speaking the words. Only Shanahan knows the truth. The orchestrated leak of alleged Party documents through the Merica Litigation should be seen as a structured effort to influence the FEC to find "probable cause" on bogus "records." The underlying transactional records themselves, and the undisputed testimony of the innocent participants who were misled and set up as the targets of the Mericas' revenge, contradict Merica's "vision" of what was actually going on.

It should not be overlooked that the Mericas were well-aware of the way the press could be used to bolster their "revelations" of "wrongdoing." Efforts to manipulate regulators and the press were at the very core of their efforts, first for money, later for revenge. General Counsel's reliance on Merica-generated documents, on the Mericas' own self-serving attribution of purpose to other people, and on the Merica-generated press blizzard, is not justified here. General Counsel has not discovered "wrongdoing," he has been sold a counterfeit case.

B. <u>The Collapse of the Merica Litigation</u>.

After the Merica depositions, their civil case collapsed. Their contention that they were fired because they refused to cover up "wrongdoing" was not supported by the evidence. The Mericas consented to a judgment of dismissal with prejudice. They and their attorneys were given a nominal $9,000 cost recoupment, considerably less than the attorney's fees and travel expenses budgeted for a dispositive motion for summary judgment

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based on the Mericas' deposition admissions. Contrary to the October 10, 1989 threat, which demanded $600,000 in blackmail, the Mericas' "Democratic counsel" elected not to "litigate" further after hearing the Mericas testify on the record.

The Montana Respondents submit that the Merica allegations of "wrongdoing" were unreliable from the outset. Any violations in the Mericas' minds were not real violations at all. Even the appearance of violation arose from the Mericas' incompetence and contumacious failure or refusal to follow proper procedures and maintain adequate records to assure compliance with all FEC and state regulations and from their incorrect interpretation of events and the law.

As Campbell's testimony made clear, the Montana Party's objectives were to collect and apply local Party funds for authentic party purposes. Transfers to augment and supplement Party building activities and assist with administration and overhead were known and accepted. They were intended by the Party officers to be used for their limited and proper purpose. If there was any "wrongdoing" in the imagination or incomplete understanding of Merica, it was not the "wrongdoing" of the Party. All Party officers were unwavering in their understanding and expectation that committee transfers be proper, properly reported, and in compliance.

General Counsel hears Merica, assumes he knows what he was doing, and finds wrongdoing. Everybody who knows the facts hears

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Merica, realizes he is trying to float the big lie, and says there was no wrongdoing. It may be clear in retrospect that reliance on Merica's information and reports was obviously misplaced, but it was certainly not apparent at the time.

Merica's belated "revelations" that he was instructed to do improper acts by either party officers or outsiders do not withstand examination. A retrospective stacking of selected facts to support the Merica lie can be accomplished, but only by unquestioning acceptance of Merica's self-serving accusations against others. An equally valid, orthodox, and in fact true view of all the facts exonerates the Party and its officers and negates violations of the Act.

C. <u>The Montana Commissioner made no findings and reached no conclusions</u>.

At this point, it can only be guessed when the Montana Commissioner of Political Practices learned that the Merica depositions resulted in the collapse of the Merica Litigation. The Mericas regularly talked to her and channeled documents to her. The Montana Commissioner brought a point-of-view to her inquiries which slanted her judgments in the matter. For example, she seemed unaware that Elwood English had been fired by Conrad Burns, with mutual hard feelings, early in 1988. The Commissioner always thereafter saw English's later employment for a Party project as a "senatorial" footprint. It was not until years later, during a joint interview with English, that it became clear to the Commissioner and her contract counsel that

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English was never a friend of Burns after July 1988 and was certainly not a "senatorial" operative during his pre-election activities. Simple mistakes of fact like that precluded a fair judgment by the Montana Commissioner when she was called upon to review Republican Party activities. Shortly after the Merica depositions were taken, the Montana Commissioner apparently conveyed much of her own Merica material, with her speculative gloss, to General Counsel in this matter. No ostensible "findings" were ever actually made by the Montana Commissioner and reported to the Montana Party. The Montana Commissioner never took any action against the Montana Party. If the Montana Commissioner transferred documents from the Party to the FEC, she acted improperly under Montana law in doing so. It is a reasonable inference that neither the Montana Commissioner nor her contract counsel really wanted to understand what led to the collapse of the Merica Litigation; it was better to lateral the ball to a Federal agency where Merica credibility problems might be overlooked.

The Montana Commissioner knew in 1992 that her term was coming to an end. The 1988 election of a Republican Governor and a Republican Senator, after such a long hiatus, apparently affected her judgment. She used the Merica Incident to take one last parting shot at Republican Governor Stephens, but she never did take any action against the Montana Republican Party. During her direct dealings with the Montana Respondents she had come to

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realize that she could not sustain the Merica "revelations" in a judicial proceeding. Only in General Counsel's Brief is it learned for the first time that she apparently surreptitiously funnelled grand jury privileged materials to the FEC.

D. Volunteer-Related Activity.

The factual recitation and development in General Counsel's Brief with regard to Montana volunteer activities in 1988 is incorrect. Extensive volunteer activities were conducted in cities other than Helena. Merica had little or no awareness of the extent of the out-of-Helena volunteer activities. Obviously the volunteer activities were carried out on behalf of the Party's candidates. This is authorized by the Act and regulations referred in General Counsel's Brief. The determination of violations seems to depend on whether the mailings in question were distributed by volunteers. It will be categorically denied by every Montana Republican Party officer who was aware of and involved with the process that the National Republican Senatorial Committee ever "designated" funds for any specific purposes. Prestidge also denies it categorically. (See Prestidge Affidavit as cited in General Counsel's Brief.) Only Merica developed that belief, in his own mind. It was only Merica who came to believe that he was somehow called upon to "account" for Committee funds transferred to the Montana Party. What everyone was expecting Merica to do, and instructing him to do, was to segregate and account for monies raised by the Montana

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Party which could be used for volunteer activities on behalf of all the Republican candidates. Merica's self-serving statement that Prestidge told him to use Senatorial Committee funds for volunteer mailings is incredible as a matter of law and is expressly contradicted by everyone else involved. First, Prestidge has denied doing so. Second, Campbell and other party officers knew that the Senatorial Committee funds were to augment overhead and administration expenses in order to strengthen the Party for future years in light of the anticipated Republican sweep. To an impartial observer in Montana after August 1988, it was unlikely that the Republican candidates could be defeated, and that conclusion was based on factors and reasons which had nothing to do with mailings, or fund transfers, or last-minute campaign activities. The temper of the Montana electorate during the fall of 1988 was strongly against either major Democratic candidate, for reasons that had nothing to do with exposure, or campaign activity, or big money. Conrad Burns was a well-known, popular, likable, agriculturally sound candidate. John Melcher carried widely perceived personal and political baggage which made his election unlikely.

The FIFO analyses relied on in General Counsel's Brief (which have not been provided) were obviously not based upon the underlying transactional records of the Montana Republican Party. The system used by Merica during 1988 made it impossible to differentiate and accurately account for funds raised by the

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Montana Republican Party and funds transferred to it. There is no doubt that Merica's numbers justified what he wanted to portray, but his understanding of what was actually going on, and its legality or illegality, has been discredited. There is a real question whether the Mericas retroactively "coded" their entries to implicate "connections" where none in fact existed.

E. Payment of the Knudsen salary could not be in violation of federal law.

As simply an illustration of the inherent problems with all General Counsel's recommendations, the recommendation with regard to Ken Knudsen makes the point. The Montana Respondents have not yet been able to review the statements taken from Knudsen, but they are familiar with the circumstances of his employment. Montana Respondents categorically deny that Knudsen's "primary responsibility was to assist in the election of Conrad Burns." If Knudsen said it, it was because in the context of his interview he was not given an opportunity to hear specific questions addressed to the allocation of his duties and the thrust of his employment. Knudsen was hired by the Montana Respondents to operate the Montana Party volunteer operation in Great Falls. He was free to engage in complementary activities for other Republican candidates. His primary responsibility in his Party employment was to supervise Party volunteer activities which, in an ordinary year, would have been one of the duties of the Party's Executive Director. At most Knudsen might have

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believed that since he was generally employed to assure the election of all Republican candidates, then he was engaged in the election of Conrad Burns as well. That is a distinction with a real legal difference in the context of these proceedings. An offhand recollection by Knudsen which focuses on the most memorable Montana campaign in 1988 does not alter the actual engagement for which he was hired. General Counsel concedes that substantially all of Knudsen's salary could have been paid from Party funds. The Montana Respondents submit that the entire salary was paid from Montana Party funds, and but for the confusion which has been introduced into the record by Mericas' self-serving summaries of financial transactions, it would be undisputed that the Party had sufficient funds to pay Knudsen's salary in any event, without regard to Senatorial Committee transfers. Since no impartial view of all the evidence could lead to the conclusion that Knudsen's activities were primarily devoted to assist in the election of Burns, it is arguable whether the Act was violated by the manner in which Knudsen's salary was reported. General Counsel's conclusions of wrongdoing rest exclusively on Merica and Merica-generated materials and ignore the underlying transactional records and operations which are not accurately portrayed by the Mericas.

CONCLUSION

Campbell and Shanahan are well-known, decent, and respected people. They have devoted much of their lives to the good of

their Party. They had neither the incentive, nor the need, to engage in any improprieties during the 1988 election cycle. Their histories and their characters contradict any reason to believe that they intended to violate the law, or even to skate too close to the edge. The same is not true of the Mericas.

To conclude that Campbell and Shanahan, and thus the Montana Republican Party, "knowingly and willfully" participated in or condoned any scheme to violate Federal law during 1988 is harsh and unjustified. To base such a conclusion on the allegations and materials generated and channelled by the Mericas is a miscarriage of justice which should be re-examined and abandoned.

This matter seems to cast a large shadow. An ambitious State Legislator and Common Cause are focused on a National Senatorial Committee. The chief accuser who put the allegations and documents into play happens to be the former Executive Director of the Montana Republican Party. His title alone lends stature to his accusations. Perhaps to script this play, Merica must be built up, and those he accuses along the way must be sacrificed. However, the full evidentiary record will not sustain that result. The Mericas are not credible. Their interpretation of 1988 events is sham and retrospective. Their ostensible documentation is self-serving and suspect.

Notwithstanding the Mericas' admitted incompetence, the underlying Party records are still available. The post-Merica review of those records by a competent and experienced Executive

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Director could be assembled to reflect the true activities of the Montana Party in 1988. General Counsel's reliance upon, and his undeserved credence given to, the Merica worksheets and self-generated documents constitute an adoption, hook, line and sinker, of the story Merica first sold to the press, then sold to his own counsel, and has since been selling to the regulators. Each time it has been critically examined, it has collapsed.

There is no basis for believing that Merica was the incorruptible white knight and everyone else he dealt with was part of a conspiracy to "buy" a Federal election. Neither the underlying facts, nor the circumstantial context of events, nor the interests and motivations of the people involved, justify such a conclusion. In fact, the sworn testimony of every other witness who has testified contradicts what the Mericas have to say. If the point of the exercise is to ferret out the liars, perhaps one is better advised to scrutinize the accusers rather than the accused. The Mericas are the ones who are not telling the truth. Merica has chiseled Party funds. He has admitted lying. He had a pecuniary motivation. He now seeks revenge.

It is the <u>facts</u> of this case, as they were lived by the participants, not as they have been subsequently characterized by the Mericas, which should drive these proceedings. The <u>facts</u> do not support the conclusion that the Montana Republican Party, or its officers, or its employees, even including the Mericas, were intending to violate Federal election law. It should be the

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testimony of the participants, tested for credibility and reliability, which justifies any recommendation as to intent. Before all the testimonial evidence of intent has been received and weighed by General Counsel, there should be no finding of deliberate scheme or knowing and willful violation in these proceedings.

Every fact finding entity, be it agency, or jury, or court, must guard against being used as a vehicle for a malcontent's revenge. The root of due process is to guard against the false accuser who might be motivated by some ulterior purpose. It perhaps may not happen often, but it does occur. This is such a case.

The facts show that the Montana Respondents have engaged in lawful volunteer intensive mailings and used transfers to promote legitimate and lawful party-building activities, all of which were reported on a timely and legal basis. Not only is a "knowing and willful" recommendation unsupported on the record, but there were no violations at all except the phantom violations ginned up by the Mericas to justify a sham wrongful termination lawsuit.

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DATED this 11th day of March, 1994.

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March 14, 1994

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

Re: MUR 3204

Dear Ms. Emmons:

The 1988 Burns Senate Committee and its Treasurer, Jim Swain, appreciate this chance to respond to the Office of the General Counsel's brief claiming the Committee knowingly accepted a contribution from the National Republican Senatorial Committee in excess of that permitted by the Federal Election Campaign Act. The Committee and its treasurer categorically deny this allegation. It did not accept any excess contribution at all from the NRSC.

What it did receive were a number of small donations, mostly in the $50 to $200 range, from Republicans across the country in response to a NRSC appeal to aid an underfunded candidate challenging an entrenched incumbent. Each donation it accepted is a matter of public record, for the Committee disclosed each on its FEC reports. Moreover, as shown below, before permitting the NRSC to make the appeal that led to these donations, Burns Committee personnel determined that such an effort was "absolutely legal and complied with all FEC rules and regulations."

There is therefore no basis for proceeding any further in this matter, and the Committee respectfully requests that the Commission decline to follow the General Counsel's recommendation that it vote to find probable cause to believe the Committee violated the Act.

Introduction

After a three and one-half year investigation of charges levelled by members of the Montana Democratic party, the General Counsel's staff was unable to unearth any evidence of wrongdoing by the Burns Committee or indeed to find anything even suggesting any wrongdoing by the Committee. Despite this lack of evidence, the staff nevertheless asks the Commission to

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find that the Committee violated the Federal Election Campaign Act by *knowingly* accepting a contribution from the National Republican Senatorial Committee that exceeded the limit set by the Act.

On the one hand, the Committee is pleased that so many of the accusations hurled by Senator Burns' political opponents and stoked by disgruntled former employees of the Montana Republican Party have, as far as the Committee is concerned, been found baseless. On the other hand, the Committee is surprised that the staff would argue that the aid the Committee received from the Republican party somehow constitutes a violation of the election laws. The NRSC asked Republicans around the country to contribute to the Burns Committee to help a then underfunded challenger compete against an entrenched incumbent with access to thousands of dollars of special interest money. Many did, not because they knew Conrad Burns personally or expected any favor in return, but because they shared his philosophy about the role of government in society.

The Burns Committee disclosed the name and address of each of these donors and the amount each gave on the reports it filed with the Commission. As those reports show, none of these contributions were large, most falling in the $50 to $200 range. Congress enacted the Federal Election Campaign Act to curb the role big contributors, and particularly those with special interests, play in our political campaigns and to instill greater confidence in the process through disclosure of all donations. The Burns Committee submits that the receipt and disclosure of these small donations furthered both these goals.

Only by a tortured construction of the Act could anyone conclude that these actions were unlawful. Indeed, in an era in which candidates need more and more money for their message to be heard, what would the staff prefer? That candidates receive an ever greater share of their campaign funds from political action committees and other large givers? Or that they turn to their political party for help in raising money from numerous small donors? And what does the staff believe political parties should do when one of their own runs for office? Standby and watch the candidate either lose for lack of adequate funding or turn to PACs for money? Or come to the candidate's aid by asking party members to send donations?

Analysis

1. The Staff Has Failed to Show That the NRSC's Program Was Unlawful.

The gravamen of the staff's complaint is that when asking Republicans to contribute to the Burns Committee the NRSC exercised enough direction or control over the choice the donors made that the contributions should be counted as coming from the NRSC itself. As the staff concedes in its brief, the only facts to support its theory are these: In the fall of 1988 the NRSC mailed a letter to a number of Republicans asking it to donate to the Burns and Engeleiter

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Committees by writing a check to the NRSC.[1] The NRSC then deducted the costs of the mailing from the donation and divided the remainder between the Burns and Engeleiter committees.

What the staff finds so damning about this procedure is that only two candidates were named in the mailing, that the letter said the contributions would be divided evenly, and that the checks were made payable to the NRSC. Staff brief at 5.[2] Once before, of course, the staff argued that these three factors constitute directions and control, but a unanimous panel of the United States Court of Appeals for the District of Columbia, which included now Associate Supreme Court Justice Ruth Bader Ginsburg, soundly rejected its argument. *Federal Election Commission v. NRSC*, 966 F.2d 1471 (D.C. Cir. 1992). *FEC v. NRSC* arose from the NRSC's efforts in 1986 to raise money for its candidates through a mailing indistinguishable in all material respects from that at issue here, and hence the Court's reasoning there applies with equal force to the mailing here.

Writing for the Court, Judge Randolph easily dismissed the contention that deposit of the contributions in the NRSC account before forwarding them to the recipients was an *indicia* of control. The Commission's own regulations, he noted, expressly permit such a procedure, and "[n]othing has been offered to reveal why engaging in a Commission-approved practice should cause one to run afoul of the other Commission rules." *Id.* at 1477. Likewise, nothing has been offered in this case to show why a Commission-sanctioned practice should be treated as an indicator of illegality.

In challenging the 1986 NRSC program the staff had also asserted, as it does here, that because the NRSC had pre-selected which Senate candidates would be named in the letter, it had exercised the requisite direction or control over the donors' choice. The Court made short work of this contention:

> The problem is that if this establishes "direction or control" within the meaning of [the Commission's regulations] then every solicitation qualifies for the same treatment. Every solicitation "preselects" candidates to some degree. It is fanciful to suppose that national political committees of any party would expend their

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[1] Susan Engeleiter, another poorly funded Republican challenger, was running against a multi-millionaire for the Senate seat in Wisconsin. Although the Burns Committee did nothing different than the Engeleiter Committee, the staff has apparently chosen not to prosecute her committee. The only difference between the two committees is that Conrad Burns won his race while Susan Engeleiter did not.

[2] The staff claims there is a fourth factor as well: "the timing of contributions was entirely within the control of the NRSC since the checks were made out to it." Staff brief at 5. But control over the timing of disbursement is no more than a consequence of the fact that the checks were made payable to the NRSC in the first place. It is simply a component of this, the third factor, rather than an additional factor as the brief claims.

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> resources merely to urge individuals to contribute to the candidate of their choice. Committees of one party gather funds for candidates of that party. The Commission knew this as well as anyone when it promulgated [its rules on solicitations for others]. *Id.*

Finally, the staff had attacked the 1986 mailing, sent on behalf of four candidates, because the letter said that contributions would be divided equally between the four. *Id.* at 1473. As is the case here, where the letter said the contributions would be divided equally between Burns and Engeleiter, the staff argued that this put control in the hands of the NRSC. The Court of Appeals was not persuaded, however, for as Judge Randolph reminded the staff, the Commission had ruled in the NCPAC advisory opinion that, even if a letter is sent urging donations to only one candidate, absent something more, the sender is not exercising any control over donations the recipients might make:

> [T]he Commission held that "a mass mailing advocating the election of a clearly defined candidate" and including "a suggestion that a contribution . . . be mailed to NCPAC" did not constitute direction or control . . . . The Commission's opinion rested on the fact that "the individual contributor, not NCPAC, chooses whether to make a contribution," to which the Commission added that "[t]he fact that a potential contributor may decide against making a contribution indicates a lack of control over the choice of the recipient candidate by NCPAC." *Id.* at 1478 (internal citations omitted).

Nothing in the record here suggests that those receiving the Burns/Engeleiter letter could not decline to contribute, and thus under the reasoning in the NCPAC opinion, expressly approved by Court of Appeals, the fact that contributions would be equally divided between the Engeleiter and Burns' Committees does not establish that the NRSC had direction or control over the contributions at issue.

In an effort to dodge *FEC v. NRSC*, the staff quibbles about how the NRSC billed the Burns Committee for the expenses of both the Burns/Engeleiter mailing and a second mailing sent on behalf of Conrad Burns and several other candidates. Staff brief at 7. The staff concedes that the NRSC charged the Burns Committee a fee for each mailing but says these fees may not have covered all the NRSC's costs. *Id.* at 6.

After a three and one-half year investigation the staff does not present any evidence to support this claim. Instead, it relies on inferences drawn from interrogatory answers supplied by the NRSC. Throughout this investigation the staff has had the power to subpoena documents, require answers to interrogatories, and demand deposition testimony -- in short it has had at its disposal all the tools necessary to determine just how much the NRSC charged the Burns

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Committee for each mailing. The Burns Committee submits that at this late date, with all these tools available to uncover actual evidence, an inference from an interrogatory answer is too weak a reed for the Commission to rest a finding that there is probable cause to believe the NRSC's scheme for allocating the costs of the mailing violated the Act.

If this were not enough reason to dismiss the contention about solicitation costs, Commission rules in effect in 1990 supply the remainder. Those rules provided that if the NRSC incurred expenses for more than one candidate, these expenses were to be "attributed to each candidate in proportion to . . . the benefit reasonably expected to be derived." 11 C.F.R. § 106.1(a) (1991). The staff has not shown that costs for the two mailings were not allocated the Burns Committee in proportion to the benefit the NRSC "reasonably expected" the Committee to receive. All it has done is speculate about the costs of unsuccessful solicitations -- but speculation and inference cannot support a finding of probable cause to believe.

In sum, the staff's brief fails to demonstrate that the NRSC's efforts to convince donors to give to the Burns Committee violated the Act, or that the way it allocated these costs among the Burns Committee and others did not comply with Commission rules. Accordingly, the Burns Committee's acceptance of these donations was absolutely proper.[3]

2. Even if the NRSC's Effort Were Not Lawful, the Staff Has Failed to Show that the Burns Committee Knowingly Accepted an Unlawful Contribution.

Even were the Commission to find that the NRSC's efforts to help the Burns Committee ran afoul of the Act, that itself would not be enough to pursue an action against the Burns Committee. The staff alleges only that the Committee violated section 441a(f) of the Federal Election Campaign Act:

> No . . . political committee shall *knowingly* accept any contribution . . . in violation of the provisions of this section. No officer or employee of a political committee shall *knowingly* accept a contribution . . . or *knowingly* make any expenditure on behalf of a candidate in violation of any limitation imposed on contributions and expenditures under this section.

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[3] Furthermore, to the extent the Commission's rules or the Act itself restrains a political party from coming to the aid of its candidates, that restraint is unconstitutional. The Constitutional justification for limiting contributions to political candidates is corruption or the appearance of corruption from the receipt of large donations. Buckley v. Valeo, 424 U.S. 1 (1976). But that justification is inapplicable to contributions from political parties. First Brief on Appeal for Appellants Colorado Republican Federal Campaign Committee, Federal Election Commission v. Colorado Republican Federal Campaign Committee, Nos. 93-1433 & 1434, Tenth Circuit, December 20, 1993. The Committee asks the Commission to expressly consider this issue and incorporates by reference the arguments the Colorado party advances in the Tenth Circuit.

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The staff offers no evidence whatsoever that any Burns Committee campaign worker had any knowledge or even suspicion that the contributions it received as a result of the NRSC's mailing violated any provision of the Federal Election Campaign Act. Indeed, when this case first arose, Dennis Rehberg, the campaign manager for the Burns Committee, submitted an affidavit in which he swore that:

> The Burns Committee never knowingly accepted an unlawful contribution . . . from the NRSC. Affidavit of Dennis Rehberg, November 21, 1990 at ¶ 6.

That affidavit remains uncontradicted. And so that no doubt about the Burns Committee's knowledge of the NRSC efforts exists, the Committee submits a supplemental affidavit from now Montana Lt. Governor Dennis R. Rehberg with this letter. This affidavit specifically addresses the mailings at issue here. After explaining that he was the manager of the campaign and responsible for compliance with FEC rules and liaison with the NRSC, Lt. Governor Rehberg says:

> I was assured by everyone I talked to at the NRSC that [the mailings were] absolutely legal and that in particular it complied with all FEC rules and regulations. . . . Nothing anyone said or did during the campaign ever gave me any reason at all to think that [they were] was not entirely lawful." Affidavit of Dennis Rehberg, March 11, 1994, at ¶s 5, 7.

The record thus shows that the Burns Committee neither knew the NRSC's efforts were unlawful nor had even a hint that they might be.

A. To Find Probable Cause to Believe the Burns Committee Violated § 441a(f), There Must Be At Least Some Evidence the Committee Knew the NRSC's Efforts Were in Violation of the Federal Election Campaign Act.

§ 441a(f) prohibits political committees from accepting a contribution that it knows to be unlawful. Congress inserted the word "knowingly" in this section in three separate places to emphasize that the mere receipt of a contribution that later turned out to be unlawful was not enough, by itself, to constitute a violation. In *In re Federal Election Campaign Act Litigation*, Judge Ritchey confirmed that this is what Congress meant by the use of the term "knowingly." There he held that a complaint had stated a violation of § 441a(f) because it alleged that at the time the contribution had been accepted, the recipient "must have been aware of the illegal nature of the contribution" 474 F.Supp. 1044, 1047 n. 3 (D.D.C. 1979).

One case, to be sure, reaches a different result. *Federal Election Commission v. California Medical Association*, 502 F.Supp. 196 (N.D. Ca. 1980). Contrary to Judge Ritchey's

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holding, the *California Medical* court said a violation of § 441a(f) was made out if a committee knew it had accepted a contribution and it later turned out that the contribution was deemed unlawful. In other words, so long as a committee did not inadvertently or accidently accept a contribution, it could be fined an amount equal to the amount of the contribution if it was later established that the contribution exceeded the limits in the Act or was otherwise unlawful. But elementary principles of statutory construction show that *California Medical* is wrongly decided.

It is hornbook law that each word of a statute is to be given effect. Norman J. Singer, 2A Statutes and Statutory Construction § 46.06 (5th ed. 1992). *Cf. Ratzlaf v. United States*, ___ U.S. ___, 54 Crim. L. Rep. (BNA) 2048, 2049 (Jan. 12, 1994) (courts should be particularly reluctant to treat a word as superfluous when it describes an element of a criminal offense). Yet if the interpretation advanced by the *California Medical* court were correct, the word "knowingly" in § 441a(f) would be superfluous. Under *California Medical*, all "knowingly" means is that the committee was conscious that it accepted the contribution, i.e., that acceptance was not inadvertent or accidental. But the comprehensive scheme set forth in the Federal Election Campaign Act for regulating contributions ensures that a committee can never inadvertently or accidently accept a contribution. Subsection b(1) of section 434 of the Act requires all committees to file detailed reports accounting for each contribution received, and subsection b(5) further requires an itemized listing of any contributor whose aggregate contributions total $200 or more in any calendar year.[4]

The requirement that all contributions be accounted for and that those over $200 be itemized guarantees that a committee will "know" about each contribution it accepts. The Act thus already precludes inadvertent or accidental receipt of a contribution, and to construe "knowingly" in § 441a(f) to preclude this as well would be to render a term which Congress inserted in the section in three different places superfluous. The term "knowingly" in § 441a(f) must be construed to mean that the Burns Committee had at least some knowledge that the NRSC's efforts were unlawful, and because the staff has presented no evidence that the Committee possessed any such knowledge, there can be no finding of probable cause to believe the statute was violated.

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[4] Both a district court and the General Counsel's office rely on precedent drawn from the criminal law to back up the view that the statute prohibits inadvertent or accidental acceptance of unlawful contributions. Federal Election Commission v. John A. Dramesi for Congress, 640 F.Supp. 985, 987 (D.N.J. 1986); Plaintiff Federal Election Commission's Memorandum in Support of Its Motion for Summary Judgement, (n.d.), at 7, Federal Election Commission v. Re-Elect Hollenbeck to Congress Committee, No. 85-2239 (D.D.C. June 16, 1986). The elements necessary to constitute a violation of the criminal laws, of course, are an entirely different question from what Congress intended when it added the word "knowingly" to § 441a(f). On whether simply being conscious of performing an act which later turns out to be deemed unlawful can support a criminal conviction, *compare* Morissette v. United States, 342 U.S. 246 (1952) *and* United States v. United States Gypsum Co., 438 U.S. 422 (1978) *with* United States v. Freed, 401 U.S. 601 (1971). Indeed, when a criminal statute uses the word "knowingly" ambiguously, resort is to be had to Congressional intent, not some general principle of criminal law. Liparota v. United States, 471 U.S. 419 (1985).

This construction is buttressed by the legislative history of the 1976 amendments to the Federal Election Campaign Act. The 1971 Act penalized only "knowing and willful" violations, a provision the Senate Rules Committee left unchanged when it adopted what were to become the 1976 amendments to the Act. But during Senate floor debate Senator Clark offered a provision making acts which fell short of this standard of culpability subject to civil fines of $5,000 or the amount involved in the violation. As Senator Clark explained, without his amendment: "Gross negligence . . . would go completely unpunished." 122 Cong. Rec. 6955 (1976). Gross negligence requires some degree of fault or culpability on the actor's part, and thus Senator Clark's explanation for his amendment shows that Congress did in fact intend those liable for a civil penalty be, at least to some degree, at fault.[5] Because the staff offers no evidence of fault on the Burns Committee's part, nothing in the record supports a finding of probable cause to believe the Committee violated the statute.

B. Because, Under the Commission's Rules at the Time the Committee Accepted the Contributions, No One Could Have Known They Were Unlawful, Simple Fairness Precludes a Finding of Probable Cause, Particularly When This Would Be the First Time a Recipient of Bundled Contributions Had Been Found to Have Violated the Act.

The staff's claim that the Burns Committee "knowingly" accepted contributions from the NRSC that were unlawful is further belied by the Commission's own attempts to make rules to govern programs like the NRSC's. The staff contends that what makes the NRSC's effort unlawful is the fact that the NRSC exercised direction or control over the contributions the Burns Committee received. But after a lengthy effort to specify what constitutes "direction or control" in a rulemaking, the Commission gave up:

> The Commission is not able at this time to formulate regulatory language that clearly delineates situations where direction or control exists from those in which the conduit does not exercise direction or control. Accordingly, the Commission will continue to evaluate these situations on a case-by-case basis. 54 Fed. Reg. 34,108 (Aug. 17, 1989).

Just over a year before the Burns Committee accepted the donations now in issue, the Commission conceded that it could not set forth any guidelines political committees could look to to judge whether programs like the NRSC's were lawful. Yet the staff now argues that the Committee "knowingly" accepted contributions that were unlawful. The Committee has found

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[5] In the most complete review of the legislative history of § 441a(f) of which the Burns Committee is aware, no mention of the Clark amendment appears. Plaintiff Federal Election Commission's Memorandum in Support of Its Motion for Summary Judgement (n.d.), at 5-7, Federal Election Commission v. Re-Elect Hollenbeck to Congress Committee, No. 85-2239 (D.D.C. June 16, 1986).

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no other case where the Commission has found probable cause to believe that a recipient of bundled contributions violated § 441a(f). Given the absence of any way of determining from the Commission's regulations whether the NRSC's actions constituted prohibited "direction or control," the Burns Committee submits that as a matter of simple fairness it would be inappropriate to make this the first case where a recipient of a bundled contribution was deemed to have violated § 441a(f).

C. The Committee's Compliance with the Best Efforts Standard in the Commission's Rules Precludes a Finding of Probable Cause to Believe.

The Commission's own rules provide a standard by which to gage the Burns Committee's conduct in this matter. Section 103.3(b)(1) of those rules state that "[a] treasurer shall make his or her best efforts to determine the legality of [a] contribution," and in *Federal Election Commission v. Re-Elect Hollenbeck to Congress Committee*, the court held that this rule applied to contributions received from party committees. No. 85-2239 (D.D.C. June 16, 1986) slip op. at 4.

In *Hollenbeck* the Commission alleged that the Hollenbeck Committee had violated the Act by accepting a $5,000 contribution from the New Jersey Republican Party. State party committees are ordinarily qualified as multi-party committees and therefore permitted to donate $5,000 to congressional candidates, but the New Jersey party had inadvertently let its status as a multi-party committee lapse, and thus its contribution limit had automatically fallen to $1,000. Although the Hollenbeck Committee did not know this at the time it accepted the $5,000, the Commission nevertheless argued it had violated § 441a(f). As the court explained, the "theory of the case is that defendants may be assessed a civil penalty merely because they knowingly accepted a $5,000 contribution that, for unanticipated reasons, turned out to violate the law." *Id.* at 6.

But relying on the best efforts rule, Judge Green rejected this theory. The Hollenbeck Committee had argued that no reasonable person would ever conclude that a donation from the state party committee would appear illegal, and the court agreed. Since every Republican candidates had received a $5,000 contribution from the state party, "[i]n this context the State Committee's contribution . . . would appear to be legal to any reasonable treasurer." *Id.* at 5.

As shown above, nothing about the contributions the Burns Committee received through the NRSC's mailing suggested they were illegal, and indeed, as the Rehberg affidavit discloses, the NRSC assured the Committee on any number of occasions that this mailing was lawful. If in *Hollenbeck* it was reasonable for the committee to assume the contribution was lawful because others received an identical amount, *a fortiori* where, as here, the committee received explicit assurances that the contribution was lawful, it was reasonable to conclude the ones here were. Accordingly, because the Committee met the requirements set out in the Commission's "best

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efforts" rule when accepting the contributions at issue here, as in *Hollenbeck* the Commission is estopped from finding probable cause to believe that acceptance violated § 441(f). *Id.* at 3.

To be sure, in *Federal Election Commission v. John A. Dramesi for Congress*, 640 F.Supp. 985 (D.N.J. 1986), the court reached a different result. But *Dramesi* does not undercut the Burns Committee's position here.

Dramesi involved the identical facts as *Hollenbeck*, acceptance of a $5,000 contribution from the New Jersey Republican Party at time when its giving limit was $1,000. In holding that the Dramesi Committee had knowingly accepted an unlawful contribution, the court said that because the contribution limit for all but multi-candidate committees is $1,000, the receipt of a $5,000 contribution had enough of an appearance of illegality under section 103.3(b) that the treasurer should have made further inquiry. *Id.* at 987. Moreover, further inquiry would have easily shown that the contribution was unlawful, for the Commission publishes a list of those committees qualified to give $5,000, and the New Jersey Republican Party Committee did not appear on that list. As a consequence, "[d]efendant's claim that it had no way of knowing the contribution was illegal is therefore unconvincing." *Id.* at 988.

Unlike the Dramesi Committee, receipt of the contributions here waived no readily apparent redflag that called for further inquiry. Indeed, not only was there no analogue to the simple $1,000/$5,000 distinction in *Dramesi*, but the Burns Committee was told several times that there was no redflag, readily apparent or not. In addition, whereas upon further inquiry the Dramesi Committee could readily consult a list to see if it could accept $5,000 from the New Jersey Republican Party, here the Commission had not even spelled out what factors the Committee might consider in deciding whether the NRSC had exercised prohibited "direction or control." Not only is *Dramesi* easily distinguishable on its facts, but the court's reasoning there lends additional support to the Burns Committee's position in this matter.

Both *Dramesi* and *Hollenbeck* hold that whether a candidate committee acceptance of a contribution from a party committee violated § 441a(f) is to be determined by whether the committee used its "best efforts" to decide if the contribution was lawful. By any measure, the Burns Committee met this best efforts test, and thus the Commission should not find probable cause to believe its acceptance of the contributions violated the statute.

3. Flaws in the Commission's Procedures Mandate Dismissal of this Case.

The staff's brief does not indicate that any findings have been made in this case since the United States Court of Appeals for the District of Columbia handed down its decision in *Federal Election Commission v. NRA Political Victory Fund*, 6 F.3d 821 (D.C. Cir. 1993). In *NRA* the Court held that because the Commission included two members designated by Congress, it was unconstitutionally constituted and its actions were therefore of no legal force or effect. Thus,

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unless the Commission has made a "reason to believe" finding against the Burns Committee subsequent to *NRA*, no valid enforcement proceeding is now pending.

If a "reason to believe" finding has been made post-*NRA*, the Committee objects to it on the grounds the Committee was not offered a right to reply in advance as provided for by section 437g(a)(1) of the Act and the Commission's own rules. If no such post-*NRA* has been made, the Committee objects to the Commission's consideration of probable cause at this time as procedurally improper. In light of *NRA*, the Committee further objects to the enforcement of rules not adopted by a constitutionally constituted agency, any purported ratification of these rules post-*NRA* without compliance with the Administrative Procedures Act or the procedures set forth in the Federal Election Campaign Act and adoption of rules or procedures post-*NRA*, including any designed to address the procedural issues created by *NRA*, without compliance with these two acts. The Committee also objects to any purported ratification of findings or action in this matter on the grounds they were tainted by deliberations influenced by the presence of the individuals which the court in *NRA* held violated the Separation of Powers doctrine. The Committee believes there is no authority in the Federal Election Campaign Act or elsewhere which permitted the Commission to reconstitute itself post-*NRA* and thus all its present actions are without any legal force or effect.

The Committee further objects to this entire proceeding on Due Process grounds. The complaint in this matter was filed almost four years ago and the Burns Committee promptly filed a response. Yet the Commission staff has waited until the eve of Senator Burns' reelection campaign to send the Committee its probable cause brief.

In closing, the Committee would ask that the Commission furnish the Committee with any reply or rebuttal to this letter prepared by the General Counsel's office and that the Commission permit the Committee's counsel to be heard during any presentation of this matter to the Commission. In order to preserve all its procedural rights, including those under the Administrative Procedures Act and the Due Process clause, the Committee asks to be notified at once if the Commission declines to grant either of these requests.

Sincerely,

Richard E. Messick
Counsel for the 1988 Burns Committee and its
Treasurer, Jim Swain

Attachment
cc: Lawrence M. Noble, Esq.

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Affidavit of Dennis R. Rehberg

Dennis R. Rehberg, under penalty of perjury pursuant to section 1746 of Title 28 of the United States Code, declares as follows:

1. I was the manager of the 1988 Conrad Burns Senate campaign from July 19, 1988, through the end of the campaign. In this position, I was responsible for all aspects of the campaign including compliance with FEC regulations and liaison with the National Republican Senatorial Campaign.

2. No one associated with the Burns Committee was involved in the operation or management of the NRSC.

3. Sometime during the fall of 1988, representatives of the NRSC explained that the Burns Committee could participate in a program where those who had contributed to the NRSC would be solicited to give money to the Burns Committee.

4. NRSC representatives explained how the program would operate and how contributions to the Burns Committee received as a result were to be reported to the Federal Election Commission.

5. I was assured by everyone I talked to at the NRSC that this program, which was referred to as bundling, was absolutely legal and that in particular it complied with all FEC rules and regulations.

6. Based on these assurances, the Burns Committee accepted the contributions.

7. Nothing anyone said or did during the campaign ever gave me any reason at all to think that the bundling program was not entirely lawful and during the campaign no one at the NRSC ever gave me any reason to believe the NRSC or the Burns Committee was not fully complying with Commission regulations. Nor did anyone associated with the Burns Committee ever report to me that they had been given any reason to believe that the NRSC or the Burns Committee was not fully complying with Commission regulations.

8. The Burns Committee never knowingly accepted an unlawful contribution or contribution in-kind from or through the NRSC.

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

Dennis R. Rehberg

Executed this 11th day of March 1994.

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Montana Republican State Central Committee and Shirley J. Warehime, as treasurer	)	MUR 3204
	)	

GENERAL COUNSEL'S REPORT

I. **BACKGROUND**

This matter was initially generated by a complaint (MUR 3087) filed on July 13, 1990, by Kelly Addy, Speaker Pro Tempore of the Montana House of Representatives. On December 20, 1990, Common Cause filed a complaint (MUR 3204) that made almost identical allegations.

On May 21, 1991, the Commission found reason to believe that: the Montana Republican State Central Committee and its treasurer ("respondents" or "the MRP")violated 2 U.S.C. §§ 441a(f), 441d, and 434(b). The Commission also determined to merge MUR 3087 with MUR 3204. See General Counsel's Report dated May 6, 1991.

On June 10, 1992, this Office also received a referral (Pre-MUR 263) from the Montana Commission of Political Practices.

On January 7, 1994, this Office forwarded the General Counsel's brief to counsel for these respondents. On January 19, 1994, counsel for the MRP advised the Commission by letter that the MRP needed an extension of time to respond to the General Counsel's Brief, in part, in order to permit respondents to resolve the question who would represent the MRP since the original law firm representing them had split apart. They sought

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an extension of 45 days for the sole purpose of determining who would represent the MRP, indicating that at that point new counsel would be in a position to determine what additional time would be necessary to respond to the Brief. They were granted an extension of time until March 14, 1994, but were advised that their response to the General Counsel's Brief would be due at that time.

On March 14, 1994, the Commission received the MRP's response to the General Counsel's Brief. (Attachment 1). Included in that response were the following: a Motion to Dismiss or In the Alternative to Stay based on NRA and due process arguments; requests for numerous documents gathered by the Commission during its investigation; and a request for an extension of time to prepare comments on the documents once obtained.

II. ANALYSIS

A. Motion to Dismiss or Hold Matter in Abeyance

This Office has already addressed the reasons why it would be inappropriate in this matter to grant a Motion to Dismiss or a Motion to Hold This Case In Abeyance based on FEC v. NRA Political Victory Fund, 6 F.3d 821, 828 (D.C. Cir. 1993) ("the NRA decision"). Thus, for the reasons already set forth in the General Counsel's Report dated February 2, 1994, we recommend that the Commission deny Respondents' Motion to Dismiss or In the Alternative to Stay based on the NRA decision. See also, General Counsel's Report dated February 17, 1994.

Respondents also argue that this matter should be dismissed because they have been deprived of due process. They premise

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this argument on the following points: the Mericas and the documents they have been provided to the Commission lack credibility; respondents have not been provided access to the documents underlying the Commission's case; the General Counsel's Office is making its recommendations based on an incomplete record; and the former Montana Commissioner of Political practices violated certain state statutes when she provided materials to the FEC.

In considering the meaning of Fifth Amendment due process in the administrative context, the Supreme Court has held:

> [W]hen governmental agencies adjudicate or make binding determinations which directly affect the legal rights of individuals, it is imperative that those agencies use the procedures which have traditionally been associated with judicial process. On the other hand, when governmental action does not partake of an adjudication, as for example when a general fact-finding investigation is being conducted, it is not necessary that the full panoply of judicial procedures be used.

Hannah v. Larche, 363 U.S. 420, 442 (1960). This alone forecloses the MRP's due process claim in this investigatory proceeding. In any event, "[t]he essential requirements of due process . . . are notice and an opportunity to respond." Cleveland Board of Education v. Loudermill, 470 U.S. 532, 546 (1985). Since the MRP has been given an opportunity to present its position to the Commission prior to a probable cause determination, and can present its position to a federal judge before any final order can be imposed, there is no due process violation here.

Respondents also object to the fact that the Commission

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received access to certain documents provided under criminal investigative subpoena, stating that such documents are subject to the secrecy provisions of a grand jury proceeding under state law. While respondents are correct that documents obtained during criminal investigative inquiries by the state of Montana are subject to the secrecy provisions governing grand jury proceedings, another provision of the statute authorizes the disclosure of information obtained during such proceedings to the federal government for use in a federal investigation. Section 46-11-317(1), MCA. These documents were released by the State of Montana pursuant to a subpoena issued by the Commission on on December 4, 1991.

B. Request for Access to Certain Documents and Extension of Time.

Respondents have asked for numerous documents gathered by the Commission during this investigation. They have also asked for additional time to address the substance of any documents with which they are provided. Although it has been more than two months since respondents first received the General Counsel's Brief, they waited until the last day of their time for filing the response to the General Counsel's Brief to request these documents. Only a portion of the delay in making this request can be attributed to the fact that there was a question as to who would represent them at the time the Brief was forwarded to respondents. We note, however, that the Commission has previously voted to grant access to certain documents to other respondents in this matter even though a request was not received

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from those respondents until after the due date for their response to the General Counsel's Brief. Accordingly, we recommend that the Commission vote to grant these respondents access to the same documents previously provided to the National Republican Senatorial Committee and its treasurer.

We also recommend that these respondents be permitted only eight days from the date that the Commission reaches its decision to provide additional comments [1], and that the Commission state that such comments should be limited to issues that arise from respondents' review of the documents in question.

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1. If the Commission voted to provide the documents in question to these respondents, this Office would send them out by Federal Express. Thus, respondents would have a week in which to review the documents and provide the Commission with its comments.

III **GENERAL COUNSEL'S RECOMMENDATIONS**

1. Deny respondents' Motion to Dismiss.

2. Deny respondents' Motion to Hold This Matter in Abeyance.

3. Deny respondents' request for access to the requested documents in their entirety.

4. Provide respondents by overnight mail a copy of those documents that the General Counsel has previously provided to other respondents.

5. Notify respondents that the deadline for filing additional comments is eight days from the date of the Commission's vote, and that such comments should be limited to issues that arise from a review of the documents.

6. Approve the appropriate letter.

3/17/94
Date

Lawrence M. Noble
General Counsel

Attachment
1. MRP's Response to General Counsel's Brief

Staff assigned: Abigail A. Shaine

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Montana Republican State Central Committee and Shirley J. Warehime, as treasurer.	)	MUR 3204
	)	
	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on March 23, 1994, the Commission decided by a vote of 4-1 to take the following actions in MUR 3204:

1. Deny respondents' Motion to Dismiss.

2. Deny respondents' Motion to Hold This Matter in Abeyance.

3. Deny respondents' request for access to the requested documents in their entirety.

4. Provide respondents by overnight mail a copy of those documents that the General Counsel has previously provided to other respondents.

(continued)

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5. Notify respondents that the deadline for filing additional comments is eight days from the date of the Commission's vote, and that such comments should be limited to issues that arise from a review of the documents.

6. Approve the appropriate letter, as recommended in the General Counsel's Report dated March 17, 1994.

Commissioners Elliott, McDonald, McGarry, and Thomas voted affirmatively for the decision; Commissioner Aikens dissented. Commissioner Potter recused himself from this matter and did not cast a vote.

Attest:

3-23-94
Date

Marjorie W. Emmons
Secretary of the Commission

Received in the Secretariat:	Thurs.,	Mar. 17, 1994	5:25 p.m.
Circulated to the Commission:	Fri.,	Mar. 18, 1994	12:00 p.m.
Deadline for vote:	Mon.,	Mar. 21, 1994	4:00 p.m.
Lacked sufficient votes at the time of the deadline.			
Fourth affirmative vote received:	Wed.,	Mar. 23, 1994	3:20 p.m.

bjr

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MARCH 24, 1994

Robert Edd Lee
Attorney at Law
404 North 31st Street
Suite 200
Billings, Montana 59103-7015

RE: MUR 3204
Montana Republican State Central Committee and Shirley J. Warehime, as Treasurer

Dear Mr. Lee:

On January 7, 1994, this Office forwarded the General Counsel's Brief to you, on behalf of your clients, together with a letter advising you that a response to the Brief was due within fifteen days of receipt. On January 19, 1994, your client requested an extension of time to resolve certain issues of representation. On January 25, 1994, this Office sent a letter advising your client that an extension would be granted until March 14, 1994, to resolve the issues of representation and to file a response to the General Counsel's Brief.

On March 14, 1994, your client filed what was characterized as a preliminary response to the General Counsel's Brief. This response also included a motion to dismiss this matter or in the alternative to hold it in abeyance; a request for access to numerous documents; and a request for an extension of time to permit review of the documents and the filing of an additional response to the General Counsel's Brief. On March 23, 1994, the Commission decided to deny the respondents' motion to dismiss and their motion to hold this matter in abeyance. In addition, the Commission voted to deny your clients access to the requested documents in their entirety.

The Commission did, however, vote to provide your clients with the enclosed documents. Further, based on a review of the circumstances of this matter, the Commission has agreed to permit you to file an additional submission, which should be received by the Commission on March 31, 1994. The Commission has stated, however, that you should limit your further submission to issues that arise from a review of the documents which the Commission has provided to you.

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In the course of notifying you by telephone of the Commission's decision, we also discussed the deposition testimony from the civil litigation involving the Mericas on which you had relied in your response to the General Counsel's Brief. I explained to you our previous efforts to obtain copies of the depositions from the Court, and indicated that having copies of the full transcripts of the depositions you cited would help the Commission evaluate your clients' arguments. I suggested that if you could provide the Commission with copies of the deposition transcripts from the civil litigation within approximately the next two weeks, I would ensure that the Commission had the opportunity to review them. As a means of reducing the burden on you of getting them copied and submitted in that time frame, I suggested that you copy only the transcripts, and that I would request specific exhibits if they seemed necessary. I very much hope that you will be able to provide us with the material in question.

If you have any questions, please do not hesitate to contact me at (202) 219-3690.

Sincerely,

Abigail A. Shaine

Abigail A. Shaine
Assistant General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 30, 1994

VIA FACSIMILE AND FIRST CLASS MAIL

Robert Edd Lee
Attorney at Law
404 North 31st Street
Suite 200
Billings, Montana 59103-7015

RE: MUR 3204
Montana Republican State Central Committee and Shirley J. Warehime, as Treasurer

Dear Mr. Lee:

On March 29, 1994, I received your letter requesting an extension of time until April 20, 1994, to respond to the matters raised in the documents sent to you by express mail on March 24, 1994, and to submit the deposition transcripts which you cited in your response to the General Counsel's Brief. You have already been granted multiple extensions. The most recent extension was granted to enable you to comment on documents that you requested from the Commission despite the late date at which you made your request. Accordingly, you are advised that your deadline for filing comments with respect to the documents provided to you at your request currently remains March 31.

I also recommend that if you wish the Commission to consider the information in the deposition transcripts that you assert is helpful to your clients, you make them available to the Commission at the earliest possible date. The Commission is prepared to move to the next stage of this process based on the record as it stands. The Commission's willingness to consider supplemental evidence at this stage will depend upon the progress of this case at that time, as well as your ability to demonstrate good cause why you could not have submitted this information to the Commission at an earlier stage in the investigation.

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With respect to your request for the attachments to the FIFO analyses, the method by which the Audit Division performed the two different analyses is described on page 22 of the General Counsel's Brief. The Commission has determined to send you only the information concerning the FIFO analysis that you have already been provided.

If you have any additional questions, please contact me at (202) 219-3690.

Sincerely,

Abigail A. Shaine

Abigail A. Shaine
Assistant General Counsel

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OGC 747

ROBERT EDD LEE
ATTORNEY AT LAW
200 TRANSWESTERN PLAZA ONE
404 NORTH 31ST STREET
P.O. BOX 7015
BILLINGS, MONTANA 59103-7015
TELEPHONE (406) 245-3113
FAX (406) 259-7125

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March 29, 1994

VIA FAX

Abigail A. Shaine
Assistant General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 3204 (Montana Republican State Central Committee and Shirley J. Warehime, as Treasurer)

Dear Ms. Shaine:

Your letter to me dated March 24, 1994, covering certain documents, arrived last Friday while I was attending a Continuing Legal Education seminar.

Your letter covered copies of the following documents:

1. 11/3/88 Letter, Shanahan to Prestidge (marked D-1).
2. 11/04/88 Letter, Shanahan to Prestidge (marked exhibit #18).
3. 10/13/88 Fax Transmission cover sheet, Foster to Prestidge (marked N000310).
4. 12/12/88 Check No. 1013, with copy of Foster invoice and handwritten note (not marked).
5. 11/16/88 Merica generated tabulation (marked exhibit #19).
6. 7/26/93 Memorandum, Costa to Noble (marked AK003990).

The last item enumerated above consisted of three pages as received by me. Page 3 refers to "Attachment 1--MUR 3204,

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Modified FIFO Analysis, Montana Republican Party, 'Private First.'" The text of the memo at page 2 suggests that more than one analysis was made. I presume the additional analyses also were attachments to the memo.

Could you please send me a complete version of the July 26, 1993 memo, Costa to Noble, with Attachment 1 and any other attachments to the memo?

Your letter confirms that we discussed by telephone the possibility of my forwarding to you portions of the depositions generated in the Merica litigation. I would appreciate the opportunity to gather the deposition transcripts, consult with my clients concerning the matter, and arrange whatever copying might be required. As I mentioned to you, the people involved in this matter on behalf of the Montana Republican Party are widely disbursed and often difficult to contact.

Your letter correctly states that your office forwarded the General Counsel's Brief on January 7, 1994 to the Crowley Law Firm. Since January 1, 1994, I have not been with the Crowley Law Firm. The representational arrangements referred to in your letter, by which I succeeded to the Crowley Law Firm as attorney of record for the Montana Republican Party, were completed only at the end of February 1994. Only at that time was I able to start work on the response which was recently filed. Unfortunately, the logistics associated with moving files between attorneys make it impossible for me to respond to your March 24, 1994 letter in the time set by the Commission.

I request an extension of time until April 20, 1994 to receive a complete Item 6, circulate your letter and documents, consult with people in Montana, and respond to the matters raised by your letter.

Very truly yours,

Robert Edd Lee

REL/ajr

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 3204
Montana Republican State Central Committee and Shirley G. Warehime, as Treasurer	)	

SENSITIVE

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On January 7, 1994, this Office forwarded the General Counsel's Brief to respondents. Respondents filed a timely request for an extension of time in order to permit them to determine which lawyer would represent them. On January 19, 1994, this Office granted respondents an extension of time until March 14, 1994, both to resolve their issues of representation and to file a response to the General Counsel's Brief.

On March 14, 1994, respondent filed what it characterized as a preliminary response to the General Counsel's Brief. This response included a motion to dismiss this matter or in the alternative to hold it in abeyance; a request for access to numerous documents; and a request for an extension of time to permit review of the documents and the filing of an additional response to the General Counsel's Brief.

The Commission denied respondents' motion to dismiss and their motion to hold this matter in abeyance. It further denied respondents' access to the requested documents, but granted access to specific documents, which were sent to respondents by Federal Express on March 24, 1994. Finally, the Commission granted the request to file an additional submission, but restricted that

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submission to issues that arise from a review of the documents provided. The Commission established a schedule that required respondents to file their supplemental response on March 31, 1994.

In its March 14, 1994, submission, respondents relied upon deposition testimony taken in a related civil case in Montana. Respondents first discussed the existence of those deposition transcripts with staff from this Office in 1991, but have never submitted them to the Commission. After respondents cited selectively to the transcripts in their response to the General Counsel's Brief, this Office sought, unsuccessfully, to obtain such copies directly from the Montana court. This Office then requested that if respondents wished to have the Commission consider the transcripts, counsel arrange to have the six depositions copied and provided to the Commission within two weeks of receipt of the letter.[1] Attachment Two.

By letter dated March 29, 1994, respondents requested an extension of twenty days, until April 20, 1994, in which to file its supplemental response to the General Counsel's Brief and to produce the deposition transcripts. Attachment One.

II. ANALYSIS

Respondents were sent the General Counsel's Brief on January 7, 1994. They were advised on January 25 that they were being granted a forty-five day extension to permit them to resolve their representation problems and to file a brief. It was then

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1. Respondents' counsel indicated that the exhibits were voluminous. In an effort to reduce the burden on counsel, this Office agreed that, after reviewing the transcripts, it would request copies of the exhibits as needed.

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respondents' responsibility to resolve the question of who would represent them in time to fully prepare a response to the General Counsel's Brief.

Respondents have already received two extensions totaling 62 days, and yet have failed to file what they consider to be a final response to the General Counsel's Brief. Indeed, the most recent extension was provided to respondents to enable them to comment on documents that they requested. The Commission should deny respondents' request for an additional extension of time in which to file their comments on the documents they requested.

Respondents were parties to the civil litigation involving the deposition testimony on which they now seek to rely. They have been aware that the deposition transcripts in the related civil litigation might assist the Commission's investigation since at least 1991. The burden should rest on respondents to provide what they argue is exculpatory information to the Commission at a time that will not further delay this investigation. Therefore, we recommend that the Commission advise respondents that the Commission will consider the transcripts only if they are provided before the Commission reaches the next stage of the investigation.

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III. **RECOMMENDATIONS**

1. Deny respondents' request for additional time in which to file its response to the General Counsel's Brief and in which to produce the requested deposition transcripts.

2. Approve the appropriate letter.

Lawrence M. Noble
General Counsel

3-31-94
Date

BY: Lois G. Lerner
Associate General Counsel

Attachments
1. Letter from Robert Edd Lee of March 29, 1994.
2. Letter from Abigail A. Shaine of March 24, 1994.

Staff Assigned: Abigail A. Shaine

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Montana Republican State Central Committee and Shirley G. Warehime, as treasurer.	)	MUR 3204

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on April 5, 1994, the Commission decided by a vote of 5-0 to take the following actions in MUR 3204:

1. Deny respondents' request for additional time in which to file its response to the General Counsel's Brief and in which to produce the requested deposition transcripts.

2. Approve the appropriate letter, as recommended in the General Counsel's Report dated March 31, 1994.

Commissioners Aikens, Elliott, McDonald, McGarry, and Thomas voted affirmatively for the decision. Commissioner Potter recused himself from this matter and did not cast a vote.

Attest:

4-5-94
Date

Marjorie W. Emmons
Secretary of the Commission

Received in the Secretariat: Thurs., Mar. 31, 1994 11:17 a.m.
Circulated to the Commission: Thurs., Mar. 31, 1994 4:00 p.m.
Deadline for vote: Tues., Apr. 05, 1994 4:00 p.m.

bjr

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 6, 1994

VIA FACSIMILE AND FIRST CLASS MAIL

Robert Edd Lee
Attorney at Law
404 North 31st Street
Suite 200
Billings, Montana 59103-7015

RE: MUR 3204
Montana Republican State Central Committee and Shirley J. Warehime, as Treasurer

Dear Mr. Lee:

On March 29, 1994, I received your letter requesting an extension of time until April 20, 1994, to respond to the matters raised in the documents sent to you by express mail on March 24, 1994, and to submit the deposition transcripts which you cited in your response to the General Counsel's Brief. On April 7, 1994, the Commission voted to deny your clients' request for additional time in which to file a further response to the General Counsel's brief and to produce the requested deposition transcripts. The Commission has asked that you be advised that the Commission will consider the deposition transcripts only if they are provided to the Commission before it reaches the next stage of this investigation.

Sincerely,

Abigail A. Shaine

Abigail A. Shaine
Assistant General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION 94 JUL 6 12 28 PM '94

In the Matter of

National Republican Senatorial Committee and Sonya M. Vasquez, as treasurer
Republican National Committee and William J. McManus, as treasurer;
Montana Republican State Central Committee and Shirley J. Warehime, as treasurer;
Conrad Burns/US Senate and Jim Swain, as treasurer

SENSITIVE

MUR 3204

GENERAL COUNSEL'S REPORT

I. STATEMENT OF THE CASE

This matter was initially generated by a complaint (MUR 3087) filed on July 13, 1990, by Kelly Addy, Speaker Pro Tempore of the Montana House of Representatives. On December 20, 1990, Common Cause filed a complaint (MUR 3204) that made almost identical allegations.

On May 21, 1991, the Commission found reason to believe that: the National Republican Senatorial Committee and its treasurer ("NRSC"), violated 2 U.S.C. §§ 441a(f), 441a(h), 434(b) and 439(a); the Montana Republican State Central Committee and Shirley J. Warehime, as treasurer ("the MRP") violated 2 U.S.C. §§ 441a(f), 441d, and 434(b); Conrad Burns/US Senate and Jim Swain as treasurer ("Burns Committee), violated 2 U.S.C. § 441a(f); and the Republican National Committee ("RNC") and William J. McManus, as treasurer, violated 2 U.S.C. §§ 441a(f) and 434(b). The Commission also determined to merge MUR 3087 with MUR 3204. See General Counsel's Report dated May 6, 1991. On June 10, 1992, this Office also received a referral

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(Pre-MUR 263) from the Montana Commission of Political Practices.

During the course of this investigation, this Office has gathered extensive information from responses to interrogatories and document requests and from responses to the General Counsel's Brief.[1] This Office also received affidavits from Terry and Neida Merica,[2] and interviewed the Montana Commissioner of Political Practices and the Montana Commission's special prosecutor for background information. With the Commission's approval, this Office also requested a modified FIFO analysis from Audit to determine the extent to which it would not have been possible for the MRP to produce and mail certain mailings during the 1988 election cycle without an infusion of funds from the NRSC.[3]

This Report contains recommendations to ensure that this matter conforms to the court's opinion in FEC v. NRA Political Victory Fund, 6 F.3d 821 (D.C. Cir. 1993), cert. granted, (U.S. No. 93-1151, June 20, 1994).

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1. No response to the General Counsel's Brief was received from the NRSC.

2. Terry and Neida Merica are both former employees of the Montana Republican Committee. During the period of the events in question, Terry Merica was employed as Executive Director of the Montana Republican Party, while his wife, Neida Merica, was employed as administrative secretary. The Mericas filed a civil suit in 1989 against MRP, NRSC, and certain individuals, alleging that they were fired from their jobs unjustly because they complained to officials from MRP and the NRSC about expenditures made on behalf of Conrad Burns. Their civil suit was settled in late 1992.

3. The modified FIFO analysis utilizes the standard First-in, First-out approach to establish the availability of non-national party funds during the period of the expenditures in question.

II. RECOMMENDED ACTIONS IN LIGHT OF FEC V. NRA

Consistent with the Commission's November 9, 1993 decisions concerning compliance with the NRA opinion, this Office recommends that the Commission ratify its decisions to find reason to believe that: the NRSC and its treasurer violated 2 U.S.C. §§ 441a(f), 441a(h), 434(b) and 439(a); the MRP and Shirley J. Warehime, as treasurer, violated 2 U.S.C. §§ 441a(f), 441d, and 434(b); the Burns Committee and its treasurer violated 2 U.S.C. § 441a(f); and the RNC and William J. McManus, as treasurer, violated 2 U.S.C. §§ 441a(f) and 434(b). This Office also recommends that the Commission ratify its approval of the Factual and Legal Analyses that were attached to the General Counsel's Report dated May 6, 1991, subject to revisions approved by the Commission during the Executive Session on May 21, 1991. This Office has attached the certifications in this matter dated May 22, 1991, and November 5, 1992 (merger of Pre-MUR 263) for the Commission's information. (Attachment 1).

III. ANALYSIS OF THE MAILINGS

The Commission found reason to believe that the MRP violated 2 U.S.C. § 441a(f) by using funds transferred from the NRSC to pay for direct mail activity on behalf of the Burns campaign, which resulted in the limits in 2 U.S.C. § 441a(d) being exceeded. The Commission also found reason to believe that the MRP violated 2 U.S.C. § 441d by failing to include a disclaimer stating whether the mailings were authorized by the candidate. In addition, because the MRP did not properly report the transfers of the funds used for the mailings from the NRSC, the

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Commission found reason to believe that the MRP violated 2 U.S.C. § 434(b).

The Commission also found reason to believe that the NRSC violated 2 U.S.C. § 441a(f) by making coordinated party expenditures on behalf of the Burns campaign which exceed the limits in 2 U.S.C. § 441a(d). The Commission took this step because of the information suggesting that the NRSC controlled the use of its funds by MRP for the mailings in question. See First General Counsel's Report, May 6 1991, p. 33 n. 5. These excessive coordinated expenditures, in part, consisted of direct mailings on behalf of the Burns campaign. The Commission also found reason to believe that the NRSC had violated 2 U.S.C. § 434(b).

A. The Law

The Federal Election Campaign Act of 1971, as amended ("the Act"), provides that no multicandidate political committee, including a state party committee, may make contributions in excess of $5,000.00 per election to a candidate for federal office.[4] 2 U.S.C. § 441a(a)(2)(A). The Act permits additional expenditures by the national party committee and state party committees on behalf of candidates for federal office in the general election, but limits those expenditures according to a

4. The Act defines contributions to include any gift of money, services or anything of value made for the purpose of influencing any federal election. 2 U.S.C. § 431(8)(A)(i). Commission regulations explain that "anything of value" includes any in-kind contribution or any gift of goods or services at less than the usual and normal charge for such goods or services. 11 C.F.R. § 100.7(a)(1)(iii).

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formula set out in 2 U.S.C. § 441a(d)(3)(A). See also, 11 C.F.R. § 110.7(b).[5] Annual increases in 2 U.S.C. § 441a(d) expenditure limitations are based on the percentage of increases in the consumer price index, as certified by the Secretary of Labor. 2 U.S.C. § 441a(c); 11 C.F.R. § 110.9(c). For 1988, the expenditure limitation under 2 U.S.C. § 441a(d) for Montana for the U.S. Senate election was $46,100 for the state party committee and $46,100 for the federal party committees. The federal and state political party committees may authorize each other to make these coordinated party expenditures. 11 C.F.R. § 110.7(a)(4); DSCC v. FEC, 454 U.S. 27 (1980). Commission regulations further provide that national, state and local party committees cannot make expenditures independent of a candidate to advocate that candidate's election or defeat. 11 C.F.R. § 110.7(b)(4).[6]

B. Analysis[7]

The discussion below analyzes the facts gathered during the investigation with respect to the MRP's mailings on behalf of the Burns campaign, discusses the alleged violations of the FECA, and

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5. The regulations cited throughout this section are the regulations which were in effect in 1988. Thus, the regulations cited may differ from the current regulations.

6. For an additional discussion of the pertinent law, see the General Counsel's Brief sent to the National Republican Senatorial Committee (hereinafter referred to as the "NRSC General Counsel's Brief" at 2-7).

7. As previously noted, the Commission obtained information from this investigation from many external sources. An extensive discussion of the information obtained during the investigation can be found at the NRSC General Counsel's Brief at 7-26.

addresses the arguments raised by the MRP in their reply to the General Counsel's Brief sent to the MRP (hereinafter "the MRP General Counsel's Brief").[8] Based on this analysis, this Office recommends that the Commission find that there is probable cause to believe that both the NRSC and the MRP knowingly and willfully violated 2 U.S.C. § 441a(f) by exceeding the limits established under 2 U.S.C. § 441a(d) by $139,372.26 and $135,000 respectively. This Office also recommends that the Commission find that there is probable cause to believe that the NRSC and the MRP knowingly and willfully violated 434(b).

1. Expenditures for the mailings were subject to the section 441a(d) limits.

Both the NRSC and the MRP have maintained throughout this investigation that the mailings in this matter were not expenditures under the Act, and thus were not subject to the 441a(d) limits. Specifically, the NRSC has argued that the funds were transferred to the MRP for general administrative and overhead expenses. Similarly, the MRP has maintained, as recently as its response to the General Counsel's Brief, that Mr. Merica's statements that the NRSC funds were intended to be used for the Burns mailings was not credible because party officers understood that those funds were to be segregated, and only used for administrative and overhead expenses. (Attachment 10 at 25). Both have also made arguments that, absent evidence that national funds were used to pay for the mailings, payment for the mailings

8. The analyses in the NRSC and MRP General Counsel's Briefs are incorporated herein by reference.

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would have qualified for the volunteer exemption from the definition of a contribution.[9]

These arguments are flawed. The fact that national party funds were used to pay for the Burns mailings is by itself sufficient to keep the payment for those mailings from qualifying for the volunteer exemption from the definition of a contribution. 11 C.F.R. § 100.7(b)(15)(vii). Information obtained during this investigation describes transfers of funds from the NRSC to the MRP. For example, a November 16, 1988 letter from the MRP to Ms. Ann Prestidge indicates that the NRSC had transferred a total of $178,145 to the MRP. (Attachment 8). The Commission also obtained an accounting ledger which Mrs. Merica has stated was designed to track the amount of funds transferred by the NRSC to the MRP and to reflect how the funds were spent. (Attachments 3 and 14). According to Mrs. Merica, the letter "S" marked those funds which were transferred by the NRSC to the MRP.

The information obtained also enables the Commission to determine approximately how much of the money transferred by the NRSC to the MRP was actually spent by the MRP on Burns mailings.

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9. The NRSC filed a Motion to Dismiss this Matter or Hold It In Abeyance, which was denied by the Commission on February 3, 1994. The NRSC's Motion for Reconsideration was denied by the Commission on February 18, 1994. On February 23, 1994, the NRSC filed a motion for a preliminary injunction in the United States District Court for the District of Columbia to prevent the Commission from completing its pending proceeding. The court denied the motion and dismissed the action on ripeness grounds. National Republican Senatorial Committee v. Federal Election Commission, No. 94-332 (TPJ), (D.D.C. dismissed May 11, 1994); appeal filed, No. 94-5148 (D.C.Cir. May 31, 1994).

The November 16, 1988 letter indicates that approximately $140,000 was spent on production, copying, and mailing of the mailings in question. (Attachment 8).[10] The total amount of expenses reflected in the ledger appears to be about the same as the amount in the November 16, 1988 letter.[11]

Indeed, in answering the Commission's interrogatories even the MRP explicitly admitted that funds received from the NRSC "may have been used to pay for mailings or mailing materials." (Attachment 11 at 10). Nor did the MRP suggest otherwise in their response to the General Counsel's Brief. The MRP argued only that officers other than the Mericas knew that this was not the purpose for which the money was intended.

The Commission's Audit Division analyzed the state party's expenditures, and confirmed that the MRP would not have even had enough money to pay for certain of the MRP's mailings for Conrad

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10. Indeed, this figure may be a very conservative estimate. At the bottom of the page, a notation indicates that the MRP still owed James Foster and Associates more than $24,000.

11. According to Mrs. Merica, the letters "CB," which appear beside certain entries in the ledger, were intended to identify transactions made with NRSC funds to spend on the Burns campaign. (Attachment 3). The estimate of funds expended on the Burns mailings reflected in the ledger was calculated by adding the amounts specified for those entries for mailing, copying, and postage for Burns campaign mailings, which were marked "CB," together with the amounts of those entries which this office can verify from other documents as amounts originating from the NRSC that were spent for Burns mailings.

The response of Foster and Associates, the company that did the mailings in question, to the Commission's discovery requests indicated that MRP paid Foster a total of $114,884.86 for 596,556 pieces of printed material, most of which was for the Burns mailings. When the postage charges are added to this amount, this would also bring the total costs to the $140,000 range.

Burns without the NRSC's infusion of national party funds. (Attachment 18). Based on the MRP's bank statements, its Federal Election Account, its Victory '88 account, and invoices relating to expenditures made by the MRP from August 8 through December 20, 1988, Audit performed two FIFO (First-in-First out) analyses.[12] The first analysis assumed that the MRP expended available non-national party funds for payments to Foster and Associates and for postage before expending funds transferred by NRSC. This analysis confirmed that, between October 27, 1988, and November 2, 1988, it would not have even been possible for the MRP to pay $41,270.80 in targeted expenditures for Foster and Associates mailings and postage. According to the second analysis, which assumed that funds expended for payments to Foster and Associates and postage were from transferred funds from NRSC, and that these funds were expended before the MRP's non-national party funds, $36,439.02 of the MRP's expenditures during this time period could not have been paid by the MRP

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12. The modified FIFO analysis utilized the standard First-in, First-out approach to establish the application of funds until the dates of the expenditures in question. Then, the pool of funds available on the date of the expenditure is calculated to determine whether sufficient non-national funds were available to cover the expenditure in question. If sufficient non-national funds exist, then it is presumed that national committee (NRSC) funds were not used to make the expenditure. In order to evaluate instances where both national committee funds and non-national committee funds were received on the same date, the analysis was performed twice, first, assuming that if national committee funds and non-national committee funds were received on the same date, the latter were expended first, and second, assuming the former were expended first.

without using funds from the NRSC. [13]

Moreover, no respondent has disputed this Office's position that these mailings could not qualify as get-out-the-vote material because the expenditures were made on behalf of a clearly identifiable candidate and were required to be attributed to that candidate.[14] See A.O. 1984-15. The mailings in question all appear to have had the purpose of influencing the outcome of the general election between Conrad Burns and John Melcher through mailings that depict a clearly identified candidate and convey an electioneering message. See A.O. 1984-15.[15] Therefore, the cost of these mailings would clearly count as expenditures under 2 U.S.C. § 441a(d).[16]

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13. For a more detailed discussion of the analysis performed by the Audit Division, see, NRSC General Counsel's Brief at 21-23.

14. For a detailed description of some examples of the mailings in question, see NRSC General Counsel's Brief at 17-20. The mailings discussed in the Brief appear as Attachments 15-17. The other mailings appear as Attachment 31.

15. One recent district court decision identifies a different standard for measuring whether expenditures by party committees should count against the committee's 441a(d) limit. In FEC v. Colorado Republican Federal Campaign Committee, et al., Civil Action No. 89-N-1159 (D.D.C. August 30, 1993), appeal pending, (10th Cir. 1994), the district court concluded that in order to find that a communication is "in connection with" the general election campaign and subject to section 441a(d)(3) limitations, the communication must constitute express advocacy. At this point this decision is of limited applicability as it is a decision by one district court and the Commission has appealed this decision. Nevertheless, even if the mailings in question here were analyzed in accordance with the decision, these mailings would constitute express advocacy and would be subject to the 441a(d)(3) limitations.

16. Further, neither the MRP nor Mr. Foster have been able to provide the Commission with any documentation verifying the use of volunteers for these mailings; nor have they offered affidavits to this effect. In its response to the General

The NRSC was permitted to contribute $17,500 to the Burns Senate campaign under 441a(h). The NRSC also was entitled to expend $46,100 under 441a(d), as well as the $46,100 441a(d) MRP expenditure limit which the MRP had authorized the NRSC to expend. Thus, the NRSC was entitled to expend a total of $92,200 in coordinated party expenditures pursuant to 2 U.S.C. 441a(d). The NRSC reported spending $91,494.72 in coordinated expenditures and $17,477.54 in contributions to the Burns Committee for the 1988 election, without taking into account the expense of these mailings. This left the NRSC with a balance of only an additional $627.74 to spend on the Burns campaign. Nonetheless, the documentary evidence obtained, which was confirmed by the Mericas' affidavits demonstrates that these mailings were paid for with approximately $140,000 of NRSC funds.

2. **The NRSC and MRP were involved in a scheme to knowingly and willfully circumvent the section 441a(d) limits.**

Although the NRSC denied that NRSC funds were transferred to the MRP to pay for the Burns mailings, the contemporaneous documents obtained during this investigation, as well as the Mericas' affidavits, tell a very different story. The information demonstrates that the NRSC was directing both the production of the Burns mailings and the way in which the MRP was

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(Footnote 16 continued from previous page)
Counsel's Brief, the MRP stated only that Mr. Merica would not have been aware of the extent of volunteer activity with respect to these mailings because he did not ever visit the office at which most of the volunteer activity took place. (Attachment 10 at 13). For an additional discussion of the information gathered with respect to this issue, see MRP General Counsel's Brief at p. 8.

reporting the expenditures for these mailings. The Mericas' sworn affidavits explicitly stated that the NRSC was using the MRP as a conduit for Burns mailings. They described instances in which they received specific instructions from Ms. Prestidge, a field coordinator for the NRSC, to pay Foster & Associates bills without seeing the mailings. (Attachments 2 and 3). The Mericas also expressly stated that Ms. Prestidge had a role in the preparation of the mailings. In support of this claim they have provided such evidence as a cover to a facsimile requesting Ms. Prestidge to review and comment on a mailing advocating the election of Conrad Burns. (Attachment 6).

A memorandum in Ms. Prestidge's own handwriting also evidences her involvement in at least five of the MRP's Burns mailings. In this document Ms. prestidge addresses the question whether there is sufficient money in the Billings post office account to pay for postage for several of the Burns mailings produced by Foster and Associates for the MRP, and paid for with NRSC funds. (Attachment 17a).

In addition, a handwritten memo, dated December 12, 1988, addressed to Mr. Merica from Mr. Shanahan, stated "[I] think Barbara should sign this Foster check, since it was Ann Prestidge's idea." A copy of a check in the amount of $9,604.85 payable to Foster and Associates along with a copy of a November 3, 1988 invoice from Foster and Associates were enclosed with this memo. The invoice was numbered 578, and indicated that a

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total of $9,604.85 was due for additional printing.[17] (Attachment 7).

It is also noteworthy that several monetary transfers made by the NRSC to the MRP coincided with the amounts and dates of payments to Foster and Associates from the MRP. On October 27, 1988, the MRP received a $49,000.00 transfer from the NRSC, while on October 28, 1988, the MRP made a $60,533.00 wire payment to Foster and Associates for mailings. On October 31, 1988, the MRP received a $20,000 transfer from the NRSC. On the same day, the MRP made two disbursements of the same amount ($4,891.44) to the Billings Postmaster, totaling $9,782.88. In addition, on November 1, 1988, the MRP made a payment of $32,793.00 to Foster and Associates. On the very next day, the NRSC transferred $32,110.00 to the MRP, an amount very close to what the MRP paid to Foster and Associates.

Mrs. Merica also described instructions she received from Ms. Prestidge to report expenditures for the Burns mailings as operating expenditures rather than as coordinated party expenditures and to designate certain tasks as having been performed by volunteers. Her affidavit indicated that someone from the NRSC reviewed the MRP's reports before they were filed. (Attachment 3).

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17. Foster and Associates noted in its response that it received a payment of $9,604,85 for additional printing on some of the mailings in questions.

The Mericas have provided this office with a letter written by MRP counsel cautioning Ms. Prestidge about giving directions to the Mericas and other MRP staff, as well as about movement of funds in and out of MRP accounts. (Attachment 4).

Other information obtained during this investigation indicates that the NRSC was closely monitoring the funds that it transferred. For example, a November 16, 1988 memorandum from Mrs. Merica to Ms. Prestidge describes the way in which NRSC funds were being spent. (Attachment 8). Mr. Merica also stated that his wife was often asked to account to the NRSC for the expenditure of its funds. (Attachment 2). The MRP ledger, which in part tracks the extent to which NRSC funds transferred to the MRP were expended for Burns' campaign is additional evidence that Mrs. Merica was acting pursuant to an understanding that she should track the usage of the funds.

Taken together, this information, together with the fact that the NRSC reported spending virtually the full amount that it was permitted, provides strong evidence that the NRSC was transferring funds for use in the mailings, directing the MRP to use these funds for the Burns mailings, and ensuring that the MRP's reports did not properly disclose the nature of these expenditures. The documents also indicate that the MRP's officials, such as Barbara Campbell, the chairperson of the MRP, Ward Shanahan, counsel to the MRP, and the Mericas were active participants in this scheme.

In their response to the General Counsel's Brief (Attachment 10), the MRP's principal attack on this Office's understanding of the events in question consisted of an attack on the Mericas' credibility. An integral part of their attack involves deposition testimony from a civil suit filed by the Mericas for

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wrongful termination by the MRP.[18] The MRP cited depositions from that case in which the MRP states that Mr. Merica admitted to funneling party funds to his own personal checking account during the litigation involving his termination. The MRP asserts that the Mericas' accusations about irregularities in the relationship between the MRP and the NRSC arose in part because of a grudge that Mr. Merica developed against an officer of the MRP whom Mr. Merica thought wished to fire him. The MRP also asserts that Mr. Merica's statements about financial irregularities at the time of the events in question were based mostly on his goal of continuing his employment, and the hope that the MRP would need to employ him to straighten out the party's finances. The MRP states that the documents prepared by the Mericas which appear to support this Office's recommendations, were actually created by the Mericas for the sole purpose of supporting their story. With regard to the document from the MRP's legal counsel, Mr. Shanahan, which would appear to support the Commission's previous findings, the MRP states that Mr. Shanahan was simply reacting to Mr. Merica's characterization of the NRSC's conduct, and that Mr. Merica misled Mr. Shanahan.

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18. This Office attempted to obtain copies of the deposition transcripts from the Court in which the proceeding was held, but determined that the lawyers for each party to the litigation had retained the transcripts. This Office then attempted to obtain copies of the transcripts from the MRP, who sought to rely on the deposition transcripts. The MRP was asked to provide the information to the Commission by approximately April 7, 1994, if possible. The Commission denied an extension of time to produce the deposition transcripts, but indicated that it would consider the information if it was received before the Commission reached the next stage of this investigation. To date, no copies of the transcripts have been received.

The MRP provided little evidence to support their assertions that the Mericas' statements in this investigation have not been truthful. There were no affidavits attached to the MRP's response. Nor at any time during this investigation has the MRP provided this Office with copies of the deposition transcripts from the Mericas' civil suit which, they assert, would establish that the Mericas are not credible, choosing instead to quote selectively from the transcripts in question. Further, even the MRP's descriptions of Mr. Merica's deposition testimony does not indicate any direct contradiction between his statements in those depositions and the statements the Mericas made in their affidavits submitted to this Office.

As noted above, the NRSC did previously submit an affidavit from Ms. Prestidge stating that the NRSC's transfers to the MRP were made for the purpose of assisting in administrative and general overhead expenses. (Attachment 12). Even after this Office provided the NRSC with certain documents that appear to contradict Ms. Prestidge's affidavit, the NRSC chose not to take advantage of the opportunity the Commission gave the NRSC to comment on these documents, choosing instead to take the Commission to Court in an effort to stop the investigation.

Thus, on balance, this Office believes that the detailed sworn affidavits from the Mericas, confirmed by what appear to be contemporaneous documents, support a conclusion that the NRSC and the MRP were involved in a joint scheme to deliberately evade the section 441a(d) limits through transfers of approximately $140,000 from NRSC funds reported as having been used for MRP

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administrative expenses when they were actually used to fund mailings on behalf of Burns. Further, acting pursuant to NRSC instructions, the MRP deliberately misreported these mailings as having qualified for the volunteer exemption.

4. Conclusions

Based upon the foregoing, this Office recommends that the Commission find probable cause to believe: that the MRP knowingly and willfully violated 2 U.S.C. § 441a(f) by exceeding its limits under 2 U.S.C. § 441a(d) by $135,000[19]; and that the NRSC knowingly and willfully violated 2 U.S.C. § 441a(f) by exceeding its limits under 2 U.S.C. § 441a(d) by $139,372.26.[20] In addition, this Office recommends that the Commission find probable cause to believe that both the NRSC and the MRP knowingly and willfully violated 434(b) by misrepresenting the expenditures in question.

C. Lack of Disclaimer

The Commission found reason to believe that MRP violated 2 U.S.C. § 441d by failing to include a disclaimer stating

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19. This amount is calculated as follows. First, the evidence establishes that there is probable cause to believe that the NRSC transferred approximately $140,000 to the MRP for use in the Burns mailings. Since the MRP had delegated all of its authority to contribute to the Burns campaign to the national party committee except for its ability to contribute $5,000 as a multicandidate political committee, this resulted in an excessive contribution of $135,000.

20. This amount is calculated as follows. The NRSC was entitled to spend a total of $92,200 in coordinated party expenditures on this campaign pursuant to 2 U.S.C. § 441a(d) (the MRP had delegated its 441a(d) limit). The NRSC reported spending $91,494.72, leaving the NRSC with $627.74 in additional funds that could have properly been expended on Burns mailings.

whether the mailings were authorized by the candidate. The Commission only found reason to believe against MRP, since payments for these mailings were made from its accounts, even though NRSC's funds were used to paid for the mailings. The mailings in this matter carried the following disclaimer: "Paid for by the Montana State Central Committee."

In the General Counsel's Brief sent to the MRP (hereinafter referred to as the "MRP General Counsel's Brief"), this Office set forth its reasons for recommending probable cause to believe that the MRP violated 2 U.S.C. § 441d. (MRP General Counsel's Brief at 28-29). The arguments in the MRP's response to the MRP General Counsel's Brief regarding whether the mailings in question constituted expenditures (see Attachment 10), and this Office's reasons for concluding that these mailings did constitute expenditures have been set forth in detail in the previous section, as well as in the MRP General Counsel's Brief at 17-28. The MRP's response to the General Counsel's Brief did not dispute this Office's position that the mailings in question expressly advocated the election of Conrad Burns.

Accordingly, the General Counsel recommends that the Commission find probable cause to believe that the Montana Republican Party violated 2 U.S.C. § 441d by failing to include a proper disclaimer stating whether the mailings were authorized by the candidate.

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III. EMPLOYEES' SALARIES

The complaint filed by Common Cause in this matter alleged that three individuals paid by the MRP, Ken Knudson, Elwood English and Tom Hannah, were actually employees of the NRSC. The complaint further alleged that these individuals, though paid by the MRP, were working for the election of Conrad Burns, and that they were under the direction and control of the NRSC. The salaries of these individuals were listed as expenditures on reports filed by the MRP. However, neither the MRP nor the NRSC reported any of the salaries as coordinated expenditures.[21]

The MRP General Counsel's Brief contained recommendations stating that there is probable cause to believe that the MRP violated 2 U.S.C. §§ 441a(f) and 434(b) by exceeding its section 441a(d) limits by an additional $2,500 for Mr. Knudson's salary and for failing to report that portion of his salary as additional coordinated party expenditures. (MRP General Counsel's Brief at 30-33).[22] The MRP's response to the brief disputed this recommended finding. The MRP denied that Mr. Knudson's primary responsibility was to assist in the Burns campaign. The MRP asserted that if Mr. Knudson said otherwise, it was only because he was not given a sufficient opportunity to describe the allocation of his responsibilities. The MRP argued

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21. The applicable law is set forth in the MRP General Counsel's Brief at 3-7 and 29, and in the NRSC General Counsel's Brief at 2-7 and 27).

22. This Office did not make the same recommendation with respect to either Mr. English or Mr. Hannah. Mr. English's response to the Commission's discovery is included as Attachment 20).

further that Mr. Knudson's primary responsibility was to supervise volunteer activities, and that these duties might have led him to believe that he was engaged in the election of Conrad Burns as well. (Attachment 10 at 26-27; see also Attachment 11).

The MRP's denials notwithstanding, Mr. Knudson's response to the Commission's interrogatories was quite unequivocal that his responsibility was to assist in the election of state and federal candidates, and that the campaign on Conrad Burns was his primary responsibility. Mr. Knudson also stated that the work he performed for Conrad Burns was "extensive" during the period in question (Attachment 19).

Accordingly, there is probable cause to believe that the MRP violated 2 U.S.C. §§ 441a(f) and 434(b) by exceeding its section 441a(d) limits by an additional $2,500 and for failing to report the additional coordinated party expenditures. In this instance we do not recommend that the amount of Mr. Knudson's salary be added to the amount by which the NRSC exceeded its 441a(d) limitations in violation of section 441a(f) or the amount of its 434(b) violations. This Office does not have the same evidence of control by the NRSC with respect to Mr. Knudson's that we have with respect to the Burns mailings. Nor do we recommend that this finding with respect to the MRP be knowing and willful.

IV. Daily Tracking Polls

On May 21, 1991, the Commission found reason to believe that the NRSC and its treasurer violated 2 U.S.C. § 441a(f) by making excessive coordinated expenditures on behalf of the Burns Committee and 2 U.S.C. § 434(b) by failing to accurately report

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these expenditures. The Commission also found reason to believe that the RNC and its treasurer violated 2 U.S.C.§ 434(b) by failing to properly report the in-kind contributions or coordinated party expenditures.[23] In its response to the RNC General Counsel's Brief, as it had in previous submissions, the RNC focused on the question whether the NRSC reimbursed the RNC for the costs of the poll advanced by the RNC to the Gary Lawrence Company on the NRSC's behalf. (Attachment 24). In support of its response, the RNC submitted an affidavit from Michelle Davis, the Executive Director of the RGA at the time of the transaction in question. Ms. Davis' affidavit indicates that, while it was not unusual for one campaign to "piggyback" on the polling efforts of another campaign, it was always the practice of the RGA to ensure that each organization paid its proportionate costs. Ms. Davis also denies that the RGA would have had access to the results of any polls other than those for which it had paid.[24]

An additional affidavit from Mark Braden, Chief Counsel of the RNC at that time, states that it would have been routine for the RNC to have approved a survey in which all the participating entities would have shared the cost. He also stated that it was

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23. The applicable law is set forth in section II. A above, in the NRSC's General Counsel's Brief at 2-7 and 31-32, and in the Republican National Committee's General Counsel's Brief (hereinafter referred to as the "RNC General Counsel's Brief" at 2-3). A further description of the pertinent information obtained during this investigation can be found in the NRSC General Counsel's Brief at 32-35 and the RNC General Counsel's Brief at 4-8. (See also, Attachments 21-24 and 29-30).

24. See similar affidavit appended at Attachment 30.

entirely possible that the RNC would have paid the vendor for the polls in question in this matter, with the expectation that the NRSC would reimburse the RNC at a later time.

This Office's recommendation is not based on the suggestion that the RNC and the NRSC varied from the usual practice which would have ultimately resulted in the reimbursement by the NRSC of the RNC of the appropriate portion of the polling costs. Whether or not the NRSC ultimately reimbursed the RNC for these poll results, the RNC's act of advancing the costs of these poll results on behalf of the NRSC for tracking poll results that were provided to Burns constituted a contribution to the Burns campaign. When the Burns Committee received the tracking results, it received the relative benefit of the $33,100 payment advanced by the RNC for the costs of two-thirds of the daily tracking poll which related to the Senatorial race. Accordingly, there is probable cause to believe that the Republican National Committee and William McManus, as treasurer, violated 2 U.S.C. § 441a(f) by making coordinated party expenditures on behalf of the Burns Committee $33,100 in excess of those permitted under section 441a(d) and 2 U.S.C. § 434(b) by failing to properly report the payments to GLC for the Senatorial portion of the tracking polls as coordinated party expenditures.

The RNC states that it was standard procedure for the RNC and the RGA to ensure that any organization responsible for including questions in a poll incurred the proportionate costs of the

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poll.[25] Thus, the RNC indicates that it would have sought and received reimbursement from the NRSC for the portion of the questions which the NRSC included in the poll. The RNC also states that there were more than a sufficient amount of transfers of funds by the NRSC to the RNC near the time of this transaction to cover the costs of the polling. By reimbursing the RNC for the portion of the poll that dealt with the Senatorial campaign, the NRSC made excessive coordinated party expenditures on behalf of the Burns Committee. Accordingly, there is probable cause to believe that the NRSC violated 2 U.S.C. § 441a(f) by making excessive coordinated party expenditures of $33,100 on behalf of the Burns Committee and 2 U.S.C. § 434(b) by failing to properly report the reimbursement payment to the RNC for the two-thirds of the tracking poll which related to the Senatorial campaign as coordinated party expenditures.

V. VOTER IDENTIFICATION PROJECT

During the 1988 campaign, the NRSC spent approximately $130,000 on the development and enhancement of voter lists to assist Republican candidates in voter identification projects. Republican candidates such as Burns who used the lists, obtained them from vendors in the form of mailing labels, index cards, or both. (Attachment 25). The evidence obtained during this investigation indicates that the vendors in question charged candidates such as Burns for the normal cost of turning the lists into mailing labels or index cards; however, no amount of the

25. The RNC stated that the RGA is the auxiliary organization of the RNC that deals with gubernatorial races.

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considerable list development cost was allocated to Burns or any other candidate who benefited from the list.[26]

The NRSC General Counsel's Brief recommended that the Commission find that there is probable cause to believe that the NRSC violated 2 U.S.C. § 441a(f) by exceeding its section 441a(d) expenditure limitations and 2 U.S.C. § 434(b) by misreporting the nature of the expenditures in question. As previously noted, the NRSC did not response to the Brief.[27]

This Office's recommendation that the Commission find that the MRP should have allocated a portion of the cost of the development and enhancement of the voter identification list to the Burns campaign is consistent with the Commission's recent actions in MUR 2581. In that case, the Michigan Republican Party spent a considerable sum in the creation and development of a voter identification list. The Commission concluded that part of the development cost should have been allocated to the federal candidates running for office in Michigan in 1984.[28]

Because the NRSC had already exceeded its coordinated party expenditure limitation on behalf of the Burns Committee, the portion of the Voter Identification Project attributable to the Burns Committee was an excessive coordinated party expenditure. Thus, there is probable cause to believe that the NRSC violated 2

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26. Additional information can be found at Attachment 12.

27. The applicable law is set forth in detail in section II.A above, as well as in the NRSC General Counsel's Brief at 2-6.

28. This issue is now before the Western District of Michigan in FEC v. Michigan Republican State Committee, (Case No. 5:94-CV-27).

U.S.C. § 441a(f) by exceeding its section 441a(d) expenditure limitations and 2 U.S.C. § 434(b) by misreporting the nature of the expenditures in question.

VI. THE ALLEGEDLY EARMARKED CONTRIBUTIONS TO THE 1988 BURNS CAMPAIGN.

The complaint filed by Kelly Addy alleged that NRSC "bundled" contributions to the Burns campaign as part of a program which the complaint stated was identical to that found to have resulted in excessive contributions in Common Cause v. FEC, 729 F. Supp. 148 (D.D.C. 1990).[29] Reports filed by the NRSC, which were confirmed in the NRSC's Interrogatory responses, disclosed that the Burns committee received several large transfers from the NRSC of earmarked contributions totaling $132,100 late in the campaign. The Burns Committee Interrogatory responses also indicate that the NRSC forwarded to them $56,228 in checks made out to the Burns Committee. The Commission previously found reason to believe that the NRSC and its treasurer violated 2 U.S.C. § 441a(h) by making excessive contributions to the Burns Committee, and that the Burns Committee and its treasurer violated 2 U.S.C. § 441a(f) for accepting the contributions.[30]

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29. The Court of Appeals subsequently concluded that the district court had been wrong to hold that the conclusion by three members of the Commission that the facts of that case did not constitute direction and control by the NRSC was an impermissible construction of the agency's regulations. FEC v. National Republican Senatorial Committee, 966 F.2d 1471 (D.C. Cir. 1992).

30. The applicable law is set forth in the NRSC General Counsel's Brief at 43-44 and the Burns for Senate Committee's Brief (hereinafter referred to as the "Burns General Counsel's Brief") at 2-3.

The issues raised by these solicitations are whether the NRSC made excessive contributions to the Burns Committee through the exercise and control over certain earmarked contributions and whether the NRSC paid the costs of soliciting certain contributions for the Burns Committee.

In response to the General Counsel's Brief, counsel for the Burns Committee argued that the NRSC did not exercise direction and control over the contributions that it sent to Burns. (Attachment 26). The Burns Committee also contended that the circumstances surrounding its acceptance of these contributions do not satisfy the statutory requirement of "knowingly" accepting an illegal contribution. The Committee argued further that because it would have been difficult to determine at the time under what circumstances the Commission would conclude that there had been direction and control by the NRSC, it would be unfair to hold the Burns Committee legally responsible for accepting these contributions at that time. Finally, the Burns Committee argued that since the treasurer used his "best efforts" to determine whether the contribution was legal by questioning the NRSC about the program, the Burns Committee satisfied its legal requirements for accepting the contributions.[31]

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31. The Burns Committee also argues that, to the extent that either the Commission's rules or the Act itself restrain a political party from aiding its candidates, that restraint is unconstitutional. This argument is one that is more properly addressed by a Court than by the Commission, which is bound to enforce the statute and its regulations as enacted. A recent district court decision rejected a related challenge to the constitutionality of 11 C.F.R. § 110.6(d). Federal Election Commission v. National Republican Senatorial Committee, Civ. Action No. 93-1612 (D.D.C. June 24, 1994) (denying motion to

1. Direction and Control

The first NRSC mailing specifically requested that contributions be made to the Burns for U.S. Senate Committee and the Engeleiter Senate Committee. The letters sent by the NRSC identified only Conrad Burns and Susan Engeleiter as candidates who could receive contributions from this solicitation, and directed the recipients of the solicitations to make their checks out to the NRSC. The letter also said that the NRSC would see to it that the funds were divided evenly between Burns and Engeleiter, and did not suggest that the potential contributor had any other alternative. Those who responded to the program signed a statement that said "I've made my check payable to the National Republican Senatorial Committee. I direct you to divide my earmarked contribution evenly between Conrad Burns for U.S. Senate and Engeleiter for Senate Committee." NRSC represented that the proceeds were distributed equally between the two candidates, but not until expenses for this solicitation were paid for out of the gross receipts from the solicitation. (Attachment 12).

The second type of contributions earmarked for the Burns committee that the NRSC received were mailed to the NRSC as part of a program enabling the donor to receive an honorary designation as a member of the NRSC Trust (the title of an NRSC fundraising program). These contributions were made out directly to Burns. Unlike the first mailing, this mailing described the

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(Footnote 31 continued from previous page)
dismiss).

status of numerous campaigns. Although the mailing specifically noted that Conrad Burns and Earl Strinden were particularly in need of donations if they were to win, the letter also encouraged recipients to support any of a number of promising Republican candidates. (Attachment 12). Nor in this instance did the NRSC put forward a suggested method for dividing the funds among the candidates. The NRSC stated that in response to this solicitation it simply received checks made out to Burns and forwarded them to the Burns for U.S. Senate Committee. NRSC stated further that the Burns committee was charged a processing fee "to ensure that the expenses for the solicitation were borne by the candidate."

As noted above, the Burns Committee again argued that none of the circumstances surrounding either of these mailings would be consistent with the Court's conclusion's in FEC v. NRSC that it was reasonable to conclude that the NRSC did not exercise direction and control in connection with the mailings in question in that case.[32] A look at all the factors surrounding the Burns and Engeleiter solicitation indicates, however, that the NRSC was not acting as a mere conduit with respect to the first mailing. First, unlike the solicitation involved in FEC v. NRSC which referenced the need for contributions for Republican candidates

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32. Even if this were true, a recent district court decision concludes that the FEC opinion in that case is not binding on the Commission because the vote was split 3-3. Federal Election Commission v. National Republican Senatorial Committee, Civ. Action No. 93-1612 (D.D.C. June 24, 1994) at 4, citing, Common Cause v. Federal Election Comm'n, 842 F.2d 436, 449 n.32 (D.C. Cir. 1988).

in four states, the solicitation in question here identified only two candidates to whom contributions could be given, and did not suggest that potential donors had any other option. Second, the letter called for the contributions to be evenly divided between only these two candidates, and did not suggest that a potential contributor had any other option. Third, the checks were not only made out to the NRSC, but in this instance the NRSC exercised sufficient control over these funds to deduct for itself some portion of its solicitation costs before forwarding the remaining funds to the candidate committees, rather than billing the Committees separately for solicitation. Finally, the timing of the contributions was entirely within the control of the NRSC since the checks were made out to it. The reports filed by the NRSC at that time indicate that at least $130,000 was forwarded to the Burns committee as a result of this solicitation.[33]

The NRSC's role was somewhat more passive with respect to the second solicitation, however. In this case, although the letter identified two candidates for whom money would be a significant factor in their success or failure, the NRSC also identified numerous other candidates whom the recipients should support. Further, the letter did not make any suggestions as to the way in which a contributor should allocate his funds. In addition, the checks sent to the NRSC in response to these letters were made

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33. This appears to be confirmed by the Burns Committee's Interrogatory response indicating that they had received $132,000 through checks made out to them by the NRSC. Attachment 27).

out to the Burns Committee itself, not the NRSC. In this instance the NRSC charged the Burns Committee a processing fee rather than deducting its costs from funds received. (Attachment 28).

Accordingly, there is probable cause to believe that the NRSC violated 2 U.S.C. § 441a(h) by making excessive contributions to the Burns Committee through the exercise of direction and control over $130,000 in earmarked contributions to the Burns Committee as a result of the mailing soliciting donations for the Burns and Engeleiter campaigns. With respect to the second mailing, the evidence does not support a conclusion that the NRSC exercised direction and control over the solicited contributions.

The Burns Committee has made an additional argument that it can not be found to have violated 2 U.S.C. § 441a(f) because it did not "knowingly" accept an impermissible contribution. Relying on a 1979 district court decision in In re Federal Election Campaign Act Litigation, 474 F. Supp. 1044 (D.D.C. 1979), the Burns Committee asserts that the Commission cannot conclude that the Committee violated this provision without evidence that the Committee knew that the contribution was illegal at the time that it was accepted. The Burns Committee also contends that it complied with the best efforts standard in 11 C.F.R. § 103.3(b)(1) and that, pursuant to Federal Election Commission v. Re-elect Hollenback to Congress Committee, No. 85-2239 (D.D.C. June 16, 1986) Slip Op., compliance with that regulation precludes a finding of probable cause with respect to the Burns Committee.

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The courts which have considered what is required in order to support a violation of section 441a(f) for "knowingly" accepting an impermissible contribution generally have concluded that it is enough that the person allegedly committing the violation in question had the intent to act. Compare, Federal Election Commission v. John A. Dramesi for Congress Committee, 640 F. Supp. 985, 987 (D.N.J. 1986) (the knowing standard does not require knowledge that one is violating the law, but merely an intent to act); and Federal Election Commission v. California Medical Association, 502 F. Supp. 196, 203-04 (N.D. Cal. 1980) (the term "knowingly accept" requires only that the recipient know that he received the contributions at issue, their amount, and their source) with In re Federal Election Campaign Act Litigation, (the Commission cannot conclude that the Committee violated this provision without evidence that the Committee knew that the contribution was illegal at the time that it was accepted). Because the Commission has consistently held to the former view rather than the latter, the facts in this investigation indicate that the Burns Committee knowingly accepted the contribution in question. Indeed, the very fact that the Committee was concerned enough about the contributions to inquire as to their legality from the NRSC demonstrates that the Burns Committee had sufficient knowledge of the amount and the source of the transaction in question to have "knowingly accepted" the contribution.

Nor is it enough to satisfy the "best efforts" standard of 11 C.F.R. § 103.3(b)(1), in circumstances such as this, for the

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Burns Committee to have inquired of the very entity responsible for making a contribution whether it was permissible under the FECA. This transaction involved a transfer of a substantial sum of money, approximately $130,000, by the NRSC to the campaign committee of a Republican senatorial candidate in a situation in which the solicitation itself revealed the extent of the NRSC's eagerness to funnel money to the Burns campaign. If, in such situations, the mere nod of approval from a national party committee is sufficient to insulate the candidate committee from liability for accepting a significant excessive contribution, there will be no means of stopping such contributions when a candidate is in need of funds. This would allow a party committee to accept the responsibility in such situations if it could enable the candidate to get re-elected and insulate the candidate committee from liability at the same time.

Accordingly, there is probable cause to believe that the Burns Committee violated 2 U.S.C. § 441a(f) by knowingly accepting $132,100 in excessive contributions from the NRSC as a result of the mailing soliciting donations for the Burns and Engeleiter campaigns.

2. Solicitation Costs

The second question with respect to these contributions to Burns is whether any solicitation costs paid by the NRSC to solicit earmarked contributions were contributions by the NRSC to the Burns Committee, resulting in a violation of 2 U.S.C. § 434(b) for failing to report such costs as contributions and adding to the amount of the excessive contributions received by

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the Burns Committee from the NRSC.

In its response to the General Counsel's Brief, the Burns Committee argues that its interrogatory answers do not provide sufficient evidence for the Commission to conclude that there is probable cause to believe that the NRSC did not charge the Burns Committee with the proper amount of solicitation costs. All of the evidence obtained is consistent with this Office's conclusion that the only fees that were charged reflected a charge for processing checks received and in no way reflected the solicitation costs or contributions which did not result in contributions. Nor did the Burns Committee's response to the General Counsel's Brief provide the Commission with any information to supplement its interrogatory answers that would establish that the NRSC did anything other than what this Office has concluded from the information previously provided. (See Attachments 12 and 28).

Accordingly, this Office recommends that the Commission find probable cause to believe that the NRSC and its treasurer, Sonya M. Vasquez, exceeded its 441a(h) limit by failing to attribute an appropriate share of the costs of the unsuccessful solicitations to the Burns Committee and 434(b) by reporting its solicitation costs as operating expenditures rather than as contributions. This Office also recommends that the Commission find probable cause to believe that the Burns Committee received excessive contributions in violation of 2 U.S.C. § 441a(f) in the form of the costs of the unsuccessful solicitations by the NRSC for which the Burns Committee was not charged, and 2 U.S.C. § 434(b) by

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failing to report these contributions.[34]

VII. FILING REPORTS WITH THE APPROPRIATE STATE OFFICER

On May 21, 1991, the Commission found reason to believe that the NRSC and its treasurer, violated 2 U.S.C. § 439(a) because it appeared that the NRSC had failed to file its monthly reports for 1988 with the Montana Commission of Political Practices in a timely manner. The NRSC General Counsel's Brief recommended that the Commission find that there is probable cause to believe that the NRSC and Sonya M. Vasquez, as treasurer, violated 2 U.S.C. § 439(a) by failing to file copies of its 1988 disclosure reports with the Montana Commission of Political Practices in a timely manner. (NRSC General Counsel's Brief at 48-49). As previously noted, the NRSC did not respond to the General Counsel's Brief.

Therefore, there is probable cause to believe that the NRSC and Sonya M. Vasquez, as treasurer, violated 2 U.S.C. § 439(a) by failing to file copies of its 1988 disclosure reports with the Montana Commission of Political Practices in a timely manner.

VIII. DISCUSSION OF CONCILIATION AND CIVIL PENALTY

Attached for the Commission's approval are proposed conciliation agreements for the NRSC, the MRP, the RNC, and the Burns Committee.

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34. A recent district court decision preliminarily concluded that the cost of raising money over which the NRSC did exercise direction and control would not constitute a contribution. FEC v. NRSC, Civ. Action No. 93-1612 (D.D.C. June 24, 1994) at 13-14. Because this issue will be litigated further before this district court in the context of this case, we do not recommend that the Commission alter its treatment of such costs at this time.

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IX. GENERAL COUNSEL'S RECOMMENDATIONS

1. Ratify the Commission's decision to find reason to believe that the NRSC and its treasurer violated 2 U.S.C. §§ 441a(f), 441a(h), 434(b) and 439(a).

2. Ratify the Commission's decision to find reason to believe that the Montana Republican State Committee and Shirley J. Warehime, as treasurer, violated 2 U.S.C. §§ 441a(f), 441d, and 434(b).

3. Ratify the Commission's decision to find reason to believe that the Burns Committee and its treasurer violated 2 U.S.C. § 441a(f).

4. Ratify the Commission's decision to find reason to believe that the RNC and William J. McManus, as treasurer, violated 2 U.S.C. §§ 441a(f) and 434(b).

5. Find probable cause to believe the National Republican Senatorial Committee and Sonya M. Vasquez, as treasurer, knowingly and willfully violated 2 U.S.C. §§ 434(b) and 441a(f) regarding the mailings produced by Foster and Associates.

6. Find probable cause to believe the National Republican Senatorial Committee and Sonya M. Vasquez, as treasurer, violated 2 U.S.C. §§ 434(b) and 441a(f) regarding the daily tracking polls, the voter identification project and 2 U.S.C. § 439(a) for failure to file state disclosure reports.

7. Find probable cause to believe the National Republican Senatorial Committee and Sonya M. Vasquez, as treasurer, violated 2 U.S.C. § 441a(h) regarding the funds contributed to the Burns campaign over which the NRSC exercised direction and control and 2 U.S.C. § 441a(h) and 434(b) regarding the contribution of part of the cost of solicitation mailings.

8. Find probable cause to believe the Montana Republican State Committee and Shirley J. Warehime, as treasurer, knowingly and willfully violated 2 U.S.C. §§ 434(b) and 441a(f) regarding the mailings produced by Foster and Associates.

9. Find probable cause to believe that the Montana Republican State Committee and Shirley J. Warehime, as treasurer, violated 2 U.S.C. §§ 441a(f) and 434(b) regarding the salary of Ken Knudson; and 441d for failure to include a disclaimer on the mailings on behalf of Burns.

10. Find probable cause to believe that the Burns Committee and its treasurer violated 2 U.S.C. § 441a(f) for knowingly accepting contributions over which the NRSC exercised direction and control, and 2 U.S.C. § 441a(f) and 434(b) for

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accepting contributions in the form of a portion of the costs of certain solicitations, and for failing to report them.

11. Find probable cause to believe that the RNC and William J. McManus, as treasurer, violated 2 U.S.C. §§ 441a(f) and 434(b) for advancing the costs of the tracking poll and for failing to report such advance as a contribution until it was reimbursed.

12. Approve the attached conciliation agreements.

13. Approve the appropriate letters.

7/6/94
Date

Lawrence M. Noble
General Counsel

Staff Person: Abigail Shaine/Jeff Long

Conciliation Agreements (4)
Attachments
1. Original Certifications
2. Terry Merica Affidavit
3. Neida Merica Affidavit
4. Caution Letter, 11/3/88
5. Shanahan Memo, 11/4/88
6. Fax Cover Sheet, 10/13/88
7. Memo with Check, 12/12/88
8. MRP Accounting of NRSC Funds, 11/16/88
9. MRP Response, 11/14/90
10. MRP Response Brief, 3/11/94
11. MRP Response to Interrogatories, 7/19/91
12. NRSC Response to Interrogatories, 8/1/91
13. Foster Response to Interrogatories, 7/19/91
14. MRP Ledger, Sample Page
15. Mailing "Hannah Letter"
16. Mailing "Friends"
17. Mailing "Taxes"
17a. Prestidge handwritten letter
18. FIFO Analysis
19. Knudson Response
20. English Response
21. GLC Response, 9/10/90
22. GLC Response to Interrogatories, 8/10/93
23. RNC Response to Interrogatories, 8/2/91
24. RNC Response to Brief, 2/25/94
25. Leo Gallegher Submission
26. Burns Response to Brief, 3/14/94
27. Burns Response, 1/2/92
28. Burns Response, 7/23/91

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29. GLC Additional Response, 4/16/92
30. Davis Affidavit, 2/25/94
31. Additional Burns Mailings

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/BONNIE J. ROSS
COMMISSION SECRETARY

DATE: JULY 12, 1994

SUBJECT: MUR 3204 - GENERAL COUNSEL'S REPORT DATED JULY 6, 1994.

The above-captioned document was circulated to the Commission on Thursday, July 7, 1994 at 11:00 a.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 McDonald	
Commissioner McGarry	
Commissioner Potter	
Commissioner Thomas	

This matter will be placed on the meeting agenda for Tuesday, July 19, 1994.

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 3204
National Republican Senatorial Committee and Sonya M. Vasquez, as treasurer;	)	
Republican National Committee and William J. McManus, as treasurer;	)	
Montana Republican State Central Committee and Shirley J. Warehime, as treasurer;	)	
Conrad Burns/US Senate and Jim Swain, as treasurer	)	

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on August 2, 1994, do hereby certify that the Commission took the following actions in MUR 3204:

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

   A. Ratify the Commission's decision to find reason to believe that the NRSC and its treasurer violated 2 U.S.C. §§ 441a(f), 441a(h), 434(b) and 439(a).

   B. Ratify the Commission's decision to find reason to believe that the Montana Republican State Committee and Shirley J. Warehime, as treasurer, violated 2 U.S.C. §§ 441a(f), 441d, and 434(b).

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C. Ratify the Commission's decision to find reason to believe that the Burns Committee and its treasurer violated 2 U.S.C. § 441a(f).

D. Ratify the Commission's decision to find reason to believe that the RNC and William J. McManus, as treasurer, violated 2 U.S.C. §§ 441a(f) and 434(b).

Commissioners Aikens, Elliott, McDonald, McGarry, and Thomas voted affirmatively for the decision. Commissioner Potter recused himself from consideration of MUR 3204 and was not present.

2. Failed in a vote of 3-2 to pass a motion to find probable cause to believe the National Republican Senatorial Committee and Sonya M. Vasquez, as treasurer, knowingly and willfully violated 2 U.S.C. §§ 434(b) and 441a(f) regarding the mailings produced by Foster and Associates.

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

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3. Failed in a vote of 3-2 to pass a motion to find probable cause to believe the National Republican Senatorial Committee and Sonya M. Vasquez, as treasurer, violated 2 U.S.C. §§ 434(b) and 441a(f) regarding the mailings produced by Foster and Associates to the extent of $36,500.00.

Commissioners Aikens, Elliott, and Thomas voted affirmatively for the motion. Commissioners McDonald and McGarry dissented. Commissioner Potter recused himself from consideration of this matter and was not present.

4. Failed in a vote of 3-2 to pass a motion to find probable cause to believe the National Republican Senatorial Committee and Sonya M. Vasquez, as treasurer, violated 2 U.S.C. §§ 434(b) and 441a(f) regarding the daily tracking polls, the voter identification project and 2 U.S.C. § 439(a) for failure to file state disclosure reports.

Commissioners McDonald, McGarry, and Thomas voted affirmatively for the motion. Commissioners Aikens and Elliott dissented. Commissioner Potter recused himself from consideration of this matter and was not present.

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5. Failed in a vote of 2-3 to pass a motion to find probable cause to believe the National Republican Senatorial Committee and Sonya M. Vasquez, as treasurer, violated 2 U.S.C. § 439(a) for failure to file state disclosure reports, and take no further action with regard to this finding.

Commissioner Aikens and Elliott voted affirmatively for the motion. Commissioners McDonald, McGarry, and Thomas dissented. Commissioner Potter recused himself from consideration of this matter and was not present.

6. Failed in a vote of 3-2 to pass a motion to find probable cause to believe the National Republican Senatorial Committee and Sonya M. Vasquez, as treasurer, violated 2 U.S.C. § 441a(h) regarding the funds contributed to the Burns campaign over which the NRSC exercised direction and control and 2 U.S.C. § 441a(h) and 434(b) regarding the contribution of part of the cost of solicitation mailings.

Commissioners McDonald, McGarry, and Thomas voted affirmatively for the motion. Commissioners Aikens and Elliott dissented. Commissioner Potter recused himself from consideration of this matter and was not present.

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7. Failed in a vote of 2-3 to pass a motion to revise recommendation number 7 in the General Counsel's July 6, 1994 report, and find probable cause to believe the National Republican Senatorial Committee and Sonya M. Vasquez, as treasurer, violated 2 U.S.C. §§ 441a(h) and 434(b) regarding the contribution of part of the cost of the solicitation mailings.

Commissioners Aikens and Elliott voted affirmatively for the motion. Commissioners McDonald, McGarry, and Thomas dissented. Commissioner Potter recused himself from consideration of this matter and was not present.

8. Failed in a vote of 3-2 to pass a motion to find probable cause to believe the Montana Republican State Committee and Shirley J. Warehime, as treasurer, knowingly and willfully violated 2 U.S.C. §§ 434(b) and 441a(f) regarding the mailings produced by Foster and Associates.

Commissioners McDonald, McGarry, and Thomas voted affirmatively for the motion. Commissioners Aikens and Elliott dissented. Commissioner Potter recused himself from consideration of this matter and was not present.

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9. Failed in a vote of 2-3 to pass a motion to find probable cause to believe the Montana Republican State Committee and Shirley J. Warehime, as treasurer, violated 2 U.S.C. §§ 434(b) and 441a(f) regarding the mailings produced by Foster and Associates to the extent of $36,500.00.

   Commissioners Aikens and Elliott voted affirmatively for the motion. Commissioners McDonald, McGarry, and Thomas dissented. Commissioner Potter recused himself from consideration of this matter and was not present.

10. Decided by a vote of 5-0 to reconsider the the original motion with respect to recommendation number 5 in the General Counsel's report.

    Commissioners Aikens, Elliott, McDonald, McGarry, and Thomas voted affirmatively for reconsideration; Commissioner Potter was not present.

11. Failed in a vote of 2-3 to pass a motion to find probable cause to believe the National Republican Senatorial Committee and Sonya M. Vasquez, as treasurer, violated 2 U.S.C. §§ 434(b) and 441a(f) regarding the mailings produced by Foster and Associates to the extent of $36,500.00.

    Commissioners Aikens and Elliott voted affirmatively for the motion. Commissioners McDonald, McGarry, and Thomas dissented. Commissioner Potter recused himself from consideration of this matter and was not present.

(continued)

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12. Failed in a vote of 3-2 to pass a motion to find probable cause to believe that the Montana Republican State Committee and Shirley J. Warehime, as treasurer, violated 2 U.S.C. §§ 441a(f) and 434(b) regarding the salary of Ken Knudson; and 441d for failure to include a disclaimer on the mailings of behalf of Burns.

Commissioners McDonald, McGarry, and Thomas voted affirmatively for the motion. Commissioners Aikens and Elliott dissented. Commissioner Potter recused himself from consideration of this matter and was not present.

13. Failed in a vote of 2-3 to pass a motion to find probable cause to believe that the Montana Republican State Committee and Shirley J. Warehime, as treasurer, violated 2 U.S.C. § 441d for failure to include a disclaimer on the mailings on behalf of Burns.

Commissioners Aikens and Elliott voted affirmatively for the motion. Commissioners McDonald, McGarry, and Thomas dissented. Commissioner Potter recused himself from consideration of this matter and was not present.

(continued)

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14. Failed in a vote of 3-2 to pass a motion to find probable cause to believe that the Burns Committee and its treasurer violated 2 U.S.C. § 441a(f) for knowingly accepting contributions over which the NRSC exercised direction and control, and 2 U.S.C. §§ 441a(f) and 434(b) for accepting contributions in the form of a portion of the costs of certain solicitations, and for failing to report them.

Commissioners McDonald, McGarry, and Thomas voted affirmatively for the motion. Commissioners Aikens and Elliott dissented. Commissioner Potter recused himself from consideration of this matter and was not present.

15. Failed in a vote of 2-3 to pass a motion to find probable cause to believe that the Burns Committee and its treasurer violated 2 U.S.C. §§ 441a(f) and 434(b) for accepting contributions in the form of a portion of the costs of certain solicitations, and for failing to report them, but take no further action.

Commissioners Aikens and Elliott voted affirmatively for the motion; Commissioners McDonald, McGarry, and Thomas dissented. Commissioner Potter recused himself with respect to this matter and was not present.

(continued)

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16. Failed in a vote of 3-2 to pass a motion to find probable cause to believe that the RNC and William J. McManus, as treasurer, violated 2 U.S.C. §§ 441a(f) and 434(b) for advancing the costs of the tracking poll and for failing to report such advance as a contribution until it was reimbursed.

Commissioners McDonald, McGarry, and Thomas voted affirmatively for the motion. Commissioners Aikens and Elliott dissented. Commissioner Potter recused himself with respect to this matter and was not present.

17. Failed in a vote of 2-3 to reject the General Counsel's recommendation #11 to find probable cause to believe that the RNC and William J. McManus, as treasurer, violated 2 U.S.C. §§ 441a(f) and 434(b) for advancing the costs of the tracking poll and for failing to report such advance as a contribution until it was reimbursed.

Commissioners Aikens and Elliott voted affirmatively for the decision. Commissioners McDonald, McGarry, and Thomas dissented. Commissioner Potter recused himself from consideration of this matter and was not present.

(continued)

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18. Decided by a vote of 5-0 to close the file in this matter and send appropriate letters.

Commissioners Aikens, Elliott, McDonald, McGarry, and Thomas voted affirmatively for the decision. Commissioner Potter recused himself from consideration of this matter and was not present.

Attest:

8-4-94
Date

Marjorie W. Emmons
Secretary of the Commission

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 18, 1994

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Kelly Addy
220 Parkhill Drive
Billings, Montana 59101

RE: MUR 3204

Dear Mr. Addy:

This is in reference to the complaint you filed with the Federal Election Commission on July 13, 1990, concerning the National Republican Senatorial Committee, the Montana Republican State Central Committee, et al.

Based on that complaint, on May 21, 1991, the Commission found that there was reason to believe the National Republican Senatorial Committee and Sonya M. Vasquez, as treasurer, violated 2 U.S.C. §§ 441a(f), 441a(h), 434(b) and 439(a); the Montana Republican State Central Committee and Shirley Warehime, as treasurer, violated 2 U.S.C. §§ 441a(f), 441d and 434(b); Conrad Burns/U.S. Senate and Jim Swain, as treasurer, violated 2 U.S.C. § 441a(f); and the Republican National Committee and William J. McManus, as treasurer, violated 2 U.S.C. §§ 441a(f) and 434(b), all provisions of the Federal Election Campaign Act of 1971, as amended. The Commission instituted an investigation of this matter.

As you may be aware, on October 22, 1993, the D.C. Circuit declared the Commission unconstitutional on separation of powers grounds due to the presence of the Clerk of the House and the Secretary of the Senate or their designees as members of the Commission. FEC v. NRA Political Victory Fund, 6 F. 3d 821 (D.C. Cir. 1993), cert. granted, 62 U.S.L.W. 3842 (U.S. June 20, 1994) (No. 93-1151). Since the decision was handed down, the Commission

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has taken several actions to comply with the Court's decision. The Commission, consistent with that opinion, has remedied any possible constitutional defect identified by the Court of Appeals by reconstituting itself as a six member body without the Clerk of the House and the Secretary of the Senate or their designees. In addition the Commission has adopted specific procedures for revoting or ratifying decisions pertaining to open enforcement matters.

With regard to MUR 3204, on August 2, 1994, the Federal Election Commission ratified all previous reason to believe findings as to all respondents. However, the Commission decided to take no further action in this matter.

Statements of Reasons explaining the Commission's decision in MUR 3204 will be forthcoming.

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).

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Jeffrey D. Long
Paralegal

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 18, 1994

James Fenlason
104 East Main Street
Suite 408
Bozeman, Montana 59715

RE: MUR 3204
Friends of Jim Fenlason
for Congress

Dear Mr. Fenlason:

This is to advise you that this matter is now closed. The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Jeffrey D. Long

Jeffrey D. Long
Paralegal

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 18, 1994

Cary Davidson, Esquire
Reed & Davidson
777 South Figueroa Street
Suite 3400
Los Angeles, California 90017

RE: MUR 3204
Gary Lawrence Company

Dear Mr. Davidson:

This is to advise you that this matter is now closed. The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Jeffrey D. Long

Jeffrey D. Long
Paralegal

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 18, 1994

Michael Hess, Chief Counsel
Republican National Committee
310 First Street, S.E.
Washington, D.C. 20003

RE: MUR 3204
Colorado Republican Federal
Campaign Committee and
Douglas L. Jones, as treasurer

Dear Mr. Hess:

This is to advise you that this matter is now closed. The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Jeffrey D. Long

Jeffrey D. Long
Paralegal

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 18, 1994

Gregory R. Schwandt, Esquire
Church, Harris Johnson & Williams
P.O. Box 1645
Great Falls, Montana 59403

RE: MUR 3204
Montanans for Marlene and
Douglas N. Wilson, III,
as treasurer

Dear Mr. Schwandt:

This is to advise you that this matter is now closed. The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Jeffrey D. Long
Paralegal

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 18, 1994

Stanley Huckaby
BUSH-QUAYLE '88
228 South Washington Street
Alexandria, Virginia 22314

RE: MUR 3204
BUSH-QUAYLE '88 and
J. Stanley Huckaby,
as treasurer

Dear Mr. Huckaby:

This is to advise you that this matter is now closed. The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Jeffrey D. Long

Jeffrey D. Long
Paralegal

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 18, 1994

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

RE: MUR 3204
National Republican Senatorial Committee and James L. Hagan, as treasurer

Dear Mr. Baran:

As you may be aware, on October 22, 1993, the D.C. Circuit declared the Commission unconstitutional on separation of powers grounds due to the presence of the Clerk of the House and the Secretary of the Senate or their designees as members of the Commission. FEC v. NRA Political Victory Fund, 6 F.3d 821 (D.C. Cir. 1993), cert. granted, 62 U.S.L.W. 3842 (U.S. June 20, 1994) (No. 93-1151). Since the decision was handed down, the Commission has taken several actions to comply with the Court's decision. The Commission, consistent with that opinion, has remedied any possible constitutional defect identified by the Court of Appeals by reconstituting itself as a six member body without the Clerk of the House and the Secretary of the Senate or their designees. In addition, the Commission has adopted specific procedures for revoting or ratifying decisions pertaining to open enforcement matters.

With regard to MUR 3204, on August 2, 1994, the Federal Election Commission ratified its previous decision to find reason to believe that the National Republican Senatorial Committee and its treasurer, violated 2 U.S.C. §§ 441a(f), 441a(h), 434(b) and 439(a). However, the Commission also determined to take no further action and closed its file.

Statements of Reasons explaining the Commission's decision in MUR 3204 will be forthcoming.

The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30

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days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

If you have any questions, please contact Jeffrey Long, the staff member assigned to this matter, at (202) 219-3690.

For the Commission,

Danny L. McDonald
Vice-Chairman

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 18, 1994

Michael Hess, Chief Counsel
Republican National Committee
310 First Street, S.E.
Washington, D.C. 20003

RE: MUR 3204
Republican National Committee and
William J. McManus, as treasurer

Dear Mr. Hess:

As you may be aware, on October 22, 1993, the D.C. Circuit declared the Commission unconstitutional on separation of powers grounds due to the presence of the Clerk of the House and the Secretary of the Senate or their designees as members of the Commission. FEC v. NRA Political Victory Fund, 6 F.3d 821 (D.C. Cir. 1993), cert. granted, 62 U.S.L.W. 3842 (U.S. June 20, 1994) (No. 93-1151). Since the decision was handed down, the Commission has taken several actions to comply with the Court's decision. The Commission, consistent with that opinion, has remedied any possible constitutional defect identified by the Court of Appeals by reconstituting itself as a six member body without the Clerk of the House and the Secretary of the Senate or their designees. In addition, the Commission has adopted specific procedures for revoting or ratifying decisions pertaining to open enforcement matters.

With regard to MUR 3204, on August 2, 1994, the Federal Election Commission ratified its decision to find reason to believe that the Republican National Committee and William J. McManus, as treasurer, violated 2 U.S.C. § 441a(f) and 434(b). However, the Commission also determined to take no further action and closed its file.

Statements of Reasons explaining the Commission's decision in MUR 3204 will be forthcoming.

The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as

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possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

If you have any questions, please contact Jeffrey Long, the staff member assigned to this matter, at (202) 219-3690.

For the Commission,

Danny L. McDonald
Vice-Chairman

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 18, 1994

Robert Edd Lee, Esquire
404 North 31st Street, Suite 200
P.O. Box 7015
Billings, Montana 59103-7015

RE: MUR 3204
Montana Republican State Central Committee and Shirley Warehime, as treasurer

Dear Mr. Lee:

As you may be aware, on October 22, 1993, the D.C. Circuit declared the Commission unconstitutional on separation of powers grounds due to the presence of the Clerk of the House and the Secretary of the Senate or their designees as members of the Commission. FEC v. NRA Political Victory Fund, 6 F.3d 821 (D.C. Cir. 1993), cert. granted, 62 U.S.L.W. 3842 (U.S. June 20, 1994) (No. 93-1151). Since the decision was handed down, the Commission has taken several actions to comply with the Court's decision. The Commission, consistent with that opinion, has remedied any possible constitutional defect identified by the Court of Appeals by reconstituting itself as a six member body without the Clerk of the House and the Secretary of the Senate or their designees. In addition, the Commission has adopted specific procedures for revoting or ratifying decisions pertaining to open enforcement matters.

With regard to MUR 3204, on August 2, 1994, the Federal Election Commission ratified its decision to find reason to believe that your clients, the Montana Republican State Central Committee and Shirley Warehime, as treasurer, violated 2 U.S.C. §§ 441a(f), 441d and 434(b). However, the Commission also determined to take no further action and closed its file.

Statements of Reasons explaining the Commission's decision in MUR 3204 will be forthcoming.

The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although

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the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

If you have any questions, please contact Jeffrey Long, the staff member assigned to this matter, at (202) 219-3690.

For the Commission,

Danny L. McDonald

Danny L. McDonald
Vice-Chairman

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 18, 1994

Richard E. Messick, Esquire
Suite 700 North Building
601 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

RE: MUR 3204
Conrad Burns/U.S. Senate and
Jim Swain, as treasurer

Dear Mr. Messick:

As you may be aware, on October 22, 1993, the D.C. Circuit declared the Commission unconstitutional on separation of powers grounds due to the presence of the Clerk of the House and the Secretary of the Senate or their designees as members of the Commission. FEC v. NRA Political Victory Fund, 6 F.3d 821 (D.C. Cir. 1993), cert. granted, 62 U.S.L.W. 3842 (U.S. June 20, 1994) (No. 93-1151). Since the decision was handed down, the Commission has taken several actions to comply with the Court's decision. The Commission, consistent with that opinion, has remedied any possible constitutional defect identified by the Court of Appeals by reconstituting itself as a six member body without the Clerk of the House and the Secretary of the Senate or their designees. In addition, the Commission has adopted specific procedures for revoting or ratifying decisions pertaining to open enforcement matters.

With regard to MUR 3204, on August 2, 1994, the Federal Election Commission ratified its decision to find reason to believe that your clients, Conrad Burns/U.S. Senate and Jim Swain, as treasurer, violated 2 U.S.C. § 441a(f). However, the Commission also determined to take no further action and closed its file.

Statements of Reasons explaining the Commission's decision in MUR 3204 will be forthcoming.

The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the

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Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

If you have any questions, please contact Jeffrey Long, the staff member assigned to this matter, at (202) 219-3690.

For the Commission,

Danny L. McDonald
Vice-Chairman

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 18, 1994

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

W. Hardy Calcott, Esquire
Wilmer, Cutler & Pickering
2445 M Street, N.W.
Washington, D.C. 20037-1420

RE: MUR 3204

Dear Mr. Calcott:

This is in reference to the complaint you filed with the Federal Election Commission on December 20, 1994, on behalf of Common Cause, concerning the National Republican Senatorial Committee, the Montana Republican State Central Committee, et al.

Based on that complaint, on May 21, 1991, the Commission found that there was reason to believe the National Republican Senatorial Committee and Sonya M. Vasquez, as treasurer, violated 2 U.S.C. §§ 441a(f), 441a(h), 434(b) and 439(a); the Montana Republican State Central Committee and Shirley Warehime, as treasurer, violated 2 U.S.C. §§ 441a(f), 441d and 434(b); Conrad Burns/U.S. Senate and Jim Swain, as treasurer, violated 2 U.S.C. § 441a(f); and the Republican National Committee and William J. McManus, as treasurer, violated 2 U.S.C. §§ 441a(f) and 434(b), all provisions of the Federal Election Campaign Act of 1971, as amended. The Commission instituted an investigation of this matter.

As you may be aware, on October 22, 1993, the D.C. Circuit declared the Commission unconstitutional on separation of powers grounds due to the presence of the Clerk of the House and the Secretary of the Senate or their designees as members of the Commission. FEC v. NRA Political Victory Fund, 6 F.3d 821 (D.C. Cir. 1993), cert. granted, 62 U.S.L.W. 3842 (U.S. June 20, 1994) (No. 93-1151). Since the decision was handed down, the Commission

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has taken several actions to comply with the Court's decision. The Commission, consistent with that opinion, has remedied any possible constitutional defect identified by the Court of Appeals by reconstituting itself as a six member body without the Clerk of the House and the Secretary of the Senate or their designees. In addition, the Commission has adopted specific procedures for revoting or ratifying decisions pertaining to open enforcement matters.

With regard to MUR 3204, on August 2, 1994, the Federal Election Commission ratified all previous reason to believe findings as to all respondents. However, the Commission decided to take no further action in this matter.

Statements of Reasons explaining the Commission's decision in MUR 3204 will be forthcoming.

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).

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Jeffrey D. Long
Paralegal

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 18, 1994

Ed Argenbright, Ed.D.
Montana Commissioner of
Political Practices
1205 8th Avenue
Helena, Montana 59620

RE: MUR 3204

Dear Dr. Argenbright:

This is in reference to the matter involving the Montana Republican State Central Committee which your office referred to the Federal Election Commission on June 10, 1992.

Based on the information contained in the referral, the Commission found that there was reason to believe the National Republican Senatorial Committee and Sonya M. Vasquez, as treasurer, violated 2 U.S.C. §§ 441a(f), 441a(h), 434(b) and 439(a); the Montana Republican State Central Committee and Shirley Warehime, as treasurer, violated 2 U.S.C. §§ 441a(f), 441d and 434(b); Conrad Burns/U.S. Senate and Jim Swain, as treasurer, violated 2 U.S.C. § 441a(f); and the Republican National Committee and William J. McManus, as treasurer, violated 2 U.S.C. §§ 441a(f) and 434(b), all provisions of the Federal Election Campaign Act of 1971, as amended. The Commission instituted an investigation of this matter.

As you may be aware, on October 22, 1993, the D.C. Circuit declared the Commission unconstitutional on separation of powers grounds due to the presence of the Clerk of the House and the Secretary of the Senate or their designees as members of the Commission. FEC v. NRA Political Victory Fund, 6 F.3d 821 (D.C. Cir. 1993), cert. granted, 62 U.S.L.W. 3842 (U.S. June 20, 1994) (No. 93-1151). Since the decision was handed down, the Commission

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has taken several actions to comply with the Court's decision. The Commission, consistent with that opinion, has remedied any possible constitutional defect identified by the Court of Appeals by reconstituting itself as a six member body without the Clerk of the House and the Secretary of the Senate or their designees. In addition, the Commission has adopted specific procedures for revoting or ratifying decisions pertaining to open enforcement matters.

With regard to MUR 3204, on August 2, 1994, the Federal Election Commission ratified all previous reason to believe findings as to all respondents. However, the Commission decided to take no further action in this matter.

Statements of Reasons explaining the Commission's decision in MUR 3204 will be forthcoming.

We appreciate your cooperation in helping the Commission meet its enforcement responsibilities under the Federal Election Campaign Act of 1971, as amended. If you have any questions, please contact Jeffrey Long, the staff member assigned to this matter, at (202) 219-3690.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

cc: Leo J. Gallagher, Special Prosecutor

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RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

RECEIVED
FEDERAL ELECTION
COMMISSION
ADMINISTRATIVE

SEP 2 9 09 AM '94

Richard E. Norrick
Attorney at Law

Suite 700 North Building
601 Pennsylvania Ave., N.W.
Washington, D.C. 20004

202/508-1492
202/737-5949 (fax)

August 31, 1994

The Honorable Danny L. McDonald
Vice-Chairman
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 3204

Dear Vice-Chairman McDonald:

Thank you for August 18 letter stating that the Commission has declined to pursue allegations that the 1988 Burns Senate Committee violated the Federal Election Campaign Act. Although the Committee is dismayed that it took the Commission almost five years to determine that these politically motivated charges were without foundation, it is nonetheless happy that the matter has now been put to rest.

The accusations that led to this investigation originated with Senator Burns' political opponents and were stoked by disgruntled former employees of the Montana Republican party. Yet after four plus years of investigation all the Commission's lawyers could say was that it appeared that the Committee had accepted contributions from the National Republican Senatorial Committee in excess of that permitted by the Federal Election Campaign Act. But as the Commission's decision to take no further action confirms, all the contributions the Committee received were entirely lawful.

Indeed, the Committee never received a single contribution from the NRSC in excess of that permitted by law. What it did receive were a number of small donations from Republicans across the country in response to a NRSC appeal to aid Susan Engeleiter, the Republican Senate candidate in Wisconsin, as well as Conrad Burns. Both were underfunded candidates challenging entrenched incumbents and needed financial support to get their message across to the electorate. (Although the Engeleiter committee also received donations from this appeal, for reasons the staff left unexplained it chose to recommend the FEC pursue a case only against the Burns Committee. The only difference between the two committees is that Conrad Burns won his race while Susan Engeleiter did not.)

The Burns Committee disclosed the name and address of each donor and the amount each gave on the reports it filed with the Commission. As those reports show, none of these contributions were large, most falling in the $50 to $200 range. Moreover, before permitting the NRSC to make the appeal that led to these donations, Burns Committee personnel

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determined, in the words of the campaign manager, that such an effort was "absolutely legal and complied with all FEC rules and regulations."

In fact, the Committee was shocked that FEC staff lawyers would argue that the aid the Committee received from the Republican party somehow constituted a violation of the election laws. The NRSC had asked Republicans around the country to contribute to the Burns Committee to help a then underfunded challenger compete against an incumbent enjoying access to thousands of dollars of special interest money. Many did, not because they knew Conrad Burns personally or expected any favor in return, but because they shared his philosophy about the role of government in society.

Congress enacted the Federal Election Campaign Act to curb the role big contributors, and particularly those with special interests, play in our political campaigns and to instill greater confidence in the process through disclosure of all donations. The receipt and disclosure of these small donations is not only fully consistent with the law but furthered its objectives. Only by a tortured construction of the Act could anyone have concluded that these actions were unlawful, and the Committee is pleased that the Commission recognized this.

In an era in which candidates need more and more money for their message to be heard, what would the FEC staff lawyers prefer? That candidates receive an ever greater share of their campaign funds from political action committees and other large givers? Or that they turn to their political party for help in raising money from numerous small donors? And what does the staff believe political parties should do when one of their own runs for office? Standby and watch the candidate either lose for lack of adequate funding or turn to PACs for money? Or come to the candidate's aid by asking party members to send donations?

Thank you again for your letter, and please include this letter in the public file on this matter.

Sincerely,

Richard E. Messick
Counsel to the Burns '88 Committee

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20461

In the Matter of

National Republican Senatorial Committee
and Sonya M. Vasquez, as treasurer;
Republican National Committee and
William J. McManus, as treasurer;
Montana Republican State Central
Committee and Shirley J. Warehime,
as treasurer;
Conrad Burns/US Senate and Jim Swain,
as treasurer

MUR 3204

STATEMENT OF REASONS

VICE CHAIRMAN DANNY LEE MCDONALD
COMMISSIONER JOHN WARREN MCGARRY
COMMISSIONER SCOTT E. THOMAS

In MUR 3204, the Federal Election Commission split 3-2 on the General Counsel's recommendations to find probable cause to believe that the National Republican Senatorial Committee ("the NRSC"), the Montana Republican Party ("the MRP"), and the Burns Committee violated, in pertinent part, the political party expenditure limits and the contribution limits of the Federal Election Campaign Act of 1971, as amended ("the Act"). After careful review of the factual record and applicable law, we voted to approve the General Counsel's legal analysis and legal conclusions.

The factual record clearly shows the NRSC engaged in a deliberate operation to evade the Act's limits and move massive amounts of prohibited funds, through a number of candidate support activities, into Montana in order to support the campaign of Conrad Burns in the 1988 Senate election—an election won with just over 51% of the vote. We believe the General Counsel's Report presents an overwhelming case that the NRSC, with the assistance of the Montana Republican Party, sought to influence the election with this money through a wide variety of methods: (1) the NRSC and the MRP knowingly and willfully joined in a scheme to make approximately $140,000 in illegal expenditures on behalf of the Burns campaign; (2) the NRSC designed a fundraising effort which eventually funneled $130,000 to the candidate's campaign in circumvention of the statute's contribution limits—money which the Burns Committee knowingly accepted; (3) the NRSC reimbursed the

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Republican National Committee $33,100 for the expenses of a tracking poll, the results of which were provided to the Burns campaign at no charge; (4) the NRSC provided the Burns campaign with a voter identification list created by the NRSC for the 1988 campaign without attributing $27,000 in development costs to the Burns campaign; and (5) the MRP did not charge the Burns committee for $2,500 for payment of salary to an employee who did extensive work on the Burns campaign.

I.

On July 13, 1990, Kelly Addy, Speaker Pro Tempore of the Montana House of Representatives, filed a sworn, notarized complaint with the Federal Election Commission pursuant to 2 U.S.C. §437g(a)(1). The complaint alleged, inter alia, that the NRSC funneled large amounts of unreported money to the Montana Republican Party to be used for direct mail activities, tracking polls and voter identification projects for the benefit of Senatorial candidate Conrad Burns, as well as other Republican federal candidates. The complaint also alleged that inaccurate, untimely reports were filed with the Commission and that the NRSC "bundled" funds to the Burns campaign in an illegal manner. The complaint relied primarily on information gathered from a civil suit filed by Terry and Neida Merica, former employees of the Montana Republican Party, against the Montana Republican Party, the NRSC, and other certain individuals. The complaint also relied upon copies of mailings used by the Montana Republican Party in 1988 as well as a number of news articles which appeared in the Montana press regarding the 1988 election of Conrad Burns to the United States Senate. This matter was designated MUR 3087.

On December 20, 1990, Roger M. Witten, counsel for Common Cause, filed a sworn, notarized complaint with the Commission pursuant to 2 U.S.C. §437g(a)(1), alleging violations of the Act by NRSC. The allegations made in this complaint were virtually the same as those made in MUR 3087. This matter was designated MUR 3204.

The Office of General Counsel prepared a report for Commission consideration that contained a factual and legal analysis of the allegations presented by the two complaints. On May 21, 1991, the Commission by a 5-0 vote agreed with the General Counsel's recommendations to find reason to believe that (1) the NRSC had violated the contribution and coordinated expenditure limits and reporting requirements found in 2 U.S.C. §§441a(f), 441a(h), 434(b) and 439(a); (2) the MRP had violated the contribution limitations, the disclaimer provision, and the reporting requirements found in 2 U.S.C. §§441a(f), 441d, and 434(b), respectively; (3) the Burns Committee had received excessive contributions in violation of 2 U.S.C. §441a(f); and (4) the Republican National Committee had violated the contribution

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limitations and reporting requirements in 2 U.S.C. §§441a(f) and 434(b), respectively. The Commission also decided to merge MUR 3087 with MUR 3204.[1]

After an investigation and a review of the responses submitted by the respondents, the Office of General Counsel prepared a report for Commission consideration analyzing the pertinent factual and legal issues. The General Counsel recommended that the Commission:

> (1) Find probable cause to believe that the NRSC knowingly and willfully violated 2 U.S.C. §§434(b) and 441a(f) regarding the mailings produced by Foster Associates.
>
> (2) Find probable cause to believe that the NRSC violated 2 U.S.C. §§434(b) and 441a(f) regarding the daily tracking polls, the voter identification project and 2 U.S.C. §439(a) for failure to file state disclosure reports.
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> (3) Find probable cause to believe that the NRSC violated 2 U.S.C. §441a(h) regarding the funds contributed to the Burns campaign over which the NRSC exercised direction or control and 2 U.S.C. §§441a(h) and 434(b) regarding the contribution of part of the cost of solicitation mailings.
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> (4) Find probable cause to believe that the MRP violated 2 U.S.C. §§434(b) and 441a(f) regarding the mailings produced by Foster and Associates.
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> (5) Find probable cause to believe that the MRP violated 2 U.S.C. §§441a(f) and 434(b) regarding the salary of Ken Knudson; and §441d for failure to include a disclaimer on the mailings on behalf of Burns.
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> (6) Find probable cause to believe that the Burns Committee violated 2 U.S.C. §441a(f) for knowingly accepting contributions over which the NRSC exercised direction or control, and 2 U.S.C. §§441a(f) and 434(b) for accepting contributions in the form of a portion of the costs of certain solicitations, and for failing to report them.
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> (7) Find probable cause to believe that the RNC violated 2 U.S.C. §§ 441a(f) and 434(b) for advancing the costs of the tracking poll and for failing to report such advance as a contribution.

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[1] The Commission also approved the General Counsel's recommendations to find no reason to believe that (1) the Republican National Committee (RNC) violated 2 U.S.C. §441b regarding certain tracking polls since the RNC had paid the vendor for the polls and, thus, no corporate contribution resulted; and (2) the Gary Lawrence Company, the Colorado Republican Federal Campaign Committee, Bush/Quayle '88, Friends of Jim Fenlason, and Montanans for Marlenee violated the statute based on the allegations contained in the complaint in MUR 3087.

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Motions to adopt the General Counsel's recommendations failed to secure the four affirmative votes necessary to make a probable cause determination. 2 U.S.C. §437g(a)(4). Three Commissioners supported the General Counsel's recommendation and two Commissioners opposed the recommendation. One Commissioner had recused from the matter.

II.

The Federal Election Campaign Act limits the contributions and expenditures that may be made by party committees to, or on behalf of, candidates for federal office. In particular, one provision of the Act, 2 U.S.C. §441a(d), allows the national and state committees of the political parties to make so-called 'coordinated expenditures' in connection with "the general election campaign" of the parties' candidates. The Act further provides that these expenditures may not exceed a certain dollar limitation. 2 U.S.C. §441a(d)(3).[2]

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2 Specifically, §441a(d) provides in pertinent part:

> (3) The national committee of a political party, or a State committee of a political party, including any subordinate committee of a State committee, may not make any expenditure in connection with the general election campaign of a candidate for Federal office in a State who is affiliated with such party which exceeds—
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> (A) in the case of a candidate for election to the office of Senator, or of Representative from a State which is entitled to only one Representative, the greater of—
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> (i) 2 cents multiplied by the voting age population of the State (as certified under subsection (e) of this section); or
>
> (ii) $20,000. . . .
>
> 2 U.S.C. §441a(d)(3).

Because the NRSC is not considered a "national" or "state" committee of a political party for §441a(d) purposes, it is not authorized by §441a(d) to make expenditures on behalf of candidates for election to the Senate. The national and state party committees may authorize the NRSC, however, to expend their respective §441a(d) allowance on their behalf. See FEC v. Democratic Senatorial Campaign Committee, 454 U.S. 27 (1981). In Montana, the NRSC was presumably authorized to expend $46,100 on behalf of the RNC under §441a(d), as well as the $46,100 which the MRP had authorized the NRSC to expend, for a total of $92,200.

Congress specifically considered and rejected the proposition that party committees should not be limited in the amount of support they can give to candi-

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The Act also limits the contributions that may be made by party committees to or on behalf of candidates for federal office. In particular, 2 U.S.C. §441a(h) authorizes the "Republican or Democratic Senatorial Campaign Committee, or the national committee of a political party, or any combination of such committees" to contribute "not more than $17,500" to a senatorial candidate. The NRSC, which is a political committee organized specifically to support Republican candidates in elections for the United States Senate, is subject to the §441a(h) contribution limitation.

The factual record shows that the NRSC had virtually exhausted the statutorily permissible means of supporting the 1988 Burns for Senate campaign. The NRSC reported making $17,477.54 in contributions to the Burns campaign—just under the §441a(h) contribution limitation of $17,500. In addition, the NRSC reported spending $91,494.72 in coordinated expenditures—again, just under the §441a(d) limitations of $92,200. The NRSC, however, sought to do more for the Burns Committee in this close Senate race. In order to get around the applicable contribution and spending limits under the Act and funnel more money to the Burns campaign, the NRSC devised the following illegal schemes.

A.

A major exception to the §441a(d) coordinated party spending limits allows state and local party committees to pay for certain campaign materials used in connection with volunteer activities (such as pins, bumper stickers, and brochures). See 2 U.S.C. §§431(8)(B)(x) and 431(9)(B)(vii). State and local party committee payments for such items are not subject to the coordinated expenditure limit provided that certain specified conditions are met. See 11 C.F.R. §§100.7(b)(15) and 100.8(b)(16). This allowance for state party spending was put in place to invigorate state party activity — not to provide a loophole for national party spending. Thus, campaign materials purchased with funds donated by the national committee to the State committee do not qualify for this volunteer exception. See 11 §§C.F.R. 100.7(b)(15)(vii) and 100.8(b)(16)(vii).

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dates. See 120 Cong. Rec. S5411-15 (daily ed. April 8, 1974), reprinted in Legislative History of Federal Election Campaign Act Amendments of 1974 (GPO 1977) at 417-21 (Senator Clark: "To permit unlimited expenditures would be a serious mistake."). Party committees serve as an indirect means for funneling campaign support to favored candidates. Though limits on federal account donations exist, contributors are able to make unlimited donations to party nonfederal accounts and are doing so with increasing frequency. See FEC Press Release, March 11, 1993; see also Christian Science Monitor, "Give Money and They Call Back," Nov. 3, 1992. Thus, to prevent the linkage of donations to the party with unfettered support of future officeholders, some brake on the spending of parties is needed, and §441a(d) is that brake.

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In MUR 3204, the General Counsel's investigation revealed that the NRSC and the MRP sought to exploit the exception for state party spending by pouring approximately $140,000 of NRSC money into the coffers of the MRP which, in turn, under the guise of MRP money and activity, paid for mailings urging the election of Conrad Burns. Since activity financed with national party money does not qualify for the "state party" exception, the General Counsel found that these expenditures were subject to, and made in excess of, the coordinated party spending limits. Moreover, the General Counsel concluded that the NRSC and MRP violated the statute in a knowing and willful manner.

The General Counsel's legal conclusion is based on ample evidence in the factual record which includes sworn affidavits from both Terry Merica, the MRP Executive Director, and Nelda Merica, the MRP administrative secretary. The affidavits explicitly state that the NRSC was using the MRP as a conduit to pay for mailings advocating the election of Conrad Burns. In their affidavits, these MRP officials describe in considerable detail what they had observed of the NRSC's control over funds it gave to the MRP to pay for the Burns mailings in 1988.

Significantly, "the MRP provided little evidence to support their assertions that the Mericas' statements in this investigation have not been truthful." General Counsel's Report at 16. The General Counsel's Report explained:

> There were no affidavits attached to the MRP's response. Nor at any time during this investigation has the MRP provided this office with copies of the deposition transcripts from the Merica's civil suit which, they assert, would establish that the Mericas are not credible, choosing instead to quote selectively from the transcripts in question. Further, even the MRP's deposition testimony does not indicate any contradiction between Mr. Merica's statements in those depositions and the statements the Mericas made in their affidavits submitted to this office.

Id. (emphasis added).

In addition to the sworn affidavits, there is direct documentary evidence from the committee's financial records indicating that the NRSC specifically transferred money to the MRP for the clear purpose of paying for the Burns mailings. Several of the NRSC transfers closely coincide with the date and amount of payments made by the MRP to Foster and Associates, the direct mail vendor used by the MRP on behalf of the Burns committee. For example, on October 7, 1988, the NRSC reported a transfer of $6,879 to the MRP. On that same date, the MRP reported an expenditure of $6,879.01 to Foster and Associates. On October 24, 1988, the NRSC reported a transfer of $4,956 to the MRP; on October 25, 1988, the MRP reported that it paid the same amount, $4,956 to Foster and Associates. Likewise, on October 27, 1988, the NRSC transferred $49,000 to the MRP. The next day, the MRP made a $60,533 payment to its vendor for the Burns mailings. Similarly, on November 1, 1988, the

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MRP made a payment of $32,793 to its vendor. The very next day, November 2, 1988, the NRSC transferred $32,110 to the MRP. In view of the fact that transfers to the MRP by the NRSC corresponded almost exactly, both by time and amount, with payments made by the MRP to the vendor for the Burns mailing, there can be no doubt that the NRSC used the MRP as a conduit to pay for the Burns mailing.

The factual record also includes contemporaneous documents which corroborate the statements made in the affidavits regarding the NRSC's financial involvement and control over the mailings ostensibly made by the MRP on behalf of the Burns campaign. A November 16, 1988 letter from the MRP to Ms. Ann Prestidge, field coordinator for the NRSC, conclusively shows that the NRSC transferred at least $178,145 to the MRP for the purpose of aiding the Burns Committee and that there was an on-going accounting of how these funds were being used for the Burns campaign. July 6, 1994 General Counsel's Report at Attachment 8. The letter, entitled "Senatorial Transfer of Funds (Update)," indicates that the MRP effectively set up a separate account to track NRSC deposits and subsequent MRP disbursements for the Burns campaign. This ledger-like statement of NRSC deposits and MRP disbursements indicates that approximately $140,000 was spent on production, copying, and postage for the Burns mailings. Moreover, this figure is confirmed by an accounting ledger, kept by Ms. Merica, which she states was designed to detail the amount of funds transferred by the NRSC to the MRP and to reflect how these funds were spent. See July 6, 1994 General Counsel's Report at 7-8, and Attachments 3 and 14.

The record is replete with other examples of the NRSC control over the MRP and the Burns mailings. There is, for instance, a facsimile request from Foster and Associates, the vendor for the Burns mailings, to the field coordinator for the NRSC asking her "To review and revise" draft copy of the Burns mailing entitled "Montana Taxpayers." July 6, 1994 General Counsel's Report at Attachment 6. Similarly, there is a memo from the NRSC field coordinator to Mr. Foster in which she sought to confirm that there was sufficient money for postage in the MRP account to distribute several of the Burns mailings produced by Foster and Associates for the MRP and paid for with NRSC funds. July 6, 1994 General Counsel's Report at Attachment 17A. There is also the December 12, 1988 letter from the Counsel for the MRP to Mr. Merica which states "[I] think Barbara should sign this Foster check, since it was Ann Prestidge's [the NRSC field coordinator] idea." July 6, 1994 General Counsel's Report at Attachment 7 (emphasis added). Enclosed with the letter was a check in the amount of $9,604.85 payable to Foster and Associates and an invoice from Foster and Associates itemizing work done by the vendor on specific Burns mailings. In fact, NRSC control over the MRP operation was so pervasive and intrusive that on November 3, 1988, counsel for the MRP sent a letter to the NRSC field coordinator cautioning her about giving orders to Mr. Merica and his staff and warning her about

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the movement of funds in and out of the MRP account. July 6, 1994 General Counsel's Report at Attachment 4.

The overwhelming evidence indicates that the NRSC transferred national party funds to the MRP for use in the Burns mailings and directed the MRP how to use these funds for the Burns mailings. In view of this clear and convincing evidence, we agree with the General Counsel's legal conclusion that:

> the NRSC and the MRP were involved in a joint scheme to deliberately evade the section 441a(d) limits through transfers of approximately $140,000 from NRSC funds reported as having been used for MRP administrative expenses when they were actually used to fund mailings on behalf of Burns.

July 6, 1994 General Counsel's Report at 16-17. We also agree with the General Counsel's recommendation that the Commission find probable cause to believe that both the NRSC and the MRP knowingly and willfully violated 2 U.S.C. §434(b) reporting provision by misrepresenting the expenditures in question and that the MRP violated 2 U.S.C. §441d by failing to include a disclaimer indicating whether the mailings were authorized by the candidate.

Commissioners Aikens and Elliott disagree with the General Counsel's recommendation for several reasons. First, they question the credibility of the Mericas, asserting that the Mericas gave their affidavits as "disgruntled employees" of the MRP. Even if our colleagues are able to ascribe accurately motivations to the affiants, such motivations do not necessarily mean that the Mericas swore out false affidavits. Indeed, it is telling that the MRP never came forward with affidavits contradicting the Mericas' sworn statements. Moreover, the financial and contemporaneous documentary evidence discussed above not only corroborates the Mericas' affidavits but also provides an independent basis for the General Counsel's recommendations.

Commissioners Aikens and Elliott choose to rely instead on an affidavit presented by the NRSC in response to Commission interrogatories. In that affidavit, Ms. Prestidge generally states that "the state party was aware that the transfers from the NRSC were intended for general overhead expenses and were not designated for any particular use." See July 6, 1994 General Counsel's Report at Attachment 12, p.49 (Affidavit of Ann Prestidge). Unlike the Mericas' affidavits, however, the Prestidge affidavit is contradicted by the contemporaneous documents discussed above—one of which is in her own handwriting. See, e.g., July 6, 1994 General Counsel's Report at Attachment 17A.

It is revealing that when presented with this contradictory evidence, the NRSC did not rebut it, but rather sought to stop the Commission from further investigation by filing suit in federal court. This effort failed and their action was dismissed. See NRSC v. FEC, No. 94-332 (TPJ)(D.D.C. dismissed May 11, 1994), appeal filed, No. 94-5148 (D.D.C. May 31, 1994). In addition, when presented with this contradictory

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evidence in the General Counsel's Brief, see 2 U.S.C. §437g(a)(3), the NRSC did not respond or seek to rebut this direct evidence. Under these circumstances, we think it is unreasonable that Commissioners Aikens and Elliott reject the Mericas' affidavits out of hand but accept the Prestidge affidavit in the face of clear and convincing contradictory evidence. See DSCC v. FEC, 745 F. Supp. 742, 746 (D.D.C. 1990)(FEC dismissal of complaint is not contrary to law, in part, because reliance on respondents' affidavits was "reasonable").

Commissioners Aikens and Elliott also question the thoroughness of the General Counsel's investigation. As we have detailed above, the amount of evidence developed in the factual record is extensive and more than fully supports the General Counsel's legal recommendations. If there is any material "missing" from the factual record in this matter, it is exculpatory evidence—and that is something that only the respondents can ultimately provide.

Finally, Commissioners Aikens and Elliott also argue that the extent of the violation concerning the Burns mailings should be only $36,000 and not the $140,000 cited in the General Counsel's recommendation. They point to an Audit Division analysis of the MRP's expenditures which confirms that the MRP would not have had enough money to pay for a significant portion of the MRP's Conrad Burns mailings without the NRSC's infusion of national party funds. According to this analysis, $36,439.02 of the MRP's expenditures during this time period could not have been paid by the MRP without using funds from the NRSC. See July 6, 1994 General Counsel's Report at 9-10 and Attachment 18.

We disagree with Commissioners Aikens and Elliott's argument to limit the amount of the NRSC violation to only $36,000. The factual record plainly shows that the NRSC transferred funds to the MRP for the singular purpose of supporting the Senate campaign of Conrad Burns and that the MRP spent $140,000 of that money in support of the Burns campaign. As we discussed above, the MRP kept a separate record of the "Senatorial Transfer of Funds" from the NRSC and provided the NRSC with an "Update" which included "a reconciliation of deposits and transfers of this account." July 6, 1994 General Counsel's Report at Attachment 8. Moreover, these expenditures of funds were made in addition to the nearly $92,000 already spent by the NRSC exhausting its §441a(d) limit.

We believe that when a national party committee transfers funds to a state party to support a specific candidate and the state party supports that candidate, as is established by the evidence here, those expenditures must be subject to the §441a(d) coordinated party expenditure limits. To rely on a narrow "FIFO" analysis as urged by Commissioners Aikens and Elliott would allow a national party committee to exploit the "state party exception" and make unlimited expenditures in support of a candidate so long as clever accounting techniques could establish that "non-national" party funds were used by the state party when making expenditures

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at the direction of the national party. Congress clearly did not intend to create such a loophole when it passed the §441a(d) limits or the exception for state party activity. The FIFO analysis merely corroborates that the mailings in question could not have taken place without NRSC funding. Thus tainted, the full value of the mailings should be considered impermissible.

B.

Section 441a(h) of the Act authorizes the NRSC to contribute "not more than $17,500" to a senatorial candidate. In order to ensure that this and other contribution limitations are not evaded or circumvented, Congress enacted a number of provisions designed to prevent the indirect funneling of contributions to specific candidates. The statute attributes as contributions to a candidate not only those payments made to a candidate's authorized committee, 2 U.S.C. §441a(a)(7)(A), but also those payments "earmarked" through an intermediary or conduit for a particular candidate, 2 U.S.C. §441a(a)(8). The general rule with regard to forwarding earmarked contributions is that "a conduit or intermediary's contribution limits are not affected by passing on earmarked contributions, except where the conduit exercises any direction or control over the choice of the recipient candidate." 11 C.F.R. §110.6(d)(1)(emphasis added). When a conduit exercises such direction or control, "the contribution shall be considered a contribution by both the original contributor and the conduit, and shall be so reported by the conduit to the Commission." 11 C.F.R. §110.6(d)(2). The law thus assures that neither the original contributor nor the conduit can escape the contribution limits by cleverly orchestrated earmarking programs. See FEC v. NRSC, No. 93-1612 at 7 (D.D.C. June 24, 1994)("This court declines to declare FEC's interpretation of §441a(a)(8) an unreasonable one.").

The NRSC reported making contributions totalling $17,477.54 for the Burns campaign pursuant to 2 U.S.C. §441a(h). Having effectively exhausted its statutory contribution limit, the NRSC initiated a fundraising program through which the NRSC solicited and collected contributions specifically for the Burns Committee. As a result of this program, the NRSC transferred at least $130,000 in contributions to the Burns Committee between October 1 and November 5, 1988.

The NRSC solicitation identified only Conrad Burns and one other candidate as candidates to whom potential contributors could give contributions. The solicitation called for the contributions to be evenly divided, and did not notify contributors that they had any other options. The contribution check were made out to the NRSC. The NRSC deducted some charges from the amount of the receipts before forwarding the proceeds to the Burns Committee.

We believe that the NRSC exercised "direction or control" within the meaning of 11 C.F.R. §110.6(d) over the $130,000 in contributions transmitted through this operation to the Burns committee. In so doing, the NRSC violated 2 U.S.C. §441a(h) by making an unlawful excessive contribution to the Burns Committee. Accordingly, we agree with the General Counsel's recommendation that "there is probable cause

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to believe that the NRSC violated 2 U.S.C. §441a(h) by making excessive contributions to the Burns Committee through the exercise of direction and control over $130,000 in earmarked contributions to the Burns Committee." July 6, 1994 General Counsel's Report at 30. We also agree with the General Counsel's probable cause to believe recommendation that the Burns Committee violated 2 U.S.C. §441a(f) by knowingly accepting approximately $130,000 in excessive contributions from NRSC as a result of a mailing soliciting contributions for Burns and one other candidate.[3]

Commissioners Aikens and Elliott disagree with the General Counsel's recommendation and would find that the NRSC did not violate 2 U.S.C. §441a(h). They rely heavily on the decision of the United States Court of Appeals for the District of Columbia Circuit in FEC v. NRSC, 966 F.2d 1471 (D.C. Cir. 1992).[4] In that case, the Court of Appeals found that the decision of three Commissioners who voted to dismiss a matter because of the absence of direction or control was not arbitrary or capricious in light of the facts of that case. Commissioners Aikens and Elliott contend that the facts of the present matter are the same as those in FEC v. NRSC and conclude, as they did in the underlying MUR in FEC v. NRSC, that there is no direction or control.

In FEC v. NRSC, the NRSC mailed approximately 600,000 solicitation letters seeking financial support for twelve Republican senatorial candidates. Each letter listed four races and suggested a contribution amount to one or more listed candidates. The donation card to be signed by the contributors specified the amount of

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3 Pursuing the Burns Committee for knowingly accepting such contributions is consistent with the Commission's action in MUR 2314 where the Commission found reason to believe that the Santini Committee violated 2 U.S.C. §441a(f) for receiving excessive contributions over which the NRSC had exercised direction or control. At the probable cause stage, the Commission exercised its prosecutorial discretion and accepted the General Counsel's recommendation to take no further action because:

> The Santini Committee is defunct and without records. The events in question occurred several years ago. The Commission has not chosen to pursue other candidate committees who received earmarked contributions through the NRSC in the 1986 election cycle; in particular, no candidate committees were respondents in MUR 2282.

MUR 2314, February 13, 1992 General Counsel's Report at 22 (emphasis added). Unlike MUR 2314, the solicitation program at issue here occurred in 1988 and was different from the 1986 solicitation at issue in MUR 2314. Moreover, unlike the Santini Committee, the Burns Committee remains an active political committee.

4 There were not four votes to appeal the NRSC Court of Appeals decision.

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the contribution and the Senate candidate(s) to which the money was to be sent. The NRSC deposited the contributions in its account and "in conformity with the accompanying donation card," FEC v. NRSC, 966 F.2d at 1473, passed the money on to the Senate candidates designated by the contributors on the cards.

The facts in MUR 3204 are significantly different. Unlike FEC v. NRSC where the contributor had a choice of four candidates, here the contributor was allowed to select only from Conrad Burns and one other candidate. All can agree that if the party committee sent out a solicitation for only one candidate, there would be direction or control. We do not believe that the addition of only one other candidate takes such a solicitation outside the realm of any direction or control. We believe that where the contributor is provided with a choice of only two candidates, and no other options are given, the field of choices is so narrowed as to constitute direction or control.

Additionally, and perhaps more significantly, the NRSC in MUR 3204 deducted charges from the contributions it deposited into its account before forwarding the money on to the Burns Committee. We can find no indication in the factual record that the Burns Committee provided the NRSC with any sort of prior authorization to subtract these moneys. The fact that the NRSC unilaterally made these deductions is direct evidence that it asserted control over these particular funds. In our opinion, this is clearly sufficient to demonstrate the presence of "any direction or control."

C.

In addition to funneling money into the 1988 Montana Senatorial election through such devices as the Burns mailings and its conduit program, the NRSC engaged in several other activities which clearly benefited and supported the Burns Committee. These included the provision of daily tracking polls and a voter identification list. The NRSC also sought to run all of this activity outside of the §441a(d) limitations. We agree with the legal conclusion of the General Counsel that the expenditures for this candidate support activity were subject to the coordinated party limits and that the NRSC further exceeded these limits.

The NRSC and the Republican National Committee contracted for tracking poll services for the 1988 Montana election. Approximately two-thirds of the questions asked in these daily tracking polls were related to Conrad Burns and one-third were related to the Republican gubernatorial candidate. Initially, the RNC paid the polling vendor the full $49,650 owed for the poll. Later, the NRSC reimbursed the RNC $33,100 for the portion of the poll that dealt with Conrad Burns. The results of this portion of the daily tracking polls were provided to the Burns campaign at no charge.[5]

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5 The Burns Committee did, however, pay $450 for the addition of one question which the Burns Committee requested be added to the poll for a few tracking days toward the end of the tracking period.

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Commission regulations address the making and acceptance of contributions in the form of poll results and are quite clear. The purchase of poll results by a political committee and the subsequent acceptance of the poll results by a candidate's campaign is a contribution in-kind by the purchaser to the candidate. 11 C.F.R. 106.4(b). See also Advisory Opinion 1990-12, 2 Fed. Elec. Camp. Fin. Guide (CCH) ¶5990; Advisory Opinion 1987-22, 2 Fed. Elec. Camp. Fin. Guide (CCH) ¶5901. Clearly, the Burns Committee received some benefit when it received $33,100 worth of poll results from the NRSC at no charge. Yet, the NRSC did not report or include the reimbursement payment to the RNC for the Burns portion of the poll as an expenditure subject to the §441a(d) coordinated party expenditure limit. This was consistent with the pattern of other NRSC efforts to funnel money into the 1988 Montana election outside the contribution and expenditure limits.

Accordingly, we agree with the General Counsel's conclusion that the RNC made an excessive coordinated party expenditure by advancing the costs of these poll results on behalf of the NRSC when the poll results were presented to the Burns Committee. See July 6, 1994 General Counsel's Report at 21-23. We also agree with the General Counsel that the NRSC exceeded the limits on coordinated party expenditures by reimbursing the RNC for the portion of the poll that dealt with the senatorial election and was forwarded to the Burns Committee. Moreover, there is probable cause to believe that both committees violated 2 U.S.C. §434(b) by failing to accurately report these expenditures.

D.

The NRSC also ignored the applicable limits and reporting provisions with respect to voter identification lists. During the 1988 campaign, the NRSC undertook a voter identification project to benefit Republican candidates in Montana. The purpose of the project was "to create a list of voters in Montana and provide demographics and party affiliation data for those voters to the extent possible." July 6, 1994 General Counsel's Report at Attachment 12, p. 11 (NRSC Response to Commission interrogatories). The NRSC spent approximately $130,000 in developing this computerized list of Montana registered voters.[6]

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6 We note that the $130,000 figure may seriously understate the actual development cost of the Montana Voter List. A review of NRSC and RNC reports by the Montana Commissioner of Political Practices reveals that at least $218,000 was spent by these two committees for the stated purpose of "List Development" or "List Cost." See July 6, 1994 General Counsel's Report at Attachment 25, pp. 16-51. The actual development costs may be even higher than the $218,000 figure if other expenses, such as the salary and expenses of Robert Bissen, Special Projects/Voter Programs Director of the NRSC, are included.

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Pursuant to 11 C.F.R. §106.1, the NRSC was required to allocate a portion of the $130,000 the NRSC paid for development of the Montana Voter List to each of the federal candidate committees that benefited from the list in 1988, including the Burns Committee. None of the $130,000 in costs incurred by the NRSC were allocated to the Burns Committee. Moreover, the NRSC was not directly or indirectly reimbursed by the Burns Committee for any portion of the $130,000. The Burns Committee share of the costs was $27,000. The NRSC never contested this amount in a response to the General Counsel's Probable Cause Brief.

We agree with the General Counsel's Report that "[b]ecause the NRSC had already exceeded the coordinated party expenditure limitation on behalf of the Burns Committee, the portion of the Voter Identification Project attributed to the Burns Committee was an excessive coordinated party expenditure." July 6, 1994 General Counsel's Report at 21. Additionally, there is probable cause to believe that the NRSC violated 2 U.S.C. §434(b) by misreporting the nature of these expenditures. The General Counsel's legal recommendation not only is supported by the evidence, but also it is consistent with the recent Commission enforcement action in MUR 2581. There, the Commission found that the portion of the costs incurred by the Michigan Republican State Committee (MRSC) which was allocable to a United States Senate candidate, but not reimbursed by the candidate committee, constituted expenditures by the NRSC on behalf of the candidate within the meaning of 2 U.S.C. §441a(d).[7] We believe that the same result should have been reached in the present matter.

III.

We also agree with the General Counsel's recommendation to find probable cause to believe that the MRP violated 2 U.S.C. §§441a(f) and 434(b) by exceeding its §441a(d) limits in paying a salary of $2,500 to an individual, Mr. Ken Knudson, whose primary responsibility was to assist the Burns Committee. In an affidavit submitted to the Commission, Mr. Knudson admits that during the three months he worked for the MRP, "[m]y work for the benefit of the Conrad Burns U.S. Senate campaign was extensive." July 6, 1994 General Counsel's Report at Attachment 19, p. 2. Mr. Knudson further states that he accompanied Mr. Burns on two campaign trips and that he "was reimbursed to cover my expenses on these trips by the Conrad Burns U.S. Senate campaign." Id. Clearly, the Burns Committee received something of value from the MRP that should have been reported as an expenditure made by the MRP on behalf of the Burns Committee or for which the Burns Committee should have reimbursed the MRP.

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[7] The Commission was unable to resolve the matter in conciliation and has filed an enforcement action against the MRSC in federal court. See FEC v. MRSC, Civ. No. 94-CV-27 (W.D. Mich., filed February 17, 1994). See also 2 U.S.C. §437g(a)(6)(A).

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Commissioners Aikens and Elliott opposed the General Counsel's recommendation citing the Commission's decision in MUR 3218. In that matter, the Commission found no reason to believe that the activities of national party committee field staff constituted any allocable contribution to the candidate's campaign. Unlike MUR 3218, however, the person whose salary is being questioned here admits that his work for the candidate was "extensive." Under these circumstances, the Commission decision in MUR 3218 is inapplicable to the present matter.

IV.

We recognize that judicial review of the Commission's dismissal of a complaint by a divided vote has been deferential. See, e.g., DSCC v. FEC, supra. But deference has its bounds. It is not a license for Commissioners effectively to disregard massive violations of the statute in the face of overwhelming evidence.

Having exhausted their contribution and expenditure limitations, the NRSC, the RNC, and the MRP financially supported the 1988 Conrad Burns campaign through a number of activities which were in direct circumvention of the limitations on national and state party support for federal candidates. These improper activities included: (1) a $140,000 direct mail campaign; (2) $130,000 in contributions directed to the Burns Committee; (3) $33,000 for a daily tracking poll; (4) $27,000 for a voter identification project; and (5) $2,500 for staff salary. The additional $332,500 spent by the party committees on behalf of the Burns Committee—most of which was spent in the last two months of the campaign—is truly staggering, especially when measured against the fact that the Burns Committee spent $1,076,010 for the entire campaign. The election law's limits mean very little if they can be evaded in such a massive manner.

Commissioners Aikens and Elliott, however, look the other way and find that only about $38,500 was spent by the party committees outside the limits. Having removed the heart of the case, Commissioners Aikens and Elliott leave little worth pursuing. In view of the relatively small amount upon which the Commission might be able to get four votes to find a violation, see 2 U.S.C. §437g(a)(4), and considering the proper ordering of the Commission's priorities and resources, see Heckler v. Chaney, 470 U.S. 821 (1985), we voted to close the file in this matter.

9.12.94
Date

Danny Lee McDonald
Vice Chairman

9/12/94
Date

John Warren McGarry
Commissioner

9/12/94
Date

Scott E. Thomas
Commissioner

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

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September 14, 1994

MEMORANDUM

TO: The Commission

FR: Lee Ann Elliott
Joan D. Aikens

RE: Statement of Reasons MUR 3204

On September 12, 1994, we issued a Statement of Reasons in MUR 3204. We have withdrawn that Statement and have issued a revised Statment of Reasons dated September 14, 1994.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

REVISED STATEMENT OF REASONS

Commissioner Joan D. Aikens
Commissioner Lee Ann Elliott

In the Matter of:

National Republican Senatorial Committee and Sonya M. Vasquez, as treasurer, Republican National Committee and William J. McManus, as treasurer, Montana Republican State Central Committee and Shirley J. Warehime, as treasurer, Conrad Burns/US Senate and Jim Swain, as treasurer	)	MUR 3204

Introduction

On August 2, 1994, the Federal Election Commission declined to adopt, by a three-to-two vote, 1/ the recommendations of the Office of General Counsel to find probable cause to believe the above-named respondents violated the Federal Election Campaign Act ("FECA") with respect to the 1988 Senate election in Montana. 2/

We voted against OGC's recommendations. In our view, the respondent's answers, the evidence collected during the investigation, a fair reading of the statute, FEC precedent and judicial decisions all undercut Counsel's over-broad and speculative recommendations, and provided ample grounds for our votes in this case.

1/ Commissioner Potter recused himself from this matter and was not present during its consideration. Certification of FEC Action in MUR 3204, Aug. 4, 1994.

2/ Yes, 1988! After the complaint was filed in 1990, the FEC took four years to bring this case, with the FEC accountable for 1098 days and the Respondents 350 days. In fact, this case sat idle in OGC in 1992 and 1993. Accordingly, there can be no accusation of an election-year motivation on our part: we don't control OGC's timing and we would have voted the same way regardless of when this case was finally presented.

We imagine the Commission's self-styled critics will cite this case as another example of partisan protectiveness or deadlock that has, in their view, undermined the FEC's ability to be a campaign finance 'watchdog.' They may even blame the undersigned for not pursuing conciliation of the supposedly unlawful activity in this case.

That view is flatly wrong. First, what this case actually illustrates is how far the FEC's General Counsel has tilted toward treating political party activity as inherently suspect and presumptively illegal. For after an inconclusive four-year investigation, OGC could not articulate any reasonable or provable violations. Instead, OGC's report just 'threw the book' at the respondents, hoping to hit something. Counsel's Office should have read that book before they threw it, since volumes of Commission and judicial precedent are completely contrary to key parts of their case.

Second, these 'critics' will be wrong because the undersigned made six specific compromise motions to find violations in this case. Our colleagues, however, uniformly took an "all or nothing" approach for OGC's recommendations and nothing else. Accordingly, the Commission got nothing out of this case, even though there may have been majority sentiment that some violations had occurred.

What follows is a statement 3/ explaining our motions and why we rejected 4/ the General Counsel's six allegations against the National Republican Senatorial Committee (NRSC), the Republican National Committee (RNC),

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3/ See Common Cause v. FEC, 842 F.2d 436, 439 (D.C. Cir. 1988); Democratic Congressional Campaign Comm. v. FEC, 831 F.2d 1131, 1133 (D.C. Cir. 1987).

4/ 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)(from Section IV of the opinion, court later vacated Section III-B of decision for en banc consideration, 760 F.2d 1320); See also FEC v. National Republican Senatorial Comm., 966 F.2d 1471, 1476 (D.C. Cir. 1992); Stark v. FEC, 683 F. Supp. 836, (D.D.C. 1988)("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 ... as is given the reasoning of the Commission when it acts affirmatively.")

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the Montana Republican Party (MRP) and Conrad Burns' 1988 Senate campaign committee. 5/ We strongly believe a responsible reading of the law supports our views.

Allegation #1 The NRSC and MRP illegally financed mailings on behalf of the Burns Campaign

The General Counsel alleged the NRSC and MRP knowingly and willfully exceeded their contribution limits by $135,000 when they financed several mailings supporting Conrad Burns. We rejected this allegation since we could not support OGC's version of the facts and analysis of the law. Instead, as described below, we voted to find a more precise violation had occurred.

The Federal Election Campaign Act ("FECA") contains several contribution limits for political parties. As a national Senatorial committee, the Act entitles the NRSC to make a $17,500 contribution to, and $92,200 in coordinated expenditures on behalf of, the Burns campaign for U.S. Senate in 1988. 2 U.S.C. §§ 441a(h), 441a(d). 6/ The Act also allows the MRP to contribute $5,000 to Burns'

5/ These allegations appear in the General Counsel's July 6, 1994, Report to the Commission ("GC Report").

6/ Section 441a(d) provides that "The national committee of a political party, or a state committee of a political party, including any subordinate committee of a State committee, may not make any expenditure in connection with the general election campaign of a candidate for Federal office in a State who is affiliated with such party which exceeds -

(A) in the case of a candidate for election to the office of Senator, or of Representative from a State which is entitled to only one Representative, the greater of -

(i) 2 cents multiplied by the voting age population of the State (as certified under subsection (e) of this section); or

(ii) $20,000; ..."

Although the NRSC is not considered a "national" or "state" committee of a political party for purposes of § 441a(d), the RNC and the MRP may, however, authorize the NRSC to spend their respective § 441a(d) allowances on their behalf. See FEC v. Democratic Senatorial Campaign Committee, 454 U.S. 27 (1981).

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primary and general election campaigns. § 441a(a)(2)(a). Contributions made in excess of these limits violate 2 U.S.C. § 441a(f). 7/

The FECA has two important exemptions from these contribution limits. First, transfers between and among the national, state, district or local political committees of the same political party are not restricted by any contribution limit. 2 U.S.C. § 441a(a)(4). 8/ Second, payments by a State political party for campaign materials (such as mailings) used in connection with volunteer activities, and meeting certain criteria, are also exempt from the definition of contribution. § 431(8)(B)(x). 9/ This is often called the "volunteer materials" exception.

7/ Section 441a(f) provides that "No candidate or political committee shall knowingly accept any contribution or make any expenditure in violation of the provisions of [§ 441a] ..."

8/ Section § 441a(a)(4) provides "[t]he limitations on contributions contained in paragraphs (1) and (2) [of § 441a(a)] do not apply to transfers between and among political committees which are national, state, district or local committees (including a subordinate committee thereof) of the same political party. ..."

9/ Section 431(8)(B)(x) provides "[t]he term contribution does not include ... the payment by a State or local committee of a political party of the costs of campaign materials (such as pins, bumper stickers, handbills, brochures, posters, party tabloids, and yard signs) used by such committee in connection with volunteer activities on behalf of nominees of such party: Provided, That -

(1) such payments are not for the cost of campaign materials or activities used in connection with any broadcasting, newspaper, magazine, billboard, direct mail, or similar type of general public communication or political advertising;
(2) such payments are made from contributions subject to the limitations and prohibitions of this Act; and
(3) such payments are not made from contributions designated to be spent on behalf of a particular candidate or candidates."

[There is also a parallel exemption for volunteer materials from the definition of expenditure at § 431(9)(B)(viii).]

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The Commission's regulations implementing the volunteer materials exemption appear at 11 C.F.R. § 100.7(b)(15). Although not specifically supported by the statute, the regulation requires:

> materials purchased with funds donated by the national committee to such State or local committee for the purchase of such materials shall not qualify under this exemption. Rather, the cost of such materials shall be subject to the limitations of 2 U.S.C. § 441a(d) ...

11 C.F.R. §§ 100.7(b)(15)(vii).

This regulatory restriction obviously creates some conflict with the broad statutory permission granted political parties to make unlimited transfers under the Act. § 441a(a)(4). The Commission's Explanation and Justification for this additional restriction, however, purportedly "follows House Report 96-422 at page 9." 45 Fed. Reg. 15082 (1980). That Report states:

> To be eligible for this exemption, the campaign materials must be purchased by the State or local party committee. Campaign materials purchased by the national committee of a political party and delivered to a State or local party committee would not come within the exemption.

H.R. Rep. No. 96-422, 96th Cong., 2d Sess., p. 9 (1979) Reprinted in Legislative History of Federal Election Campaign Act Amendments of 1979, p. 193 (G.P.O. 1979).

No one disputes the NRSC made substantial transfers to the MRP in 1988. See MUR 3087 NRSC Response, p. 7 (Nov. 19, 1990), MRP Response, p. 1-2 (Nov. 14, 1990); 10/ MUR 3204 NRSC Response, p. 4-5 (Feb. 19, 1991), MRP Response, p. 2 (Jan. 18, 1991); NRSC Response to Commission Interrogatory #10, p. 14-16 (Aug. 1, 1991). Also, no one disputes that in 1988 the MRP paid a vendor named Foster and Associates to produce campaign materials the MRP reported as volunteer mailings exempt from the contribution limits under § 431(8)(B)(x).

The question is whether these campaign materials (also known as "Burns mailings") were properly financed. If not, part of their cost could be charged to the NRSC's § 441a(d) limit. If the NRSC had already exhausted that

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10/ MUR 3087 contained many of the same allegations as MUR 3204, and the two cases were merged by the Commission under the name MUR 3204 on May 21, 1991.

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limit, the impermissible amount would be an excessive contribution in violation of § 441a(f).

The Respondents urged us to find no violation. The NRSC emphasized the broad permission the statute grants political parties to make transfers and claimed the Commission's regulations only:

> restrict party funds designated for use in connection with exempt volunteer activities. See 11 C.F.R. §§ 100.7(b)(15) and 100.8(16). Here, the Complaint provides no evidence that the NRSC transferred funds designated for these purposes. Absent such proof, the payments by the State Party for its volunteer exempt activities are presumptively legal.

MUR 3807 NRSC Response, p. 8 (Nov. 19, 1990)(emphasis in original); see also MUR 3204 NRSC Response, p. 4-5 (Feb. 19, 1991). 11/

We disagreed. The Commission instructed its Audit Division to analyze the MRP's expenditures to determine if the MRP would have had enough of its own money to pay for the Burn's mailings without using any money the NRSC had transferred to it. 12/ The Audit division performed a "modified FIFO" analysis of the MRP's bank statements, federal accounts and expenditures for the period August 8 to December 20, 1988. 13/ GC Report at 9. The Commission has used this exact type of analysis on prior occasions to

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11/ The RNC Response also stated it explicitly directed the MRP in a letter to "not use RNC transfers to fund the activities which are the subject of [this case]." MUR 3807 RNC Response, p. 2, Exhibit C (Sept. 5, 1990). See also NRSC Response to Interrogatory #10 (Aug. 1, 1991) and accompanying affidavit of Anne Prestidge.

12/ Part of the problem with the timeliness of this case is that the Commission instructed OGC on May 21, 1991 to have Audit perform this work. OGC did not transmit that request to Audit until May 18, 1993.

13/ The modified FIFO analysis starts with the standard first-in first-out accounting method to calculate the amount of state and national party funds (if any) that comprise the daily balance in a state party committee's federal account. If that account is used to purchase exempt volunteer materials, the Audit Division will then determine if there was enough state funds available on that day to cover the expenditure. If not, national committee funds were used to support the exempt expenditure in violation of § 100.7(b)(15)(vii). See MUR 3204 Memorandum from Robert J. Costa (July 26, 1993).

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determine if national party funds were used to finance a state party's volunteer materials. MUR 2461 (Michigan State Republican Committee); MUR 2270 (NRSC and the Nevada Republican Party); MUR 2768 (North Dakota State Republican Committee); MUR 2994 (Wyoming State Democratic Central Committee); MUR 3028 (Connecticut Democratic State Central Committee). 14/

The Audit Division concluded that "$36,439.02 of the MRP's expenditures during this time period could not have been paid by the MRP without using funds from the NRSC." GC Report at 9-10. Accordingly, and consistent with other investigations of state parties on this very issue, 15/ we

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14/ We have found the modified FIFO analysis to be an efficient, although sometimes harsh, tool to enforce 11 C.F.R. § 100.7(b)(15)(vii). First, this analysis can unfairly penalize a state party by not accounting for local contributions received, but not yet deposited, on the day a volunteer disbursement is made. 2 U.S.C. § 432(b)(2). Second, the analysis is, however, readily objective and relieves the Commission from retroactively divining the "purpose" or designation behind a certain transfer. Third, it recognizes the statute gives political parties the unlimited right to make transfers to one another. This means a national party may continue to help state parties finance their administrative and overhead expenses, allowing the state's home-grown money to be used in volunteer mailings.

Some may cynically suggest we are ignoring that national party transfers can occur in roughly the same time and amounts of state party payments for exempt materials. To the contrary, the modified FIFO builds a brick wall around national party money regardless of when or what amount was transferred: if a state party couldn't have paid a bill but for the presence of national party money, then the national money used will count against the contribution limits.

15/ In an earlier and identical case, the General Counsel specifically asked the Commission whether it should calculate the excessive contribution as (1) the entire cost of the mailing that was financed in part with national funds, or (2) the amount of transferred national party funds the state actually used on the mailing. MUR 2768 Memorandum to the Commission (Dec. 13, 1991). The Commission unanimously chose the latter course, and calculated the excessive contribution as only the amount of national party funds actually used. Minutes of the Federal Election Commission, Jan. 14, 1992, p. 4-5.

This was a very reasonable decision since it would be unfair to charge the entire cost of a 1,000 piece

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supported finding probable cause that NRSC and the MRP exceeded their § 441a contribution limits by that amount. Remarkably, that motion failed by a vote of 2-3. 16/

Instead, our colleagues changed their position from MUR 2768 and supported the General Counsel's recommendation that, despite the audit's analysis, the Commission find the NRSC and MRP knowingly and willfully exceeded the contribution limits by the entire cost of the mailings! To understand why OGC abandoned precedent, it is important to know (a) what the General Counsel was trying to prove and (b) how they were trying to prove it.

(a) Behind all the hyperbole in the General Counsel's Report (and there is plenty of it) is an effort to show the NRSC and MRP "coordinated" the financing and content of the Burns mailings. This collusion, OGC suggests, means the mailings cannot be exempt from the contribution limits at § 431(8)(b)(x). This theory has one problem: the statute does not prohibit it. The volunteer materials exception (see footnote 9, supra) only prohibits these materials from being used in general public political advertising, and from being financed with excessive or prohibited contributions, or financed with contributions designated to be spent on behalf of a particular candidate.

The statute does not, however, prohibit all that happened in this case. A national party may transfer money to a state party to help it pay its overhead expenses. This holds true even if these transfers allow a state party to use more of its locally-raised money to buy more volunteer materials. A national transfer does not create or raise any local money, it just allows the state party to use its home-grown money to its maximum legal effect. And we see nothing surprising that an amount similar to the amount of a transfer is used for volunteer mailings. But most importantly, if the state party cannot

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(Footnote 15 continued from previous page)
mailing to a limit simply because, six years later, an audit determined the last few pieces were incorrectly paid with national funds. A mailing is an easily divisible expenditure, and we are sure that if a state party could predict it was running out of local funds, it would have sent only 950 pieces. But the Commission understood that unanticipated cost over-runs and fund-raising shortfalls make state party budgeting an art, not a science.

16/ The roll in this and other 2-3 votes is Commissioner Aikens and Elliott in favor, Commissioners McDonald, McGarry and Thomas opposed. Certification, item 11.

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raise any money at home, no amount of national transfers will enable it to purchase volunteer materials.

The statute also does not prohibit a national party from developing the message for a state party's volunteer mailing. Volunteer materials do not have to be amateurish or uncoordinated to be exempt from the contribution limits. Nor does the statute prohibit a national party from consulting with its state parties and candidates. In fact, the Commission presumes such coordination occurs, which is why party committees cannot, as a matter of law, make independent expenditures. 11 C.F.R. § 110.7(b)(4). So by trying to prove a 'conspiracy' among the parties, OGC failed to realize 'coordination' is not a crime.

The General Counsel's focus on "coordination" - as if this was an independent expenditure case - was misguided. We believe OGC's confusion was premised on their basic mistrust of political parties and a misunderstanding of what parties properly do. Party committees enjoy a long line of precedent confirming their ability to endorse and support candidates at all levels. Political parties develop and share strategies and money during campaigns. The national parties identify national themes and help state parties translate those themes into local messages to elect their candidates. In fact, the 1979 amendments to the FECA were specifically designed to strengthen the role of parties in this modern era of elections.

This common sense history is probably why OGC could not cite one MUR, statute or decision to support its new 'anti-coordination' doctrine or why the entire cost of the Burns mailings should be allocated to the NRSC's limits. Accordingly, we voted to find an exact excessive contribution that was in-line with the statute and Commission precedent. 17/ Our votes did not stop the Commission from finding an excessive contribution, but OGC's new theory did.

(b) Even if a "coordination" violation could exist, OGC failed to prove it. For in support of its unprecedented recommendation, OGC offered a one-sided characterization of the evidence assembled during its partial investigation, with heavy reliance on so-called 'affidavits' from two fired employees of the MRP.

17/ We agree with OGC that reporting violations also occurred here and in section five, infra, but only to the extent of the substantive violation we found.

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In a nutshell, OGC's evidence consisted of several documents 18/ and a rough overview of the amount of money the NRSC transferred to the MRP in 1988. 19/ But the most important piece of 'evidence' upon which the General Counsel based its case were the statements of Terry and Neida Merica.

Mr. and Mrs. Merica were the Executive Director and administrative secretary, respectively, of the MRP in 1988. After being fired, the Merica's (1) caused the complaints to be filed in this case, 20/ and (2) brought a wrongful-termination case against the MRP seeking $600,000 in damages, and alleging they were fired because they refused to cover-up alleged wrong-doings. After being deposed, however, the Mericas agreed to a judgment of dismissal with prejudice, along with a nominal $9,000 settlement. MRP Response Brief p. 19 (March 11, 1994).

The MRP Response Brief to OGC's probable cause recommendation so thoroughly destroys the credibility of the Mericas that it need not be repeated here. See MRP Response Brief at p. 8-20. Suffice it to say that according to the MRP: the Mericas stole privileged documents, falsified records, gave materials to the opposition party and funneled party funds into their personal checking account. Id. The MRP's position is the Mericas pattern of lying under oath, incompetence, personal bankruptcy and need for revenge led them to attempt to extort $600,000 from the MRP and have these totally false allegations filed in this case. Id.

18/ This evidence included a letter, a fax cover sheet (without the accompanying fax), a memo with a check, a purported "internal accounting" of NRSC funds in MRP, and handwritten notes. GC Report Attachments 4, 6, 7, 8, 17 and 17a.

19/ Instead of using the audit's detailed analysis, OGC eyeballed the evidence and stated that "approximately" $140,000 was spent on production, copying and postage of the Burns mailings. OGC's guess in "the $140,000 range" was taken from what purports to be an accounting ledger whose authenticity has never been verified. GC Report at 7-9, n. 11.

20/ According to the MRP, Common Cause and a local elected official filed this case on Merica's behalf with material the Merica's gave them. See MRP Response Brief at 17-18.

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The General Counsel, on the other hand, points to the December, 1993, "sworn affidavits" of the Mericas as "evidence" of the illegal activity in this case. These late-breaking affidavits were apparently designed to fatten-up the third-party complaints which had not given the Commission much to go on. What the General Counsel didn't disclose to the Commission is that, based on an interview, an FEC staff attorney wrote those affidavits for the Mericas.

Normally, when the Commission is faced with such contradictory positions, it conducts an investigation. But for some reason OGC did not in this case. The General Counsel's Office did not depose Ms. Campbell (Chairman of the MRP), it did not depose Mr. Shanahan (General Counsel of the MRP), it did not depose Ms. Prestidge (Field Coordinator of the NRSC), nor did it even bother to interview any of them. The Commission didn't even subpoena the transcript of the Merica's wrongful-termination litigation! All of this missing testimony was critical to properly resolving this case. Yet, the Commission did not attempt to get it.

In our opinion, it is an abuse of prosecutorial authority to so bungle an investigation and then paper over it by alleging the respondents must have violated everything in the book because there is no exculpatory evidence in the file! 21/ We imagine prosecutions all over this country would be easier if enforcement authorities did not have to investigate or make specific allegations, and defendants had to meet a 'guilty until proven innocent' standard. But as long as we are Commissioners, the General Counsel must make a defensible case on activity that actually violates the statute or regulations before we will find probable cause to believe.

Accordingly, we voted to stick with Commission precedent and find the NRSC and MRP violated § 441a(f) by making $36,439.02 in excessive contributions on behalf of the Burns Committee for mailings that did not meet the

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21/ Also, it is disingenuous for our counsel to only look into one side of this story, and pejoratively disparage the responses of the political parties while promoting our internally-generated 'statements' by people of dubious credibility.

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volunteer materials exception of §431(8)(B)(x). 22/ We utilized the modified FIFO analysis, even though the Respondents challenged its statutory support. Our decision is in-step with a string of enforcement cases which are exactly on point. See, e.g., MUR 2768 and note 15, supra.

Allegation #2 MRP salary payments are contributions to the Burns Campaign.

The General Counsel alleges the MRP made an excessive contribution to the Burns Committee when it paid the salary of a party field person who did some work on the Burns campaign. Nailing OGC down on this allegation is, however, a little difficult: after four years it is still hard to say whether OGC was unhappy with what this field person did or how he was paid.

OGC's recommendation was premised on an uninformed allegation that Mr. Ken Knudson was an employee of, and under the sole direction and control of, the NRSC, but was being paid by the MRP to work on the Burns campaign. MUR 3204 Complaint at para. 21.

Knudson specifically refuted the complaint's allegations by saying he was "employed by the Montana Republican Party ... I had no immediate supervisor ... I was not employed by the NRSC, did not receive any instructions and was not supervised by Ann Prestidge or any other employee or agent of the NRSC." Knudson letter at p. 1, 2 (July 3, 1991). 23/ Knudson also stated that he was employed by the MRP from approximately August 10 through November 6, 1988, and was paid $7,500. Id.

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22/ This decision is based solely on the presence of national party funds. The Commission did not investigate the level of volunteer activity in the distribution of the mailings, see e.g., MURs 2769 and 2288, nor does Commissioner Elliott dispute that the text of the mailers is allocable to § 441a(d). Advisory Opinions 1984-15, 1985-14, MUR 2116, but see FEC v. Colorado Republican Federal Campaign Committee, et. al., Civil Action No. 89-N-1159 (D. Col. Aug. 30, 1993), appeal pending, 10th Cir. 1994.

23/ This was confirmed in paragraph 12 of the sworn response of James L. Hagen, Treasurer of the NRSC (August 1, 1991).

Knudson described his duties during these three months as not only the Great Falls area coordinator for the Burns campaign, but he also:

> open[ed] and [ran] an office in Great Falls for the MRP ... solicited, organized, and managed volunteers ... assist[ed] state and federal Republican candidates, primarily Conrad Burns, with their election campaigns ... assisted Joe Briggs, Chairman, Cascade County Republican Central Committee, with volunteer assistance in the "Get Out The Vote Campaign" for all Republican candidates ... assisting with the Senator Quayle visit on behalf of then candidate for President, George Bush ... solicit funding and support [for] Conrad Burns and other Republican candidates.

Knudson letter at p. 1 (July 3, 1991).

After describing these duties that are typical of a party field agent, Knudson answered a specific question from OGC regarding what he did for Burns:

> 3. My work performed for the benefit of the Conrad Burns U.S. Senate campaign was extensive ... I drove/accompanied Conrad Burns on two trips of three days duration ... I was reimbursed to cover my expenses on these trips out by the Conrad Burns U.S. Senate campaign. I also attended meetings/visits with Conrad Burns during his pre-election trips to this area ... Attached is a copy of [a] campaign-type mailing for Conrad Burns accomplished out of the Great Falls office. Similar mailings were made for other candidates in cooperation with the local Republican Central Committee.
>
> Knudson, p. 2.

Despite the last line of his response again stating that he worked for other candidates, 24/ OGC said Knudson's salary should be charged against MRP's contribution limit to the Burns campaign. OGC made this decision without citing any precedent or the Commission's allocation regulations, both of which are contrary to its recommendation.

Specifically, section 106.1 of the Commission' allocation regulations state:

> (c) Exceptions: (1) Expenditures for rent, personnel,

24/ This was corroborated in the MRP Response Brief, pages 25-26 (March 11, 1994).

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> overhead, general administrative, fund-raising, and other day-to-day costs of political committees need not be attributed to individual candidates, unless these expenditures are made on behalf of a clearly identified candidate and the expenditure can be directly attributable to that candidate.

11 C.F.R. § 106.1(c)(1) (1988) (emphasis added).

The legislative history is also quite clear that staff is not allocable:

> These day to day expenses should be deemed to include such items as research, speech writing, general party organization and travel, party publications fundraising expenses, staff at various party headquarters in the field and national convention expenditures, provided such expenses do not contribute to any candidate's campaign effort.

Cong. Rec. H. 10333 (daily ed. Oct. 10, 1974).

The Commission has properly applied this law in the past. For example, in MUR 3218 the General Counsel alleged a candidate committee received an excessive contribution from a political party when its staff members periodically provided support and consulting services to the campaign. MUR 3218 GC Report at p. 18 (April 12, 1991). The Commission disagreed, and found no reason to believe a violation occurred. We specifically noted that visits by party committee field staff to provide advice and assess the progress or viability of campaigns is a routine function of a party committee. MUR 3218 Statement of Reasons at p. 4 (May 23, 1991).

Applying this regulation and precedent to the facts of this case clearly shows Knudson's salary is not allocable to the MRP's contribution limit to Burns. 25/ Knudson's and the MRP's response show he was a party field person involved in many different activities for a number of different campaigns. Just like the thousands of field

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25/ The regulation does require that expenses directly incurred on behalf of a clearly identified candidate are allocable. § 106.1(c)(1). Knudson and Burns followed that rule when the Burns Committee reimbursed Knudson for his overnight expenses while traveling with the candidate. Knudson letter at p. 2. OGC twisted Burns' compliance with that regulation into evidence that Knudson was really working for Burns, and should have been on Burns' payroll, not MRP's. This is yet another example of how OGC attempts to turn compliance with one regulation into a violation of another.

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people [illegible] his salary is not attributable to any particular [illegible]. 11 C.F.R. § 106.1(c)(1).

We [illegible] OGC's use of an old prosecutorial trick. OGC asked Knudson a specific question (#3) about just one of the campaigns he worked on (Burns), and then construed his response as describing the totality of his work. GC Report 19-20. We reject these attempts to take answers out of context to create these nagging inferences. It is especially troublesome since OGC could have resolved any doubt by simply asking the Burns committee: "what did Ken Knudson do for you?" Unfortunately, the interrogatories missed that completely.

In addition to being contrary to precedent, OGC's recommendation was also internally nonsensical. MRP paid Knudson a total of $7,500, but OGC recommended that only $2,500 of it be allocated to the Burn's campaign. If OGC really believed Knudson was working for Burns, it should have charged all of his salary to the contribution limit. Although not stated in the GC Report, the $2,500 figure actually came from the modified FIFO analysis: MRP used $2,500 of an NRSC transfer to meet Knudson's paycheck. Well, if the use of transferred money is what this case is about, then OGC should have recommended the $2,500 be charged to the NRSC's contribution limit, not to the MRP's! It just seems OGC forgot who they were throwing the book at and why.

Accordingly, we could not support OGC's spurious recommendation to find probable cause an excessive contribution occurred in this case.

Allegation #3 Burns received an excessive contribution in daily tracking polls

This allegation, more than any other, demonstrates the fundamental unfairness when the FEC imperfectly investigates activity that happened six years earlier. For throughout the responses to this allegation, the respondents bemoan the fact that fresher memories and once-kept records could have authoratively refuted this allegation. See 2 U.S.C. § 432(d) (three-year record retention rule).

Late in 1988, the RNC (through its affiliate, the Republican Governor's Association) and the NRSC engaged a vendor to conduct "daily tracking polls" to chart the progress of the campaigns for Governor and Senator in Montana. It is quite common for branches of a political party to cooperate in developing a tracking poll since, by combining similar questions into a single poll, they can

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avoid duplication and split the costs according to the number of questions each organization wanted posed. NRSC Response at 8 (Aug. 1, 1991). Oftentimes, candidates will pay to "piggyback" onto these polls and have one or two specific questions asked as well.

The NRSC used the results of this and many other tracking polls that year to:

> determine the allocation of its financial and creative resources; the kinds of party programs most likely to be effective in particular states; and the best use of its money by targeting close races.

NRSC Response at 6, quoting Willis affidavit at 2.

To avoid making an inadvertent contribution 26/, the NRSC states:

> [I]t was the policy of the NRSC not to provide the results of any polls to an individual candidate committee unless the committee agreed in advance to pay for those results in accordance with FEC regulations. Accordingly, I never released the results of the daily tracking polls to anyone employed by the Burns campaign or any state candidate; I did not authorize anyone else to release these tracking poll results to the Burns campaign or any state candidate; nor to my knowledge did anyone else release the poll results to the Burns campaign with the one exception of the question ... for which the Burns Committee made payment.

NRSC Response at 9 quoting the Willis affidavit at 2.

The Burns Committee did, in fact, ask that one extra question be placed in the daily tracking polls (a "head to head" comparison of Burns and his opponent). The Burns Committee paid the vendor for asking this question.

The General Counsel does not dispute the legality of this payment, or the allocation of the poll costs between the RNC, NRSC and Burns committee, or the legitimacy of sharing the developmental costs of a poll (or "piggy

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26/ Commission regulations require that opinion poll results which are purchased by a political committee are to be treated as a contribution in-kind by the purchasing committee and as an expenditure by the candidate or candidate's authorized committee that accepts the poll results. 11 C.F.R. § 106.4(b). Valuation of the polling data is determined by using one of several Commission-approved formulas. 11 C.F.R. § 106.4(e).

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backing"), as long as each party pays its fair share. The General Counsel does, however, allege (1) the Republican National Committee made an excessive contribution to the Burns Committee when it "advanced" the cost of these daily tracking polls, and (2) the Burns Committee received more than the polling information for which it paid.

We disagreed with OGC's "advance" theory. First, it is clear there was literally no "advance" in this case. The daily tracking polls were conducted by the vendor from October 15 through November 2, 1988. The vendor sent three, partial invoices to the RNC dated October 24, November 2 and November 9, 1988. The RNC made three payments for the total cost of the poll dated November 5 and December 15, 1988, and January 13, 1989. Gary Lawrence Response at 2, and attachments (Sept. 10, 1990); RNC Response at 1, 3 (Aug. 2, 1991). During this same period of time, RNC's reports show numerous transfers to it from the NRSC, some of which were in sufficient amounts to reimburse the RNC for the NRSC's share of the polling costs. RNC Response at 1-2.

The RNC said it has always been its practice to obtain the proper reimbursement for such shared projects with the NRSC for their portion of the poll. Since there was no written agreement between the parties and the Commission's questions were posed three years after the fact, it was unable to provide any background material to prove it followed its ordinary course. RNC at 5, see also Affidavit of Mark Braden (Feb. 25, 1994). The RNC also stated that it only received polling information related to the Governor's race, and was never in possession of any polling data related to Burns, nor did it give Burns any data. RNC Response at 2, 3.

We found no violation against the RNC because it repeatedly stated it only asked for, received and paid for polling data related to the 1988 Montana Governor's race. It also claimed it received the proper reimbursement from the NRSC for its share of the poll, and there is no evidence to the contrary. The fact that the NRSC reimbursed the RNC is of no legal significance, since our polling regulations do not require each participant to pay the vendor directly. This is particularly sensible since party committees can make unlimited transfers to each other, anyway.

Additionally, the RNC stated it never gave this or any other polling information to Burns. We find this quite believable since the RNC (and more specifically, the Republican Governor's Association) supports gubernatorial races, largely with non-federally regulated money. The RNC and RGA would not be in a position to investigate or

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financially support a federal campaign for U.S. Senate. That is the job of the NRSC. See Braden affidavit at 6. Lastly, if someone passed information to Burns, we found no evidence it was the RNC, or that the RNC even knew about it. Nor can it be seriously maintained that by paying for a poll and getting reimbursed by the NRSC, the RNC made transmitting the NRSC's own data to Burns possible.

In the absence of a mis-allocation of the polling costs or the failure of NRSC or Burns to pay their fair share, we do not believe the RNC could have made an excessive contribution to the Burns campaign. Therefore, we found no probable cause against the RNC on this issue.

Second, we disagreed with the General Counsel's allegation that the NRSC made an excessive contribution to the Burns Committee when Burns' consultants received polling results beyond what Burns had actually paid. Here, once again, the Commission's investigation broke down at a critical moment.

The pollster's response to the Commission's interrogatories stated that in addition to providing Burns with the results of the head-to-head question he requested, it also sent the results from the NRSC's questions to Burns' consultants in Washington. Lawrence Response (March 30, 1992). If this was done at the request or suggestion of the NRSC, then those poll costs are an in-kind contribution to Burns. 11 C.F.R. § 106.4(b). The NRSC's sworn response, however, stated that it did not provide any results to Burns or authorize anyone else to release the results to the Burns committee. NRSC Response at 9, quoting the Willis affidavit at 2 (Aug. 1, 1991).

When faced with this contradictory testimony, the FEC should have resolved it. In fact, OGC's supplemental interrogatories to the vendor in 1993 were the perfect opportunity to ask "who told you to transmit the NRSC polling results directly to Burns' consultants?" That question was not asked.

Without this answer, or any information from the consultants, it is impossible to know whether the Senatorial committee made an excessive contribution to the Burns Committee (by providing it with internal polling data) or whether the vendor made a corporate contribution to the Burns Committee (by providing it with results beyond those for which Burns paid). We had no desire to flip a coin, nor any reason to doubt the NRSC's sworn denials that it did not provide the results, did not authorize anyone to provide them, and did not know how or

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why the Burns' consultants received them. 27/ Accordingly, we could not find "probable cause" the NRSC committed a violation in this area.

Allegation #4 The NRSC made an excessive contribution with its voter identification project

Starting in the fall of 1987, the National, State and local Montana Republican parties began a joint effort to develop a list of registered voters, including party affiliation and assorted demographic information. Creating such a list is a standard party-building activity, especially in Montana where the state neither maintains a statewide voter registration list nor requires registration by party affiliation. NRSC response at 10 (Aug. 1, 1991).

A large amount of research and volunteer effort went into the creation of the party's own list. See, e.g. Elwood English letter (Sept. 22, 1988). Parties undertake this work because Commission regulations require parties to develop their own lists if they wish to send volunteer mailings. 11 C.F.R. § 100.7(b)(15)(i). 28/

After the list was finished, the project coordinator said:

> As with all lists, it was converted to magnetic tape from which output was available. Output from the master list ... was available through list vendors to any Republican entity who sought it for the normal charge by the vendor to produce these materials (mailing labels, index cards, etc.) No federal candidate was provided with a magnetic computer tape of the completed voter list.

27/ Also, we cannot agree that the mere payment of a third party invoice by the NRSC, without knowledge that poll results were being given to Burns, constitutes a violation of § 441a(f)'s prohibition that "no candidate or political committee shall knowingly accept any contribution or make any expenditure in violation of [§ 441a(a)]. In Re federal Election Campaign Act Litigation, 474 F.Supp. 1044, 1047 n. (D.D.C. 1979).

28/ Section 100.7(b)(15)(i) of the regulations allows payments for mailings to be exempt from the contribution limits provided that "such payment is not for cost incurred in connection with any ... direct mail ... the term direct mail means any mailing(s) by a commercial vendor or any mailing(s) made from commercial lists."

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NRSC Response at 12 quoting Bissen affidavit at 4-9.

The General Counsel's Report does not dispute that party committees routinely develop voter lists for their and their candidates' use. Nor does counsel allege the Burns committee received a copy of the magnetic tape. The General Counsel also does not claim the Burns Committee paid the list vendor any less than the fair market charge to have address labels made from the tape.

What Counsel does allege is that the entire amount the NRSC paid to help the MRP develop this list is a direct in-kind contribution to the Burns committee. Apparently, OGC's theory is based on the Commission's allocation regulations at 11 C.F.R. § 106.1(c) (although they are not cited in the Report) and the fact that Burns was running in the year the list was finished and that he was one of the first candidates to buy list labels from the vendor. We completely reject this analysis.

First, Counsel's recommendation and rationale is out of step with the statute's legislative history, Commission Advisory Opinions, enforcement decisions and allocation regulations. First, nothing in the statute or its legislative history requires a political party to allocate the costs of developing a voter list to the candidates running in that election. In fact, the legislative history indicates just the opposite, that the contribution and expenditure limits were not intended to apply to every expense by a party committee:

> There is general agreement among the conferees that the provisions placing limitations on contributions and expenditures should not require the ... senatorial campaign committees ... to credit to a candidate's limitations on expenditures and contributions or to otherwise attribute to any political candidates or his political committees a portion of their normal day to day expenses. Any other interpretation would create an enormous amount of administrative busy work for all candidates and might cause wholesale violations of the law. ... These day-to-day expenses should be deemed to include such items as research, speech writing, general party organization and travel, party publications, fundraising expenses, staff at various party headquarters in the field and national convention expenditures, provided such expenses do not contribute directly to any candidate's campaign effort.

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Cong. Rec. H. 10332-10333 (daily ed. Oct. 10, 1974) (emphasis added). See also Cong. Rec. H. 7807-7808 (daily ed. Aug. 7, 1974); Cong. Rec. S. 18529-18350 (daily ed. Oct. 8, 1974).

There is simply no evidence in this case that the research and preparation of a voters list contributed directly to Burns campaign effort. It is only when Burns, or any other candidate wanted to use the party's list could a contribution occur, unless the candidate paid for that use. That is exactly what Burns did.

Second, the Commission has previously endorsed this reading of the law in three Advisory Opinions. In Advisory Opinion 1988-22 the Commission wrote:

> Republican Associates will also obtain lists of campaign contributors and registered voters from public records and make these lists available to interested persons. ... The Commission concludes that funding of a "campaign" library by Republican Associates would constitute general administrative expenses, incurred in the context of its day to day operation, and not "contributions" or "expenditures" attributable to any particular candidate.

See also Advisory Opinion 1978-46 (costs of a party convention are not allocable to participating candidates); Advisory Opinion 1975-87 (citing legislative history, the cost of organizing a conference on campaign skills not allocable to participating candidates). 29/

Third, in enforcement matter MUR 2215 the Commission unanimously approved the General Counsel's recommendation that a labor union did not have to allocate the cost of creating a voter list to the candidates who wished to use it for a mailing:

> Respondents argue that the total cost of compiling the list of voters is irrelevant to the issue of usual and normal charge. The list of voters is a computerized tape which the respondent continually updates. This tape itself is not sold. Instead,

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29/ In Advisory Opinion 1988-22, the Commission went on to point out that only if the requester provided "additional library services for a federal candidate that result from the request of or coordination with such candidate, any additional expenses incurred in providing such services would be attributable to that candidate as an in-kind contribution." Any additional work on the MRP's list (e.g., turning it into mailing labels) was paid by Burns.

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> respondent is selling use of the tape in the form of [mailing labels and the like]. Thus, the relevant inquiry is the price at which respondent sells its products.

MUR 2215 GC Report at 6 (Oct. 31, 1986) (emphasis added).

Just like that matter, MRP is only selling the use of its list, not the list itself. And as in MUR 2215, the relevant inquiry is how much MRP charged for that use. Once again, OGC does not contend Burns paid too little for its use. 30/

Fourth, it is unfair for OGC to make a party's compliance with § 100.7(b)(15)(i) into a violation of § 106.1(c). For this reason, we believe the Commission's allocation regulations do not require the MRP's development costs of this voters list be attributed to Burns, nor should they. As mentioned in sections two and three of this statement, the "general administrative and other day-to-day costs of political committees" are not attributable to the contribution limits to individual candidates. 11 C.F.R. § 106.1(c)(1).

The creation of a voters list is probably the quintessential general administrative activity of a political party. It is used for a variety of purposes, including for mailings, phone banks, volunteer recruitment and get-out-the-vote drives. It is used from election cycle to election cycle, and is constantly being updated by party volunteers. And most importantly, it is the property of the party committees who created it. Bissen affidavit in MUR 3087 ("when this enhanced list was completed it was to be jointly owned by the national party committee and the Republican Party of Montana").

And finally, even OGC must admit their recommendation is not well thought-out. If Burns used the mailing list that was created by NRSC and MRP, why weren't MRP's allocation costs attributable to Burns as well? Also, if Burns had to pay for 100% of the NRSC's share to create

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30/ OGC incorrectly maintains today's recommendation is consistent with the Commission's recent decision in MUR 2581. In that case, a four member majority of the Commission said the Michigan Republican party should have allocated a small portion of list development costs among all the candidates running that year. In this case, however, OGC recommends all of the NRSC's cost be allocated to just one candidate. Further, the respondent in MUR 2581 vehemently disagreed with OGC, and the matter is pending in federal court. FEC v. Michigan Republican State Comm., (Case No. 5:94-CV-27).

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the list, does that mean the two Congressional candidates running that year didn't have to chip in? With Burns forced to cover all the cost in 1988, should we suppose the NRSC's candidate in 1990 had to pay nothing? If a candidate used the list in 1990, would Burns be making an excessive contribution to him?

These questions seem to be just the type of "administrative busy work" and "wholesale violations" the legislative history was trying to prevent. Accordingly, we could not support Counsel's allegations.

Allegation #5 The NRSC Exercised "Direction and Control" over Earmarked Contributions to the Burns Campaign

Of all the allegations in the General Counsel's Report, this one is the most unfortunate. The General Counsel alleged the NRSC violated § 441a(h) by making a $130,000 excessive contribution to the Burns committee by forwarding earmarked contributions to him over which it had exercised "direction and control." OGC also alleged the NRSC erred in failing to charge Burns for the full cost of this fundraising program, and that the contributions were incorrectly reported.

We disagreed with Counsel's "direction and control" analysis. Instead, we voted to find the more precise violation that Burns had not paid for all of the NRSC's solicitation costs. Our votes were directly in line with Commission and recent judicial precedent on this very subject. We apologize for the somewhat lengthy quotes that follow, but it is necessary to repeat much of the General Counsel's Report to fully appreciate its incorrectness.

a. Direction and Control

In 1988, the NRSC mailed a fundraising letter to its contributors soliciting earmarked contributions for the Burns Committee and another Senate candidate in a different state. According to the General Counsel:

> The letters sent by the NRSC identified only Conrad Burns and Susan Engelighter as candidates who could receive contributions from this solicitation, and directed the recipients of the solicitation to make their checks out to the NRSC. The letter also said that the NRSC would see to it that the funds were divided evenly between Burns and Engelighter, and did not suggest that the potential contributor had any other alternative. Those who responded to the program signed a statement that said "I've made my check payable to the National Republican Senatorial

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> Committee. I direct you to divide my earmarked contribution evenly between Conrad Burns for U.S. Senate and Engelighter for Senate Committee." NRSC represented that the proceeds were distributed equally between the two candidates, but not until expenses for this solicitation were paid for out of the gross receipts for the solicitation.

GC Report at 27.

The General Counsel claimed the $130,000 in earmarked contributions the NRSC conduited to Burns from this solicitation should be double-counted against the NRSC's $17,500 contribution limit and the limits of the individual donors. This allegation is based on the FEC's "conduit" regulations at 11 C.F.R. § 110.6(d). 31/

But without citing or analyzing the above regulation, OGC's Report offered four reasons "direction or control" occurred:

> First, ... the solicitation in question here identified only two candidates to whom contributions could be given, and did not suggest that potential donors had any other option. Second, the letter called for the contributions to be evenly divided between only these two candidates, and did not suggest that a potential contributor had any other option. Third, the checks were not only made out to the NRSC, but in this instance the NRSC exercised sufficient control over these funds to deduct for itself some portion of its solicitation costs before forwarding the remaining funds to the candidate committees, rather than billing the committees separately for solicitation. Finally, the timing of the contributions was entirely within the control of the NRSC since the checks were made out to it.

GC Report at 28-29.

31/ Section 110.6(d) provides:

(1) A conduit's or intermediary's contribution limits are not affected by the forwarding of an earmarked contribution except where the conduit or intermediary exercises any direction or control over the choice of the recipient candidate.

(2) If the conduit or intermediary exercises any direction or control over the choice of the recipient candidate, the earmarked contribution shall be considered a contribution by both the original contributor and the conduit or intermediary.

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OGC contrasts the above violation with a different NRSC solicitation for Burns it found acceptable:

> The NRSC's role was somewhat more passive with respect to the second solicitation, however. In this case, although the letter identified two candidates for whom money would be a significant factor in their success or failure, the NRSC also identified numerous other candidates whom the recipients should support. Further the letter did not make any suggestions as to the way in which a contributor should allocate his funds. In addition, the checks sent to the NRSC in response to these letters were made out to the Burns Committee itself, not the NRSC. In this instance the NRSC charged the Burns Committee a processing fee rather than deducting its costs from funds received.

GC Report at 29-30.

It is on these factual differences that OGC attempts to make a legal distinction between these solicitations: if it requests specific amounts for particular candidates in conduit-payee checks, there is dual attribution. But if it mentions a lot of candidates and gives no clear suggestions, there is no direction or control.

In our opinion, this does not even offer the pretense of legal analysis. Although facts are relevant, we reject this purely case-by-case approach that deliberately avoids the legal question: what constitutes "direction or control"? We must set clear lines and give reasonable guidance to make compliance possible.

More importantly, counsel's result is incompatible with Commission precedent in Advisory Opinion 1980-46, and MUR 1028. 32/ But ever since our three colleagues abandoned these precedents, the exact meaning of "direction or control" has become the subject of controversy within the

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32/ In Advisory Opinion 1980-46, the Commission held that no direction or control exists when a PAC solicits earmarked contributions for candidates, even though the "mailing contains a clear suggestion that the individual receiving the communication make a contribution to a specific candidate through NCPAC as an intermediary." MUR 1028 (same).

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FEC. 33/ Despite this internal flip-flopping, two recent court decisions have shed valuable light on what constitutes "direction or control." Federal Election Comm'n v. National Republican Senatorial Comm., 966 F.2d 1471 (D.C.Cir. 1992)("NRSC 1") and Federal Election Comm'n v. National Republican Senatorial Comm., No. 93-1612 (D.D.C. June 24, 1994)(unpublished opinion) ("NRSC 2").

In NRSC 1, the D.C. Circuit reviewed an NRSC earmarking program remarkably similar to the one at issue in this case. Compare 966 F.2d at 1473 with GC Report at 27. The court clearly rejected the facts OGC re-offers here as evidence of direction or control:

> The first factor was that contributions were deposited in NRSC's bank accounts before being forwarded to the candidates for whom the contributions were earmarked. However, counsel for the Commission conceded at oral argument that this state of affairs not only is contemplated but expressly permitted by the Commission's regulations. ... The concession was well-founded. See 11 C.F.R. § 110.6(c)(1)(i), (c)(4)(iii). Nothing has been offered to reveal why engaging in a Commission-approved practice should cause one to run afoul of the other Commission rules.
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> The second factor was that the NRSC "controlled" the choice of candidates for whom contributions would be solicited, by selecting which candidates were included in the campaign ... (Related to this factor is the idea that NRSC somehow selected the amount of the contribution by providing three boxes to check: two with specific amounts and one with a blank line labeled "other.") The problem is that if this establishes "direction or control" within the meaning of § 110.6(d)(2) then every solicitation qualifies for the same treatment. Every solicitation "pre-selects" candidates to some degree. It is fanciful to suppose that national political committees of any party would expend their resources

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33/ In an 1989 rulemaking that attempted to revise the conduit regulation, the Commission stated it was "not able ... to formulate regulatory language that clearly delineates situations where direction or control exists from those in which the conduit does not exercise direction or control." 54 Fed. Reg. 34,098, 34,108 (1989). See also Advisory Opinion 1991-29 ("the Commission discussed application of the 'direction and control' standard under 11 CFR 110.6(d) to the circumstances presented by your request but could not reach a majority decision.")

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> merely to urge individuals to contribute to the candidate of their choice. Committees of one party gather funds for candidates of that party. The Commission knew this as well as anyone when it promulgated § 110.6(d)(2).

NRSC 1 966 F.2d at 1477 (parenthetical in original).

In concluding, the court considered then-Commissioner Josefiak's Statement of Reasons for that case (in which we concurred), see 966 F.2d at 1476-77, and said:

> to find direction and control on these facts would require a substantial shift in the Commission's construction of the language contained in § 110.6(d). To do so on the basis of [these facts] would threaten to vitiate § 110.6(c) ... and would throw into doubt whether any solicitation of any earmarked contribution would be exempt from the "double-counting" requirements of § 110.6(d)(2).

NRSC 1, 966 F.2d at 1478 (emphasis in original).

NRSC 2, on the other hand, involved an entirely different fundraising program. In that case, the NRSC re-contacted contributors who had just given funds to the NRSC, and asked them to earmark their deposits to particular candidates. In finding direction and control, the district court said:

> the facts of the instant case are distinguishable from [NRSC 1] and the advisory opinions cited by the NRSC. [NRSC 1] involved funds that donors had already earmarked when the NRSC received them ... Conversely, in the instant case, the FEC alleges that the NRSC had complete control over the funds it had solicited and, on its own, sought to redesignate the contributions. Here it is alleged that contributors no longer had the ability to make any choice to contribute the money because the funds no longer belonged to them.

NRSC 2, No. 93-1612, slip op. at 4-5. See also NRSC 1 at 1478 (citing with approval Advisory Opinion 1980-46 and MUR 1028) ("the fact that a potential contributor may decide against making a contribution indicates lack of control over the choice of the recipient candidate").

We really do not think the courts could have been any clearer: a political party may raise earmarked contributions in very precise solicitations without double-counting if the contributor retains the right to choose whether to contribute at all. But if a committee seeks to earmark a contribution that has already been made, it is

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exercising direction or control. Simply put, there is no direction or control if the contributor chooses to send in an earmarked contribution and the money is transmitted according to the contributor's wishes. 34/

Because the contributions in this case were properly earmarked before arriving at the NRSC (and the earmarks were dutifully followed), precedent requires no "direction or control" be found in this case. OGC's attempt to find "direction or control" by just taking a "look at all the factors" is not legally persuasive. GC Report at 28. OGC's non-recyclable, yet beloved, factors that contribution checks passed through a conduit's account and limited-choice solicitations were thoroughly demolished by Commissioner Josefiak's Statement in MUR 2282, and the court's decision in NRSC 1. The regulations expressly permit depositing checks in the conduit's account, and the 'two-candidate and specific amount' precision of the fundraising pitch actually reduces, not enhances, NRSC's ability to exercise "direction or control" by removing any discretion in dividing funds raised from an ambiguous solicitation. 35/

34/ We acknowledge this distinction may not answer all earmarking questions in the corporate setting. We note in NRSC 1 at 1478; Advisory Opinions 1986-4 and 1991-29 (Josefiak concurrence) that possible coercion in the employer-employee relationship may make the original decision to contribute an involuntary one.

35/ OGC did offer two other factors the court in NRSC 1 did not specifically mention: NRSC deducted its costs before forwarding the money to Burns and NRSC controlled the "timing" since the checks were made payable to it. Neither of these factors make any sense, nor override the legal conclusions on contributor choice established by NRSC 1 and NRSC 2.

First, by deducting the solicitation costs before transmitting the contributions, NRSC is actually preventing a different excessive contribution from occurring (see note 37, infra) by ensuring no candidate would ever be late in reimbursing NRSC for the cost of raising the money sent to them. Again, the standard is not direction or control over the money, itself, but direction or control "over the choice of the recipient." Also, we see no practical difference between the NRSC sending Burns a check for $10 of earmarked contributions plus a bill for $1, versus sending $9.

Second, it is legally wrong to suggest the NRSC "controlled" any timing. As the Commission pointed out in Advisory Opinion 1980-46, the statute controls the timing in earmarking cases. "Nor does NCPAC have any significant control over the time when the contributions

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We feel the General Counsel's blatant avoidance of NRSC 1 and NRSC 2 is indicative of either a hostility toward the NRSC, or a prejudice against their success at this permissible type of fundraising. Worse yet, it may be part of an unpleasant view that only OGC can 'properly' interpret the FECA, and not any court. 36/ We will, however, apply the rules of law as enunciated by the courts, regardless of whether we may personally agree or disagree with them.

b. Solicitation Costs

One minor point within this earmarking section is whether the NRSC properly charged Burns the full cost of the earmarking program conducted on his behalf. The evidence indicated that the NRSC only charged enough to cover the cost of raising, accounting and transmitting the contributions it actually received. It did not, however, charge the Burns Committee for the cost of an NRSC letter that did not get a response. We agree that the cost of an "unsuccessful" as well as a "successful" solicitation are in-kind contributions to the beneficiary of an earmarking program. 37/ Accordingly, we voted to find probable cause a violation occurred. 38/ We do not know why our colleagues voted against this motion, when they supported the very same violation in the General Counsel's recommendations. 39/

(Footnote 35 continued from previous page)
are forwarded to the candidates ... NCPAC would be under a duty as a conduit to forward earmarked contributions for an authorized candidate committee no later than 10 days after receipt." AO 1980-46 p. 4 and n.3; See also 11 C.F.R. § 102.8(c).

36/ We are also discouraged that the Commission is ignoring the rationale of NRSC 1. That decision is good law from a court's review of an attempted Commission prosecution, not just the review of a 3-3 split under § 437g(a)(8). NRSC 1 at 1476. But after Common Cause v. Federal Election Comm'n., 729 F.Supp. 148 (D.D.C. 1990) was overruled by NRSC 1, OGC seems to have lost interest in the judiciary's opinion.

37/ To prevent NRSC's in-kind contribution from exceeding the $17,500 statutory limit, recipient committees routinely reimburse the NRSC for the fundraising costs incurred on their behalf.

38/ Certification, item 7, page 5.

39/ Recommendation 7, GC Report, page 37; Certification item 6, page 4.

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Even more remarkable is that you can not legally reconcile the General Counsel's recommendation for "direction or control" and its recommendation for charging "solicitation costs" on the same fundraising program. As the court in NRSC 2 pointed out:

> [if the NRSC exercised direction and control], then the cost of raising this money cannot be considered in-kind contributions. This double counting would be akin to forcing an individual to count against his contribution limit, not only any donation he made, but also the value of the work he performed to earn the money for the donation. Such a result is surely not mandated by the FECA. However, there is no such problem with any services provided by the NRSC for solicitation of funds over which the NRSC did not exercise "direction or control."

NRSC 2, slip op. at 13.

That's pretty clear: you can either have "direction or control" or you can allocate solicitation costs, but you can't do both. If the NRSC is considered to have exercised "direction or control" over the contributions, such that when it forwards them the contributions will count against its limits, it is as if the NRSC made the contributions from its own funds. As with any individual, party or PAC, the cost of raising money you contribute is not allocable to the recipient candidate. Unfortunately, OGC's contradictory recommendations is another example of just blindly 'throwing the book' at the respondents, without any regard for internal consistency or precedent. 40/

c. The Burns Committee

Probably the most out of place allegation in Counsel's Report was that the Commission pursue the Burns Committee for violating 2 U.S.C. § 441a(f) for receiving excessive contributions from the NRSC.

This allegation is yet another example of OGC's unwillingness to sort this case out by looking into Commission precedent. In MUR 2282 and MUR 2314 (the precursors of NRSC 1 and NRSC 2) the Commission was faced

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40/ In typical fashion, OGC dismisses NRSC 2's guidance on this point as only being a preliminary conclusion, so the Commission should not "alter its treatment of such costs at this time." GC Report, p. 34, n. 34. OGC, was, however, quick to apply the parts of NRSC 2 it agreed with even though the case "will be litigated further." Id. see GC Report at n. 31, n. 32.

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with 13 candidates who were recipients of NRSC earmarking solicitations. In both cases, the Commission agreed to not prosecute the candidates:

> The earmarking programs at issue in this matter were those of the NRSC; that committee should bear the responsibility for any violations arising from those programs. ... The Commission has not chosen to pursue other candidate committees who received earmarked contributions through the NRSC in the 1986 election cycle; in particular, no candidate committees were respondents in MUR 2282. Therefore, the General Counsel concludes that the Commission should exercise its prosecutorial discretion and dismiss the [recipient candidate committee] from this matter.

MUR 2314, GC Report at 22 (Feb. 13, 1992)

We do not understand OGC's flip-flop on this issue, and will not take part in it. Accordingly, we voted to acknowledge an excessive contribution was received, but in line with precedent, take no further action. Certification item 15.

Allegation #6 The NRSC failed to file State Reports

This allegation comes from the 'never let anything go department' at the FEC. Counsel recommended the Commission find probable cause the NRSC violated 2 U.S.C. § 439(a) by failing to file its monthly reports for 1988 with the Montana Commission of Political Practices. 41/

Although the General Counsel's report did not state this, the NRSC had, in fact, filed these reports some four and a half years earlier in response to a reminder from the Montana Commission. Since these reports were filed before the complaints were filed in this case, we voted to find probable cause but take no further action on this violation. This is consistent with our goal of promoting voluntary compliance with the Act and in the proper ordering of the Commission's resources and priorities. Heckler v. Chaney, 470 U.S. 21 (1985).

41/ Section 439(a)(1) requires a "copy of each report and statement required to be filed [with the FEC] by any person under this Act shall [also] be filed by such person with the Secretary of State (or equivalent State officer) of the appropriate State ..."

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Conclusion

When all the dust settles from this case, it will be clear that Counsel's recommendations were inconsistent with precedent, incompatible with the law and unsupported by the facts.

Therefore, we had to reject OGC's stale, capricious, and 'guilty until proven innocent' prosecution, along with its contradictory analyses that often did not yield any explicit legal result. In place of OGC's recommendations, we made specific and defensible motions to find violations that were in-line with the analysis and disposition of prior cases, Advisory Opinions and court decisions.

We believe this agency has handled over 3000 cases before this one for a reason: to build a body of law that the Commissioners and Respondents can count on. It is capricious to treat every MUR as a new beginning, and eschew this agency's prior administration of the law. At some point, the Commission must acknowledge the players in the political process know how to operate within the law, and want to do so. More importantly, the Commission must recognize that the law protects their right to do so. This agency frustrates that right when we do not draw clear lines, change the bar during every jump, and ignore judicial construction of the statute.

For all the reasons set forth above, including the fact that this case should have been closed last year under our new Enforcement Priority System, 42/ we could not approve the General Counsel's recommendations in this matter. We firmly believe our actions and motions are entirely consistent with a fair interpretation of the Act.

Joan D. Aikens
Joan D. Aikens
Commissioner

Lee Ann Elliott
Lee Ann Elliott
Commissioner

September 14, 1994

42/ As part of the prioritization of our work, the Commission decided last year to uniformly close all non-presidential enforcement cases alleging violation prior to 1989. Despite that guideline, this case was pursued. The Commission also agreed to close certain other cases last year, including one that had violations similar to this case. See MUR 3028 (Democratic State Central Committee).

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

In the Matter of:

National Republican Senatorial Committee and Sonya M. Vasquez, as treasurer, Republican National Committee and William J. McManus, as treasurer, Montana Republican State Central Committee and Shirley J. Warehime, as treasurer, Conrad Burns/US Senate and Jim Swain, as treasurer	)	MUR 3204

RESPONSE OF THE GENERAL COUNSEL TO THE STATEMENT OF REASONS OF COMMISSIONER JOAN D. AIKENS AND COMMISSIONER LEE ANN ELLIOTT

On September 14, 1994, Commissioners Joan D. Aikens and Lee Ann Elliott issued a Revised Statement of Reasons in MUR 3204. It is the Presidentially appointed Commissioners of the Federal Election Commission who are charged with the responsibility of deciding whether there is probable cause to believe the Federal Election Campaign Act was violated. The statute only gives the general counsel the responsibility and authority to make a recommendation to the Commission regarding whether or not there is, in the general counsel's view, probable cause to believe that a violation has occurred. Many of the issues which the Commission must decide are complex and susceptible to differing, but reasonable, interpretations. Therefore, while I have at times in the past disagreed with a Commissioner's analysis or characterization of the Office of General Counsel's views on a case, I have never before felt it appropriate to formally respond to a Commissioner's Statement of Reasons. This Statement of Reasons, however, contains specific accusations regarding actions taken by my office, certain of which I believe warrant a response.

On Page 11 of the statement, Commissioners Aikens and Elliott respond to the Office of General Counsel's presentation of the affidavits of two witnesses in the case. The Commissioners state:

> These late-breaking affidavits were apparently designed to fatten-up the third-party complaints which had not given the Commission much to go on. What the General Counsel didn't disclose to the Commission is that,

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based on an interview, an FEC staff attorney wrote those affidavits for the Mericas.

By these statements, Commissioner Aikens and Elliott appear to reject an investigative technique used in this case and imply that we hid our actions from the Commission.

Once the Commission finds reason to believe that a violation has occurred, as it did in this case, my responsibility is to investigate to see if there are any merits to the allegations. One way that is done is through the interviewing of witnesses and taking of testimony in a variety of forms. Commissioners Aikens and Elliott are correct that the staff attorney interviewed the witnesses, reduced their statements to affidavit form and then asked them to make any changes they felt appropriate and sign the statements, if they were accurate. The reason I did not call special attention to this activity was that it is a standard procedure in virtually every investigative or discovery practice of which I am aware and has been used by the Commission for years. In fact, the Commission unanimously voted to officially approve OGC's recommendation to authorize the use of such informal discovery techniques in investigations on May 3, 1990. Agenda Document #90-39, which served as the basis for OGC's recommendation and was discussed by the Commission, referred to the type of procedure used in this case. Given this background, it never occurred to me that anyone would see this practice as in anyway inappropriate. It is a common and perfectly appropriate investigative procedure which will continue to be utilized unless I am directed otherwise by the Commission.

Finally, an earlier version of the Statement of Reasons which was made public contained an allegation that "...Counsel's recommendations were...unsupported by the facts: even the facts OGC helped create." That claim presumably related back to the affidavits in question. The taking of an oral statement from a witness which is then reduced to an affidavit to be reviewed and signed by the witness is in no way analogous to the creation of evidence. The creation of evidence is illegal and unethical conduct which I would never tolerate or condone. Since this statement has been removed from the Revised Statement of Reasons, it requires no further comment.

9/14/94
Date

Lawrence M. Noble
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 3204

DATE FILMED 9/14/94 CAMERA NO. 2

CAMERAMAN J.A.Q.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

VIA FEDERAL EXPRESS

September 13, 1994

Kelly Addy
225 Petroleum Building
2812 First Avenue, North
Billings, Montana 59101

RE: MUR 3204

Dear Mr. Addy:

As we discussed yesterday, enclosed with this letter are copies of documents related to MUR 3204. Specifically, we are providing you the General Counsel's Brief to the National Republican Senatorial Committee (NRSC), the General Counsel's Brief to the Montana Republican State Central Committee (MRSCC), the Response Brief from the MRSCC, the General Counsel's Report ("probable cause report"), and the final certification of the Commission's action. Please note that the NRSC did not file a Response Brief. Not enclosed with this letter are supporting documents, Briefs to and from the Republican National Committee and the Conrad Burns campaign, and previous reports related to the investigation. Please note that a partial list of documents can be found as an Attachment list on the last page of the General Counsel' Report.

The Commissioners' Statements of Reasons are also enclosed. The public file for MUR 3204 will be made available shortly from the Commission's Public Records Office, which can be reached at (800) 424-9539 or (202) 219-4140.

If I can be of further assistance, please call me on the toll free line or on (202) 219-3690.

Sincerely,

Jeffrey D. Long

Jeffrey D. Long

Enclosures

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 14, 1994

VIA FEDERAL EXPRESS

Ed Argenbright, Ed.D.
Montana Commissioner of
Political Practices
1205 8th Avenue
Helena, Montana 59620

RE: MUR 3204

Dear Mr. Argenbright:

By letter dated August 18, 1994, the Office of the General Counsel informed you of determinations made with respect to the referral your office filed related to the Conrad Burns/US Senate Committee, Montana Republican Party, and the National Republican Senatorial Committee.

Enclosed please find two Statements of Reasons, explaining the Commissioners' votes. This document will be placed on the public record as part of the file of MUR 3204.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Jeffrey D. Long
Paralegal Specialist

Enclosure
Statements of Reasons

cc: Leo J. Gallagher, Special Prosecutor

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 14, 1994

VIA FEDERAL EXPRESS

Robert Edd Lee, Esquire
404 North 31st Street, Suite 200
P.O. Box 7015
Billings, Montana 59103-7015

RE: MUR 3204
Montana Republican State Central Committee and Shirley Warehime, as treasurer

Dear Mr. Lee:

Enclosed please find two Statements of Reasons from the Commissioners explaining their vote. This document will be placed on the public record as part of the file of MUR 3204.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Jeffrey D. Long

Jeffrey D. Long
Paralegal

Enclosure
Statement of Reasons

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 14, 1994

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

RE: MUR 3204
National Republican Senatorial Committee and James L. Hagan, as treasurer

Dear Mr. Baran:

Enclosed please find two Statements of Reasons from the Commissioners explaining their vote. This document will be placed on the public record as part of the file of MUR 3204.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Jeffrey D. Long

Jeffrey D. Long
Paralegal

Enclosure
Statement of Reasons

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 14, 1994

Richard E. Messick, Esquire
Suite 700 North Building
601 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

RE: MUR 3204
Conrad Burns/U.S. Senate and
Jim Swain, as treasurer

Dear Mr. Messick:

Enclosed please find two Statements of Reasons from the Commissioners explaining their vote. This document will be placed on the public record as part of the file of MUR 3204.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Jeffrey D. Long

Jeffrey D. Long
Paralegal

Enclosure
Statement of Reasons

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 14, 1994

Michael Hess, Chief Counsel
Republican National Committee
310 First Street, S.E.
Washington, D.C. 20003

RE: MUR 3204
Republican National Committee and
William J. McManus, as treasurer

Dear Mr. Hess:

Enclosed please find two Statements of Reasons from the Commissioners explaining their vote. This document will be placed on the public record as part of the file of MUR 3204.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Jeffrey D. Long

Jeffrey D. Long
Paralegal

Enclosure
Statement of Reasons

2404358407 8

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 14, 1994

W. Hardy Calcott, Esquire
Wilmer, Cutler & Pickering
2445 M Street, N.W.
Washington, D.C. 20037-1420

RE: MUR 3204

Dear Mr. Calcott:

By letter dated August 18, 1994, the Office of the General Counsel informed you of determinations made with respect to the complaint you filed related to the Conrad Burns/US Senate Committee, Montana Republican Party, and the National Republican Senatorial Committee.

Enclosed please find two Statements of Reasons which explain the Commissioners' votes. This document will be placed on the public record as part of the file of MUR 3204.

This Office would also like to inform you of an error in the August 18 letter wherein the reference to the year that your complaint was filed was incorrectly listed as 1994 rather than 1990.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Jeffrey D. Long

Jeffrey D. Long
Paralegal Specialist

Enclosure
Statements of Reasons

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FEDERAL ELECTION COMMISSION
WASHINGTON, DC 20463

Date: 9/15/94

✓ Microfilm

_____ Public Records

_____ Press

THE ATTACHED MATERIAL IS BEING ADDED TO CLOSED MUR 3204/3087

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FEDERAL ELECTION COMMISSION

Press Office
999 E Street, N.W., Washington, D.C. 20463
Phone: Local 202-219-4155 Toll Free 800-424-9530

FOR IMMEDIATE RELEASE:
SEPTEMBER 15, 1994

CONTACT: KELLY HUFF
RON HARRIS
SHARON SNYDER
IAN STIRTON

FEC RELEASES FIVE COMPLIANCE CASES

WASHINGTON -- The Federal Election Commission has made public its final action on five matters previously under review (MURs). This release contains only summary information. Closed files should be thoroughly read for details, including the FEC's legal analysis of the case. (Please see footnote at the end of this release.) Closed MUR files are available in the Public Records Office. They are as follows:

MUR NO.

1. MUR 3102

RESPONDENTS: (a) AIDS Coalition to Unleash Power (ACT UP/District of Columbia) (DC)
(b) AIDS Coalition to Unleash Power (ACT UP/San Francisco) (CA)
(c) Dallas Gay Alliance (TX)
(d) Tarrant County Gay Alliance (TX)
(e) Nancy Solomon (CA)
(f) Michael Petrelis (DC)
(g) Dallas Tavern Guild (TX)
(h) Human Rights Campaign Fund (DC)

COMPLAINANT: Conservative Campaign Fund, Peter T. Flaherty, Chairman (DC)

SUBJECT: Failure to register and report, failure to report independent expenditures, disclaimer, corporate expenditures

DISPOSITION: (a-b) Reason to believe, but took no further action [re: failure to register and report, failure to report independent expenditures, disclaimer]*
(c-d) Reason to believe, but took no further action [re: corporate expenditures]*
(e-f) Took no action*
(g) Reason to believe, but took no further action [re: failure to report independent expenditures]*
(h) No reason to believe [re: corporate expenditures]*

2. MUR 3204/3087/PRE-MUR 263

RESPONDENTS: (a) National Republican Senatorial Campaign Committee, Sonya M. Vasquez, treasurer (DC)
(b) Republican National Committee, William J. McManus, treasurer (DC)
(c) Montana Republican State Central Committee, Shirley J. Warehime, treasurer (MT)
(d) Conrad Burns/US Senate, Jim Swain, treasurer (MT)

-more-

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(e) Gary Lawrence Company (CA)
(f) Colorado Republican Federal Campaign Committee, Douglas L. Jones, treasurer (CO)
(g) Bush-Quayle '88, J. Stanley Huckaby, treasurer (VA)
(h) Friends of Jim Fenlason for Congress (MT)
(i) Montanans for Marlenee, Douglas N. Wilson, III, treasurer (MT)

COMPLAINANTS: (a) Common Cause, Roger M. Witten, Counsel (DC) (3204)
(b) Kelly Addy, Speaker Pro Tempore of the Montana House of Representatives (MT) (3087)
(c) Dolores Colburg, Montana Commissioner of Political Practices (PRE-MUR 263)

SUBJECT: Excessive contributions, corporate contributions, excessive coordinated expenditures, failure to adequately disclose receipts and disbursements, disclaimer, failure to file reports with state election office

DISPOSITION: (a) Reason to believe but failed to pass motion of probable cause [re: excessive contributions, excessive coordinated expenditures, failure to adequately disclose receipts and disbursements, failure to file reports with the state election office.]*
(b) Reason to believe but failed to pass motion of probable cause [re: excessive contributions, failure to adequately disclose receipts and disbursements]*
(c) Reason to believe but failed to pass motion of probable cause [re: excessive contributions, excessive coordinated expenditures, disclaimer, failure to adequately disclose receipts and disbursements]*
(d) Reason to believe but failed to pass motion of probable cause [re: excessive contributions, failure to disclose contributions]*
(e-h) No reason to believe [re: any provision of FECA]*

3. **MUR 3834**

RESPONDENTS: Hirschfeld for Congress Citizens Committee, Rosemary Singer, treasurer (NY)
COMPLAINANT: FEC Initiated (RAD)
SUBJECT: Failure to file 48-hour reports (5 candidate contributions totalling $310,000)
DISPOSITION: Conciliation Agreement: $20,000 civil penalty*

4. **MUR 3839**

RESPONDENTS: Friends of Newt Gingrich - 1992, Briggs Goggans, treasurer (GA)
COMPLAINANT: FEC Initiated (RAD)
SUBJECT: Failure to file 48-hour reports
DISPOSITION: Conciliation Agreement: $3,800 civil penalty*

5. **MUR 3999**

RESPONDENTS: IMPACT, Joseph Turek, treasurer (IL)
COMPLAINANT: FEC Initiated (RAD)
SUBJECT: Excessive contributions
DISPOSITION: Conciliation Agreement: $2,500 civil penalty*

*There are four administrative stages to the FEC enforcement process:
1. Receipt of proper complaint
2. "Reason to believe" stage
3. "Probable cause" stage
4. Conciliation stage

It takes the votes of at least four of the six Commissioners to take any action. The FEC can close a case at any point after reviewing a complaint. If a violation is found and conciliation cannot be reached, then the FEC can institute a civil court action against a respondent.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Date: 12/19/94

✓ Microfilm

_____ Public Records

_____ Press

THE ATTACHED MATERIAL IS BEING ADDED TO CLOSED MUR 3204

24043612033

FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

In the Matter of

National Republican Senatorial Committee
and Sonya M. Vasquez, as treasurer;
Republican National Committee and
William J. McManus, as treasurer;
Montana Republican State Central
Committee and Shirley J. Warehime,
as treasurer;
Conrad Burns/US Senate and Jim Swain,
as treasurer

MUR 3204

RESPONSE OF COMMISSIONERS MCDONALD, MCGARRY AND THOMAS TO THE STATEMENT OF REASONS OF COMMISSIONERS AIKENS AND ELLIOTT IN MUR 3204

On September 14, 1994, Commissioners Aikens and Elliott filed a Statement of Reasons explaining why they rejected the General Counsel's legal recommendations in MUR 3204. Their Statement of Reasons, however, contains a number of misstatements and omissions. To ensure that the record of this matter is accurate and complete, we address several of those errors.

I.

Commissioners Aikens and Elliott suggest the General Counsel's investigation was carried out improperly through the use of misleading and secretive methods. In particular, they seek to discredit sworn affidavits submitted by Terry Merica, the Montana Republican Party ("the MRP") Executive Director, and Nelda Merica, the MRP administrative secretary, which support the General Counsel's legal recommendations in this matter. These affidavits explicitly state that the National Republican Senatorial Committee ("the NRSC") was using the MRP as a conduit to pay for mailings advocating the election of Republican Senate nominee Conrad Burns. The affidavits describe, in considerable detail, what the Mericas observed of the NRSC's control over funds it gave to the MRP to pay for the Burns mailings. Commissioners Aikens and Elliott assert in their Statement that:

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> These late-breaking affidavits were apparently designed to fatten-up the third-party complaints which had not given the Commission much to go on. What the General Counsel didn't disclose to the Commission is that, based on an interview, an FEC staff attorney wrote those affidavits for the Mericas.

Statement of Reasons for Commissioners Aikens and Elliott in MUR 3204 ("Statement") at 11.

Contrary to the suggestion of Commissioners Aikens and Elliott, there was nothing secretive or improper in the manner the General Counsel obtained affidavits from the Mericas. Their Statement fails to mention that on May 3, 1990, the Commission specifically authorized the Office of General Counsel to use certain informal discovery techniques in all its enforcement investigations. The General Counsel employed precisely these techniques in MUR 3204. In discussing examples of these informal discovery techniques, the General Counsel expressly stated that "In many cases, conducting a phone interview or informal meeting where a statement is taken (and turned into an affidavit if necessary) would be more efficient and effective." Agenda Document #90-39 at 3 (emphasis added). Commissioners Aikens and Elliott joined a unanimous Commission in approving these informal discovery techniques. The taking of the Mericas' affidavits was in plain accord with investigative procedures which had been previously approved by the Commission and previously used by the General Counsel. There is simply no basis for the careless suggestion that the General Counsel's discovery techniques in this matter were secretive or improper. To refuse to accept the Mericas' affidavits and to reject the General Counsel's legal conclusion on such a groundless reason is plainly contrary to law.

Elsewhere in their Statement, Commissioners Aikens and Elliott also accuse the General Counsel of (1) "treating political party activity as inherently suspect and presumptively illegal," Statement at 2; (2) "'throw[ing] the book' at the respondents, hoping to hit something." Id.; (3) harboring a "basic mistrust of political parties and a misunderstanding of what parties properly do," Statement at 9; (4) "abuse of prosecutorial authority," Statement at 11; (5) "attempt[ing] to turn compliance with one regulation into a violation of another," Statement at 14 n.25; (6) exhibiting behavior which is "indicative of either a hostility toward the NRSC, or a prejudice against their success at this permissible type of fundraising," Statement at 29; and (7) "blindly 'throwing the book' at the respondents, without any regard for internal consistency or precedent." Statement at 30. By any standard, such unfounded and baseless attacks upon the Commission's chief legal officer are beyond the pale and inappropriate. We do not believe that such statements reflect well on the authors or advance the discussion of the legal issues in this matter.

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II.

Commissioners Aikens and Elliott reject the General Counsel's conclusion that:

> the NRSC and the MRP were involved in a joint scheme to deliberately evade the section 441a(d) limits through transfers of approximately $140,000 from NRSC funds reported as having been used for MRP administrative expenses when they were actually used to fund mailings on behalf of Burns.

July 6, 1994 General Counsel's Report at 16-17. Rather, Commissioners Aikens and Elliott assert that only the amount of national party funds used by the Montana Republican Party in the Burns mailing, as determined by a FIFO ("first in, first out") accounting method, should be attributable to the coordinated party limits of 2 U.S.C. § 441a(d). They argue:

> In an earlier and identical case, the General Counsel specifically asked the Commission whether it should calculate the excessive contribution as (1) the entire cost of the mailing that was financed in part with national funds, or (2) the amount of transferred national party funds the state actually used on the mailing. MUR 2768 Memorandum to the Commission (Dec. 13, 1991). The Commission unanimously chose the latter course, and calculated the excessive contribution as only the amount of national party funds actually used. Minutes of the Federal Election Commission, Jan. 14, 1992, p. 4-5.

Statement at 7, n. 15 (emphasis added). They then go on to claim that in the present matter:

> [O]ur colleagues changed their position from MUR 2768 and supported the General Counsel's recommendation that, despite the audit's analysis, the Commission find the NRSC and MRP knowingly and willfully exceeded the contribution limits by the entire cost of the mailings!

Statement at 8 (emphasis added).

The reasons given by Commissioners Aikens and Elliott for rejecting the General Counsel's legal recommendation contain several misleading statements and omissions. Their Statement fails to mention that just before the unanimous vote in MUR 2768 upon which they rely heavily, there was a vote on a motion to approve the General Counsel's legal recommendation which considered the entire cost of the mailings that were financed, in part, with national party funds as being subject to the coordinated expenditure limits.[1] Three Commissioners (the undersigned) supported

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the General Counsel's recommendation, two Commissioners opposed (Commissioners Aikens and Elliott) and one Commissioner recused. Only after that vote on the General Counsel's legal recommendation failed to secure the necessary four votes, did the Commission then vote on a motion to find that only the $42,686.89 in national committee funds were subject to the State Committee's coordinated expenditure limit.

Commissioners Aikens and Elliott know full well this second vote was a compromise vote which simply sought to gather the four votes needed to pursue at least the lower figure upon which they could agree. To suggest that this compromise vote represents binding Commission precedent on this particular point of law is clearly misleading. To further maintain that the undersigned have now "changed their position from MUR 2768" is simply false.[2]

Commissioners Aikens, and Elliott also mention four other cases which they cite for the proposition that the Commission has used a FIFO analysis to determine if national party funds were used to finance a state party's volunteer materials. See Statement at 7 citing MUR 2461, MUR 2270, MUR 2994 and MUR 3028. Significantly, the Commission did not adopt their approach of considering only the amount of transferred national party funds the state actually used on the mailing as being subject to §441a(d) in any of these four cases. To the contrary, both MUR 2461 and MUR 2270 clearly indicate that the entire cost of a mailing financed in part with national party funds is subject to the §441a(d) limit.[3]

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1 The investigation in MUR 2768 indicated that the North Dakota State Republican Committee ("the State Committee") sent nine mailings on behalf of the Republican candidate for U.S. Senate at a cost of $125,763.23. The costs for one mailing were paid for with non-national committee funds and not subject to the coordinated expenditure limits. The cost for the remaining eight mailings was $96,826 and was paid for, in large part, by a single State Committee disbursement of $76,568 to a commercial vendor. The investigation revealed that this $76,568 disbursement made by the State Committee contained $42,686.89 in national committee funds.

2 Unfortunately, this is not the first time that Commissioners Aikens and Elliott have mischaracterized a vote we have cast in order to reach a consensus at the Commission. See Advisory Opinion 1993-2, 2 Fed. Elec. Camp. Fin. Guide (CCH) ¶ 6082 at 11,872-73 (Concurring Opinion of Commissioners Thomas, McDonald and McGarry).

3 In MUR 2994, the Commission found that the entire cost of certain State party mailings were subject to the §441a(d) limits. The General Counsel's Report recommended this result because "national party funds were used for a portion of these mailings" and because of insufficient volunteer activity. See MUR 2994, October 22, 1990 General Counsel's Report at 9 and 13. In MUR 3028, the Commission exercised its prosecutorial discretion and decided to take no further action and closed the file.

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In MUR 2461, the Commission entered into a conciliation agreement with the Michigan Republican State Committee (the "MRSC"). According to an Audit Division FIFO analysis, over half, but not all, of the funds for mailings made by the MRSC on behalf of a congressional candidate came from national party funds. See Exhibits A-C, General Counsel's Probable Cause Brief (September 5, 1989). The Commission concluded that the presence of some national party funds in payments for mailings excluded these payments from the volunteer exemption. As the conciliation agreement explained:

> An analysis of Respondents' financial activity during this period demonstrated that expenditures connected with the mailing activity could not have been made without the use of national party funds. The use of national party funds for payments connected with the mailing activity excludes such payments from the volunteer exemption pursuant to 2 U.S.C. §§ 431(8)(B)(x) and 431(9)(B)(viii).

MUR 2461, Conciliation Agreement at 4 (approved August 28, 1990) (emphasis added).

Likewise, in MUR 2270, the Nevada Republican Party had $50,876.56 in non-national party committee contributions on October 19, 1986, when they made a $64,678.36 expenditure to a commercial vendor for work on five mailings. Accordingly, national party committee funds partially were used in making this expenditure. In the conciliation agreement the Commission reached with the Nevada Republican Party, the Commission found that the entire $64,678.36 was subject to the §441a(d) limit. The Commission expressly stated:

> Because national committee funds were used, the cost of these mailings is outside the regulations' exemption at section 100.8(b)(16)(vii). Thus, the entire cost of those mailings is subject to the coordinated expenditure limit of 2 U.S.C. §441a(d)(3).
>
> . . . . .
>
> The Commission has determined that because national committee funds were used in the five mailings discussed in subparagraph 10 above (Anti-Reid, World Class Spender, Positively for Nevada, Laxalt/Santini Mailing and All About Money), the entire costs of these mailings are subject to the coordinated party spending limit.

MUR 2270, Conciliation Agreement at 4-5 (Approved July 9, 1991). The Commission accepted the conciliation agreement in MUR 2270 by a vote of 5-0, with Commissioners Aikens and Elliott voting to approve the agreement and its language.

MUR 2270 clearly shows that the entire cost of a mailing, financed in part with national party funds, is subject to the coordinated expenditure limit. Yet, Commissioners Aikens and Elliott failed to follow this recent precedent just six

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months later in MUR 2768 when they voted against the General Counsel's recommendations and, instead, argued that only the amount of national party funds actually used on the mailings should be subject to the limits. This position, which they now follow in MUR 3204, is inconsistent with Commission precedent and contrary to law.

III.

Commissioners Aikens and Elliott also disagree with the General Counsel's recommendation to find probable cause to believe that the MRP violated 2 U.S.C. §§441a(f) and 434(b) by exceeding the §441a(d) limits in paying a salary to an individual, Mr. Knudson, whose primary responsibility was to assist the Burns Committee. In support of their position, they quote from Commission Regulations and legislative history which they assert "clearly shows Knudson's salary is not allocable to the MRP's contribution limit to Burns." Statement at 14. The Commission's Regulations provide:

> Expenditures for rent, personnel, overhead, general administrative, fundraising, and other day-to-day costs of political committees need not be attributed to individual candidates, unless these expenditures are made on behalf of a clearly identified candidate and the expenditures can be directly attributable to that candidate.

11 C.F.R. §106.1(c)(1)(emphasis added). The cited legislative history states:

> These day-to-day expenses should be defined to include such items as research, speech writing, general party organization and travel, party publications, fundraising expenses, staff at various party headquarters in the field and national convention expenditures, provided that such expenses do not contribute directly to any candidate's campaign effort.

120 Cong. Rec. H10333 (daily ed. Oct. 10, 1974)(remarks of Rep. Frenzel) (emphasis added).

The Regulation and legislative history make clear that a national party committee's operating expenditures are considered in-kind contributions or coordinated party expenditures *if* the exepnditures can be attributed directly to a clearly identified candidate. In this case, the MRP's expenditures for Mr. Knudson's salary are directly attributable to the Burns campaign. It is indisputable that working on the Burns campaign was Mr. Knudson's primary responsibility. In an affidavit submitted to the Commission, Mr. Knudson admits that during the three months he received a salary from the MRP "[m]y work performed for the benefit of the Conrad Burns U.S. Senate campaign was extensive during that period." July 6, 1994 General Counsel's Report at Attachment 19, p. 2 (emphasis added).

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The language of the Regulation clearly requires that Mr. Knudson's salary should have been attributed to the §441a(d) limit since the expenditures for his salary were "made on behalf of a clearly identified candidate and the expenditures can be directly attributable to that candidate." 11 C.F.R. §106.1(c)(1). By finding that "his salary is not attributable to any particular candidate," Statement at 15, Commissioners Aikens and Elliott have taken a position which is squarely at odds with the plain language of the Regulation and contrary to law.[4]

IV.

Commissioners Aikens and Elliott rejected the General Counsel's legal conclusion that respondents exceeded the §441a(d) limits by permitting the Burns for Senate Committee to benefit from a Voter Identification Project without attributing any of the costs of developing the voter list as a coordinated party expenditure on behalf of the Burns campaign, in violation of 2 U.S.C. §441a(f). During the 1988 campaign, the NRSC spent over $130,000 to develop a Voter Identification Project to benefit Republican candidates in Montana. Commissioners Aikens and Elliott take the position that none of the development costs should have been allocated by the NRSC as a contribution to the Burns campaign. Their position flies directly in the face of recent Commission precedent.

In MUR 2581, the Commission considered a Voter Identification Project undertaken by the Michigan Republican State Committee (the "MRSC") to benefit both federal and non-federal candidates affiliated with the Michigan Republican Party. In connection with this Voter Identification Project, the MRSC paid a commercial vendor approximately $282,000 to develop a computerized list of all registered voters in the state of Michigan. None of the $282,000 in costs incurred by the MRSC to develop the voter list were allocated to the Republican Senate candidate, Jack Lousma. The Commission concluded that the portion of the costs incurred by the MRSC to develop the voter list which were allocable to Lousma for U.S. Senate, but not reimbursed by that committee, constituted expenditures by MRSC on behalf of Lousma for U.S. Senate within the meaning of §441a(d).[5]

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4 Nor does MUR 3218 provide support for their position. See Statement at 14. In that matter, there was no evidence staffers provided support which was "directly attributable" to a clearly identified candidate and the Commission properly found no reason to believe the activities of the national party committee field staff constituted any allocable contribution to the candidate's campaign. By contrast, in MUR 3204 the individual whose salary is being questioned admits his work for a clearly identified candidate was "extensive."

5 Probable cause conciliation with the MRSC failed in MUR 2581. See 2 U.S.C. §437g(a)(4)(A)(i). Accordingly, the Commission voted to file a civil suit for relief in United State District Court against the MRSC. FEC v. Michigan Republican

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We can see no factual distinction between MUR 2581 and the present matter. As it did in MUR 2581, the Commission should have treated a portion of the costs incurred by the Montana Republican Party in the development of the voter list as expenditures by the MRP on behalf of Burns for Senate within the meaning of §441a(d). Commissioners Aikens and Elliott did not follow Commission precedent, however, and voted to reject the General Counsel's legal recommendations. By failing to follow Commission precedent set in MUR 2581, Commissioners Aikens and Elliott have taken a position which is erroneous and contrary to law.

V.

Commissioners Aikens and Elliott are wrong in suggesting that FEC v. National Republican Senatorial Committee, 966 F.2d 1471 (D.C. Cir. 1992)("FEC v. NRSC I") controls whether the NRSC exercised "any direction or control over the choice of the recipient candidate" regarding some $130,000 in earmarked contributions it raised and forwarded to the Burns Committee. Statement at 26-29. The Court of Appeals decided only that the construction of the regulation by the three Commissioners finding no violation was a permissible one under deferential review, not that it was the only correct construction. The Court of Appeals made no binding determination of how the phrase "direction or control" must be interpreted in future cases. Indeed, the Court explicitly stated that the "case does not require us to decide if [the Commission's allegation of direction or control] would be a permissible construction of the regulation in light of its terms, the statute, or the Constitution." FEC v. NRSC I, 966 F.2d at 1478.[6]

Even if FEC v. NRSC I was a binding interpretation of the regulation, that case involved different facts and is simply inapposite. In MUR 3204, the NRSC without any apparent prior authorization from the Burns Committee, deducted charges from the contributions it deposited into its account before forwarding the money on to the

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State Committee, (Case No. 5:94-CV-27). The Commission has taken the same position in this litigation regarding Voter Identification Projects as it took in the underlying MUR.

6 It is the established law of the D.C. Circuit that an opinion of only three Commissioners is "not binding legal precedent or authority for future cases." Common Cause v. FEC, 842 F.2d 436, 439 n.32 (D.C. Cir. 1988). Only where a majority of the Commissioners have reached a conclusion is a Commission decision entitled to be treated as agency precedent in other cases. According to the court:

> The statute clearly requires that for any official Commission decision there must be at least a 4-2 majority vote. To ignore this requirement would be to undermine the carefully balanced bipartisan structure which Congress has erected.

Id. (emphasis added).

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Burns Committee. Thus, unlike the FEC v. NRSC I situation, here the NRSC unilaterally directed and controlled the choice of the recipient of the money raised in the purest sense—by taking its own cut. There was no discussion of such a practice in FEC v. NRSC I.

Commissioners Aikens and Elliott also make the argument that reducing a contributor's choice to only two options actually reduces the NRSC's direction or control over the choice of the intended candidate recipients. Statement at 28. Logic dictates, of course, that the less discretion you give the solicitee the more direction or control maintained by the solicitor. To read an opposite meaning into the Commission's regulation is clearly contrary to law.

VI.

Commissioners Aikens and Elliot disagree with the General Counsel's legal conclusion that the cost of raising money over which the NRSC exercised direction and control would constitute an in-kind contribution to the Burns Committee. Citing FEC v. NRSC, C.A. No. 93-1612 (D.D.C. June 24, 1994)("FEC v. NRSC II") at 13-14, they argue that "you can not legally reconcile the General Counsel's recommendation for 'direction or control' and its recommendation for charging 'solicitation costs' on the same fundraising program." Statement at 30. In pertinent part, the FEC v. NRSC II opinion states:

> The FEC maintains that the NRSC exercised "direction or control" over all of the contributions raised through the Direct-To program and up to $32,575 raised through the Majority '86 programs. If these allegations are correct, then the cost of raising this money cannot be considered in-kind contributions. This double-counting would be akin to forcing an individual to count against his contribution limit, not only any donation he made, but also the value of the work he performed to earn the money for the donation. Such a result is surely not mandated by FECA.

Id. Commissioners Aikens and Elliott harshly criticize the General Counsel for his recommendation stating: "Unfortunately, OGC's contradictory recommendations is [sic] another example of just 'throwing the book' at the respondents, without any regard for internal consistency or precedent." Statement at 30.

What Commissioners Aikens and Elliott fail to say is that in the FEC v. NRSC II litigation and its underlying MUR (MUR 2314), they supported the very same position which they criticize the General Counsel for taking in MUR 3204. In MUR 2314, the Commission (including Commissioners Aikens and Elliott) unanimously found probable cause to believe that the NRSC made unlawful excessive contributions in violation of 2 U.S.C. §441a(h) by failing to charge the candidate approximately $79,361 for the candidate's share of the NRSC's cost of soliciting contributions over which the NRSC exercised direction or control.[7] When probable cause conciliation failed, the Commission (including Commissioners Aikens and

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Elliott) unanimously voted to file suit — which is how the issue of solicitation costs came before the FEC v. NRSC II court. Indeed, as the court stated, "The FEC alleges that the NRSC made in-kind contributions to the campaign by soliciting donors without compensation for the Direct-To, Majority '86 and Direct-To Auto programs." Id. at 13 (emphasis added).

Commissioners Aikens and Elliott cannot have it both ways. Having taken the position in MUR 2314 and in FEC v. NRSC II, supra, that such solicitation costs constitute in-kind contributions, they cannot now in MUR 3204 take the opposite view that these solicitation costs do not constitute in-kind contributions and, in the process, sharply criticize the General Counsel for not agreeing with them. By ignoring the position they took in MUR 2314 and its ensuing litigation, Commissioners Aikens and Elliott once again have rejected Commission precedent and taken a position in MUR 3204 which is contrary to law.[8]

VII.

To ensure that there is no confusion on the record regarding the meaning of any votes taken in the large number of motions and substitute motions made in this matter, we wish to discuss the votes taken on two of the General Counsel's recommendations.

First, Commissioners Aikens and Elliott question why we did not support Commissioner Elliott's motion regarding Recommendation 7 of the General Counsel's legal recommendations. Statement of 29. As they know, we supported the General Counsel's recommendation which provided:

> Find probable cause to believe the National Republican Senatorial Committee and Sonya M. Vasquez, as treasurer, violated 2 U.S.C. §441a(h) regarding the funds contributed to the Burns campaign over which the NRSC exercised direction and control and 2 U.S.C. §§441a(h) and 434(b) regarding the contribution of part of the cost of solicitation mailings.

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7 The Commission also found probable cause to believe in MUR 2314 that the NRSC violated 2 U.S.C. §434(b) and 11 C.F.R. §106.1 by failing to report to the FEC these in-kind contributions to the candidate from the NRSC.

8 The court's decision in FEC v. NRSC II, supra, hardly provides a basis for rejecting established Commission policy in this area. Indeed, the court was simply ruling on an NRSC motion to dismiss which it rejected. The issue of solicitation costs will be litigated further before that court after a full briefing on the merits. In that litigation before the district court, the FEC will adhere to the agency viewpoint, as expressed in the underlying MUR, that these solicitation costs constitute an in-kind contribution to the candidate.

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MUR 3204, General Counsel's Report at 37, Recommendation 7. The motion to approve this recommendation failed by a vote of 3-2 with Commissioners McDonald, McGarry and Thomas voting affirmatively and Commissioners Aikens and Elliott dissenting. Commissioner Elliott then moved:

> To revise recommendation 7 in the General Counsel's July 6, 1994 report, and find probable cause to believe the National Republican Senatorial Committee and Sonya M. Vasquez, as treasurer, violated 2 U.S.C. §§441a(h) and 434(b) regarding the contribution of part of the cost of the solicitation mailings.

(emphasis added). This motion failed by a vote of 2-3 with Commissioners Aikens and Elliott voting affirmatively and Commissioners McDonald, McGarry and Thomas dissenting.

The Elliott motion did not incorporate any of the "direction or control" and attendant solicitation cost analysis which had formed the basis of the General Counsel's recommendation. Rather, it offered an alternative legal theory to the General Counsel's approach which impliedly rejected the "direction or control" analysis and considered only the unsuccessful solicitation costs which had not been charged by the NRSC as being subject to the §441a(d) limits. Since we supported the General Counsel's theory, and because the word "revise" could be interpreted as "rejecting" the General Counsel's original recommendation by not including the other violations discussed in that original recommendation, we could not support her motion.

Second, we supported the General Counsel's Recommendation 5 which provided:

> Find probable cause to believe the National Republican Senatorial Committee and Sonya M. Vasquez, as treasurer, knowingly and willfully violated 2 U.S.C. §§434(b) and 441a(f) regarding the mailings produced by Foster and Associates.

MUR 3204, General Counsel's Report at 37, Recommendation 5 (emphasis added). Under the General Counsel's view, the NRSC knowingly and willfully spent approximately $140,000 on this direct mail activity. The motion to approve the General Counsel's recommendation failed by a vote of 3-2 with Commissioners McDonald, McGarry and Thomas voting affirmatively and Commissioners Aikens and Elliott dissenting.

Commissioner Elliott then moved:

> Find probable cause to believe the National Republican Senatorial Committee and Sonya M. Vasquez, as treasurer, violated 2 U.S.C. §§434(b) and 441a(f) regarding the mailings produced by Foster and Associates to the extent of $36,500.

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This motion failed by a vote of 2-3 with Commissioners Aikens and Elliott voting affirmatively and Commissioners McDonald, McGarry and Thomas dissenting. We could not support this motion because it failed to characterize the violation as knowing and willful. Moreover, even if the Commission had reached agreement on this motion, it would have had little practical effect. In view of the relatively small amount of the remaining violation and considering the proper ordering of the Commission's priorities and resources, see Heckler v. Chaney, 470 U.S. 821 (1985), we would have supported a motion not to pursue this matter.

12/15/94
Date

Danny Lee McDonald
Vice Chairman

12/15/94
Date

John Warren McGarry
Commissioner

12/15/94
Date

Scott E. Thomas
Commissioner

24043612045

FEDERAL ELECTION COMMISSION
WASHINGTON D C 20463

Date: 1/4/95

✓ Microfilm

_____ Public Records

_____ Press

THE ATTACHED MATERIAL IS BEING ADDED TO CLOSED MUR 3204

2504362001 5

FEDERAL ELECTION COMMISSION
WASHINGTON D C 20463

December 28, 1994

Kelly Addy
225 Petroleum Building
2812 First Avenue, North
Billings, Montana 59101

RE: MUR 3204

Dear Mr. Addy:

By letter dated September 13, 1994, the Office of the General Counsel informed you of determinations made with respect to the complaint you filed related to the Conrad Burns/US Senate Committee, Montana Republican Party, and the National Republican Senatorial Committee.

Enclosed please find a Response to the Statement of Reasons. This document will be placed on the public record as part of the file of MUR 3204.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Jeffrey D. Long

Jeffrey D. Long
Paralegal Specialist

Enclosure
Response to the Statement of Reasons

2504362001 6

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 28, 1994

W. Hardy Calcott, Esquire
Wilmer, Cutler & Pickering
2445 M Street, N.W.
Washington, D.C. 20037-1420

RE: MUR 3204

Dear Mr. Calcott:

By letter dated August 18, 1994, the Office of the General Counsel informed you of determinations made with respect to the complaint you filed related to the Conrad Burns/US Senate Committee, Montana Republican Party, and the National Republican Senatorial Committee.

Enclosed please find a Response to the Statement of Reasons. This document will be placed on the public record as part of the file of MUR 3204.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Jeffrey D. Long
Paralegal Specialist

Enclosure
Response to the Statement of Reasons

2504362017

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 28, 1994

Ed Argenbright, Ed.D.
Montana Commissioner of
Political Practices
1205 8th Avenue
Helena, Montana 59620

RE: MUR 3204

Dear Mr. Argenbright:

By letter dated August 18, 1994, the Office of the General Counsel informed you of determinations made with respect to the referral your office filed related to the Conrad Burns/US Senate Committee, Montana Republican Party, and the National Republican Senatorial Committee.

Enclosed please find a Response to the Statement of Reasons. This document will be placed on the public record as part of the file of MUR 3204.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Jeffrey D. Long
Paralegal Specialist

Enclosure
Response to the Statement of Reasons

cc: Leo J. Gallagher, Special Prosecutor

2504362018

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 28, 1994

Michael Hess, Chief Counsel
Republican National Committee
310 First Street, S.E.
Washington, D.C. 20003

RE: MUR 3204
Republican National Committee and
William J. McManus, as treasurer

Dear Mr. Hess:

Enclosed please find a Response to the Statement of Reasons. This document will be placed on the public record as part of the file of MUR 3204.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Jeffrey D. Long
Paralegal Specialist

Enclosure
Response to the Statement of Reasons

2504362019

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 28, 1994

Richard E. Messick, Esquire
Suite 700 North Building
601 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

RE: MUR 3204
Conrad Burns/U.S. Senate and
Jim Swain, as treasurer

Dear Mr. Messick:

Enclosed please find a Response to the Statement of Reasons. This document will be placed on the public record as part of the file of MUR 3204.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Jeffrey D. Long
Paralegal Specialist

Enclosure
Response to the Statement of Reasons

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 28, 1994

Robert Edd Lee, Esquire
404 North 31st Street, Suite 200
P.O. Box 7015
Billings, Montana 59103-7015

RE: MUR 3204
Montana Republican State Central Committee and Shirley Warehime, as treasurer

Dear Mr. Lee:

Enclosed please find a Response to the Statement of Reasons. This document will be placed on the public record as part of the file of MUR 3204.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Jeffrey D. Long
Paralegal Specialist

Enclosure
Response to the Statement of Reasons

2504362002 1

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 28, 1994

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

RE: MUR 3204
National Republican Senatorial
Committee and James L. Hagan, as
treasurer

Dear Mr. Baran:

Enclosed please find a Response to the Statement of Reasons. This document will be placed on the public record as part of the file of MUR 3204.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Jeffrey D. Long
Paralegal Specialist

Enclosure
Response to the Statement of Reasons

2504362002 2

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Date: 6/9/97

✓ Microfilm

_____ Press

THE ATTACHED MATERIAL IS BEING ADDED TO CLOSED MUR 3204

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RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT

Jul 22 4 39 PM '96

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	SENSITIVE
	)	
National Republican Senatorial Committee and	)	
Stan Huckaby, as treasurer	)	
Republican National Committee and	)	MUR 3204
William J. McManus, as treasurer	)	
Montana Republican State Central Committee and	)	
Shirley J. Warehime, as treasurer	)	
Conrad Burns/US Senate and Jim Swain, as treasurer	)	

GENERAL COUNSEL'S REPORT

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I. BACKGROUND

This matter was initially generated by a complaint (MUR 3087) filed on July 13, 1990 by Kelly Addy, Speaker Pro Tempore of the Montana House of Representatives. On December 20, 1990, Common Cause filed a complaint (MUR 3204) that made almost identical allegations.

On May 21, 1991, the Commission found reason to believe that: the National Republican Senatorial Committee and its treasurer ("NRSC") violated 2 U.S.C. §§ 441a(f), 441a(h), 434 (b) and 439(a); the Montana Republican State Central Committee and Shirley J. Warehime, as treasurer, ("MRP") violated 2 U.S.C. §§ 441a(f), 441d, and 434(b); Conrad Burns/US Senate and Jim Swain, as treasurer, ("Burns Committee") violated 2 U.S.C. § 441a(f); and the Republican National Committee and William J. McManus, as treasurer, ("RNC") violated 2 U.S.C. §§ 441a(f) and 434(b). The Commission also determined to merge MUR 3087 with MUR 3204.

On July 6, 1994, this Office recommended that the Commission find probable cause to believe that the NRSC, the MRP, the RNC, and the Burns Committee (collectively

"Respondents") violated various provisions of the Federal Election Campaign Act of 1971, as amended, ("Act" or "FECA"). On August 2, 1994, the Commission voted 3-2 or 2-3 on a series of motions in favor of finding probable cause on each of the proposed findings and then voted 5-0 to dismiss the complaints and close the matter.

Common Cause and John K. Addy ("plaintiffs") filed suit against the Commission. On March 29, 1996, the United States District Court for the District of Columbia granted and denied portions of each party's motions for summary judgment. Common Cause and John K. Addy v. FEC, No. 94-02104 and No. 94-02112 (D.D.C., March 29, 1996). The court granted the Commission's motions relating to four items -- payments by the NRSC for a mail campaign produced by a commercial vendor, a daily tracking poll, the cost of developing a list of registered voters in the state of Montana, and direction and control of certain earmarked contributions. Plaintiffs have appealed the court's partial granting of the Commission's motion for summary judgment.

The court denied the Commission's motion for summary judgment pertaining to three other issues. The court remanded to the Commission for reconsideration or a reasoned explanation the Commission's factual determination that direct mail materials produced by Foster and Associates were used in connection with volunteer activities. The court also remanded to the Commission the issue of the payment of Ken Knudson's salary by the MRP and the issue of the NRSC's payment of unreimbursed solicitation costs. This report makes recommendations on how to proceed in light of the Supreme Court's recent decision in Colorado Republican Federal Campaign Committee v. FEC, 1996 WL 345766 (U.S. June 26, 1996).

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II. DISCUSSION

The court in Common Cause and John K. Addy v. FEC remanded three issues to the Commission for reconsideration or a reasoned explanation. To explore the issues involving the MRP's use of volunteers to assist with the Foster mailing, the extent of Mr. Knudson's efforts on behalf of the Burns Committee, and issues arising from the Burns Committee's failure to reimburse for certain costs of a solicitation, this Office had been planning to recommend that the Commission issue subpoenas to all appropriate persons to answer questions arising from these issues.

The Supreme Court's decision in Colorado Republican Federal Campaign Committee v. FEC requires a preliminary investigatory step, however. In part, the Court concluded that coordination could not be presumed in connection with a national party's 2 U.S.C. § 441a(d) limits. Colorado Republican, Slip Opinion at 9. Unless there is evidence of coordination, party expenditures made on behalf of a candidate will be treated as independent expenditures. Id. at 6-7.

In the instant matter, the Commission presumed that any expenditures that were the subject of the investigation in this matter that were made by the Montana Republican Party and by the NRSC on behalf of the Burns Committee were coordinated with the candidate. Because of this presumption, the issue of whether § 441a(d) expenditures were actually made with coordination between the NRSC and the Burns Committee was not addressed by the Commission or by the respondents during this investigation. In light of the Colorado Republican decision, this Office believes that the Commission needs to ascertain the positions of the NRSC, MRP, and the Burns Committee as to whether the activity in question was independent or

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coordinated. The Commission needs to obtain this information and make this determination before determining how to proceed with respect to the district court's remand. Accordingly, this Office recommends that the Commission approve the attached Subpoenas for the Production of Documents and Answers to Interrogatories that address the issue of coordination. Attachments 1-3.

III. RECOMMENDATIONS

1. Approve the attached Subpoenas for the Production of Documents and Answers to Interrogatories and the appropriate letters.

7/22/96
Date

Lawrence M. Noble
General Counsel

Attachments
Proposed Subpoenas for the Production of Documents and Answers to Interrogatories (3)

Attorney assigned: Stephan O. Kline

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/ LISA R. DAVIS
COMMISSION SECRETARY

DATE: JULY 26, 1996

SUBJECT: MUR 3204 - GENERAL COUNSEL'S REPORT DATED JULY 22, 1996.

The above-captioned document was circulated to the Commission on: TUESDAY, JULY 23, 1996 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 McDonald	
Commissioner McGarry	
Commissioner Potter	
Commissioner Thomas	

This matter will be placed on the meeting agenda for: TUESDAY, AUGUST 6, 1996.

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

9704382006657

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 3204
National Republican Senatorial Committee and Stan Huckaby, as treasurer;	)	
Republican National Committee and William J. McManus, as treasurer;	)	
Montana Republican State Central Committee and Shirley J. Warehime, as treasurer;	)	
Conrad Burns/US Senate and Jim Swain, as treasurer	)	

97043820658

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on August 6, 1996, do hereby certify that the Commission decided by a vote of 4-1 to approve the Subpoenas for the Production of Documents and Answers to Interrogatories and the appropriate letters as recommended in the General Counsel's July 22, 1996 report on MUR 3204.

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

Attest:

8-4-96
Date

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

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 9, 1996

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

RE: MUR 3204
National Republican Senatorial Committee
and Stan Huckaby, as treasurer,

Dear Mr. Baran:

On August 18, 1994, you were informed that the Federal Election Commission had taken no further action in MUR 3204 and closed its file. Subsequently in response to a suit filed in United States District Court by complainants, this matter was remanded to the Commission.

Accordingly, pursuant to its investigation of this matter, the Commission has issued the attached Interrogatories and Request for Production of Documents requiring your clients, National Republican Senatorial Committee and Stan Huckaby, as treasurer, to provide information which will assist the Commission in carrying out its statutory duty of supervising compliance with the Federal Election Campaign Act of 1971, as amended.

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

97043820659

It is required that your clients submit all answers to questions under oath within 15 days of your receipt of this subpoena and order. If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Stephan O. Kline
Attorney

Enclosure
Subpoena and Order

9704382066C

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	MUR 3204
	)	

SUBPOENA TO PRODUCE DOCUMENTS
ORDER TO SUBMIT WRITTEN ANSWERS

National Republican Senatorial Committee and
Stan Huckaby, as treasurer,
c/o Jan Witold Baran, Esq.
Wiley, Rein & Fielding
1776 K Street, N.W.
Washington, D.C. 20006

Pursuant to 2 U.S.C. § 437d(a)(1) and (3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order and subpoenas you to produce the documents requested on the attachment to this Subpoena. Legible copies which, where applicable, show both sides of the documents may be substituted for originals.

Such answers must be submitted under oath and must be forwarded to the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, along with the requested documents within 15 days of receipt of this Order and Subpoena.

97043820661

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set his hand in Washington, D.C. on this 8th day of August, 1996.

For the Commission,

John Warren McGarry
Vice Chairman

ATTEST:

Marjorie W. Emmons
Secretary to the Commission

Attachments
Questions and Document Requests

9704382006662

INSTRUCTIONS

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

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

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

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

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

Unless otherwise indicated, the discovery request shall refer to the time period from January 1, 1988 to June 30, 1989.

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

9704382063

DEFINITIONS

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

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

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and request for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

"Burns Committee" shall mean Conrad Burns and Conrad Burns/U.S. Senate including all persons who act in any capacity for the Burns Committee or in any relationship to the Burns Committee including officers, employees, agents or attorneys and/or others who act on behalf of the Burns Committee.

9704382064

BEFORE THE FEDERAL ELECTION COMMISSION

INTERROGATORIES AND REQUESTS FOR DOCUMENTS

MUR 3204
National Republican Senatorial Committee and
Stan Huckaby, as treasurer

1. Using the solicitation marked as Exhibit 1, the National Republican Senatorial Committee ("NRSC") solicited "earmarked" contributions for the Burns Committee. Please provide the following information:

a. State whether the solicitation was produced with the cooperation, with the prior consent of, in consultation with, or at the request, suggestion or direction of the Burns Committee.

b. If the answer to 1(a) is in the negative, please answer the following interrogatories:

i. Identify all persons employed by or associated with the NRSC who discussed this solicitation with anyone associated with the Burns Committee prior to its distribution.

ii. Identify all persons employed by or associated with Burns Committee with whom you had contact relating to the production, content, or distribution of this solicitation.

iii. Describe the substance of each contact.

iv. Identify when such contacts occurred.

v. Identify the manner in which each contact occurred, whether by telephone, in person, or by written document.

vi. Produce all documents related in any way to each contact.

9704382006 65

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 9, 1996

Richard E. Messick, Esq.
Suite 700 North Building
601 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

RE: MUR 3204
Conrad Burns/U.S. Senate and
Jim Swain, as treasurer

Dear Mr. Messick:

On August 18, 1994, you were informed that the Federal Election Commission had taken no further action in MUR 3204 and closed its file. Subsequently in response to a suit filed in United States District Court by complainants, this matter was remanded to the Commission.

Accordingly, pursuant to its investigation of this matter, the Commission has issued the attached Interrogatories and Request for Production of Documents requiring your clients, Conrad Burns/U.S. Senate and Jim Swain, as treasurer, to provide information which will assist the Commission in carrying out its statutory duty of supervising compliance with the Federal Election Campaign Act of 1971, as amended.

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

9704382006666

It is required that your clients submit all answers to questions under oath within 15 days of your receipt of this subpoena and order. If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Stephan O. Kline
Attorney

Enclosure
Subpoena and Order

9704382006667

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	**MUR 3204**
	)	
	)	

SUBPOENA TO PRODUCE DOCUMENTS
ORDER TO SUBMIT WRITTEN ANSWERS

Conrad Burns/U.S. Senate and
Jim Swain, as treasurer
c/o Richard E. Messick, Esq.
Suite 700 North Building
601 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

Pursuant to 2 U.S.C. § 437d(a)(1) and (3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order and subpoenas you to produce the documents requested on the attachment to this Subpoena. Legible copies which, where applicable, show both sides of the documents may be substituted for originals.

Such answers must be submitted under oath and must be forwarded to the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, along with the requested documents within 15 days of receipt of this Order and Subpoena.

9704382006 68

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set his hand in Washington, D.C. on this 8th day of August, 1996.

For the Commission,

John Warren McGarry
Vice Chairman

ATTEST:

Marjorie W. Emmons
Secretary to the Commission

Attachments
Questions and Document Requests

9704382006669

INSTRUCTIONS

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

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

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

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

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

Unless otherwise indicated, the discovery request shall refer to the time period from January 1, 1988 to June 30, 1989.

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

9704382067C

DEFINITIONS

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

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

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and request for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

"Burns Committee" shall mean Conrad Burns and Conrad Burns/U.S. Senate including all persons who act in any capacity for the Burns Committee or in any relationship to the Burns Committee including officers, employees, agents or attorneys and/or others who act on behalf of the Burns Committee.

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BEFORE THE FEDERAL ELECTION COMMISSION

INTERROGATORIES AND REQUESTS FOR DOCUMENTS

MUR 3204
Conrad Burns/U.S. Senate and
Jim Swain, as treasurer

1. James R. Foster and Associates produced ten direct mail solicitations attached to these interrogatories as Exhibits A-J. For each mailing:

a. State whether the direct mail solicitation was produced with the cooperation, with the prior consent of, in consultation with, or at the request, suggestion or direction of the Burns Committee.

b. If the answer to 1(a) is in the negative, please answer the following interrogatories:

i. Identify all persons employed by or associated with the Burns Committee who knew about or were aware of these direct mailing solicitations prior to their distribution.

ii. State how such persons received such knowledge about the direct mail solicitations.

iii. Identify all persons employed by or associated with the National Republican Senatorial Committee ("NRSC") or the Montana Republican Party ("MRP") with whom you had contact relating to the production, content, or distribution of these direct mail solicitations.

iv. Describe the substance of each contact.

v. Identify when such contacts occurred.

vi. Identify the manner in which each contact occurred, whether by telephone, in person, or by written document.

vii. Produce all documents related in any way to each contact.

2. Using the solicitation marked as Exhibit K, the NRSC solicited "earmarked" contributions for the Burns Committee. Please provide the following information:

9704382067 2

a. State whether the solicitation was produced with the cooperation, with the prior consent of, in consultation with, or at the request, suggestion or direction of the Burns Committee.

b. If the answer to 2(a) is in the negative, please answer the following interrogatories:

i. Identify all persons employed by or associated with the Burns Committee who knew about or were aware of this solicitation prior to its distribution.

ii. State how such persons received such knowledge about the solicitation.

iii. Identify all persons employed by or associated with the NRSC or the MRP with whom you had contact relating to the production, content, or distribution of this solicitation.

iv. Describe the substance of each contact.

v. Identify when such contacts occurred.

vi. Identify the manner in which each contact occurred, whether by telephone, in person, or by written document.

vii. Produce all documents related in any way to each contact.

3. Regarding the provision of Ken Knudson's services to the Burns Committee or Conrad Burns in the 1988 Senate race, please provide the following information:

a. State whether Mr. Knudson's services were provided to the Burns Committee with the prior consent of, in consultation with, or at the request, suggestion, or direction of the Burns Committee.

b. If the answer to 3(a) is in the negative, please answer the following interrogatories:

i. Identify all persons employed by or associated with the NRSC or the MRP with whom you had contact relating to the provision of Mr. Knudson's services to the Burns Committee.

ii. Describe the substance of each contact.

iii. Identify when such contacts occurred.

iv. Identify the manner in which each contact occurred, whether by telephone, in person, or by written document.

v. Produce all documents related in any way to each contact.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 9, 1996

Robert Edd Lee, Esq.
404 North 31st Street, Suite 200
P.O. Box 7015
Billings, MT 59103-7015

RE: MUR 3204
Montana Republican State Central Committee and Shirley Warehime, as treasurer

Dear Mr. Lee:

On August 18, 1994, you were informed that the Federal Election Commission had taken no further action in MUR 3204 and closed its file. Subsequently in response to a suit filed in United States District Court by complainants, this matter was remanded to the Commission.

Accordingly, pursuant to its investigation of this matter, the Commission has issued the attached Interrogatories and Request for Production of Documents requiring your clients, Montana Republican State Central Committee and Shirley Warehime, as treasurer, to provide information which will assist the Commission in carrying out its statutory duty of supervising compliance with the Federal Election Campaign Act of 1971, as amended.

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

97043820675

It is required that your clients submit all answers to questions under oath within 15 days of your receipt of this subpoena and order. If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Stephan O. Kline
Attorney

Enclosure
Subpoena and Order

9704382006776

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 3204

SUBPOENA TO PRODUCE DOCUMENTS
ORDER TO SUBMIT WRITTEN ANSWERS

Montana Republican State Central Committee and
Shirley Warehime, as treasurer
c/o Robert Edd Lee, Esq.
404 North 31st Street, Suite 200
P.O. Box 7015
Billings, MT 59103-7015

Pursuant to 2 U.S.C. § 437d(a)(1) and (3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order and subpoenas you to produce the documents requested on the attachment to this Subpoena. Legible copies which, where applicable, show both sides of the documents may be substituted for originals.

Such answers must be submitted under oath and must be forwarded to the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, along with the requested documents within 15 days of receipt of this Order and Subpoena.

9704382067 7

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set his hand in Washington, D.C. on this 8th day of August, 1996.

For the Commission,

John Warren McGarry
Vice Chairman

ATTEST:

Marjorie W. Emmons
Secretary to the Commission

Attachments
Questions and Document Requests

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INSTRUCTIONS

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

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DEFINITIONS

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"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and request for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

"Burns Committee" shall mean Conrad Burns and Conrad Burns/U.S. Senate including all persons who act in any capacity for the Burns Committee or in any relationship to the Burns Committee including officers, employees, agents or attorneys and/or others who act on behalf of the Burns Committee.

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BEFORE THE FEDERAL ELECTION COMMISSION

INTERROGATORIES AND REQUESTS FOR DOCUMENTS

MUR 3204
Montana Republican State Central Committee and
Shirley Warehime, as treasurer

1. James R. Foster and Associates produced ten direct mail solicitations attached to these interrogatories as Exhibits A-J. For each mailing:

a. State whether the direct mail solicitation was produced with the cooperation, with the prior consent of, in consultation with, or at the request, suggestion or direction of the Burns Committee.

b. If the answer to 1(a) is in the negative, please answer the following interrogatories:

i. Identify all persons employed by or associated with the Montana Republican Party ("MRP") who discussed these direct mail solicitations with anyone associated with the Burns Committee prior to their distribution.

ii. Identify all persons employed by or associated with Burns Committee with whom you had contact relating to the production, content, or distribution of these direct mail solicitations.

iii. Describe the substance of each contact.

iv. Identify when such contacts occurred.

v. Identify the manner in which each contact occurred, whether by telephone, in person, or by written document.

vi. Produce all documents related in any way to each contact.

2. Regarding the provision of Ken Knudson's services to the Burns Committee or Conrad Burns in the 1988 Senate race, please provide the following information:

a. State whether Mr. Knudson's services were provided to the Burns Committee with the prior consent of, in consultation with, or at the request, suggestion, or direction of the Burns Committee.

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b. If the answer to 3(a) is in the negative, please answer the following interrogatories:

i. Identify all persons employed by or associated with the MRP who discussed the provision of Mr. Knudson's services to the Burns Committee with anyone associated with the Burns Committee.

ii. Identify all persons employed by or associated with Burns Committee with whom you discussed the provision of Mr. Knudson's services to the Burns Committee.

iii. Describe the substance of each such contact.

iv. Identify when such contacts occurred.

v. Identify the manner in which each contact occurred, whether by telephone, in person, or by written document.

vi. Produce all documents related in any way to each contact.

9704382006882

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
Aug 23 11 20 AM '96

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

August 21, 1996

Stephen O. Kline, Esq.
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 3204 (National Republican Senatorial Committee and Stan Huckaby, as Treasurer)

Dear Mr. Kline:

I have just returned from vacation to find in my mail a Subpoena and Order in the above captioned matter. While the Interrogatories and Requests for Documents reference "Exhibit 1," the materials provided do not include Exhibit 1. Thus, my client is unable to respond to the Subpoena at this time.

Please transmit the missing Exhibit at your earliest convenience.

Sincerely,

Jan Witold Baran

97043820683

HANSON, ROYBAL, LEE & TODD, P.C.
ATTORNEYS AT LAW
TRANSWESTERN ONE • 404 NORTH 31ST STREET
P.O. BOX 7207
BILLINGS, MONTANA 59103-7207

EARL J. HANSON
J. DWAINE ROYBAL
ROBERT EDD LEE
GREGORY R. TODD

TELEPHONE
(406) 255-7152
FAX
(406) 255-8652

August 23, 1996

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
Aug 28 10 06 AM '96

Stephan O. Kline
Attorney
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 3204
Montana Republican State Central Committee and Shirley Warehime, as treasurer
Subpoena and Order dated August 8, 1996

Dear Mr. Kline:

We have recently received the Subpoena and Order issued to the Montana Republican State Central Committee and Shirley Warehime, as treasurer, dated August 8, 1996.

Interrogatory No. 1 refers to Exhibits A-J, apparently representing ten James R. Foster and Associates direct mail solicitations. No exhibits were attached to the subpoena. Consequently, I am unable to forward the subpoena for action or to make any other reply at this time. Please send Exhibits A-J as soon as possible.

You are correct that by August 18, 1994, the FEC had closed MUR 3204. Two more years have passed, years during which everyone involved in Montana has transferred and cycled files, forgotten particulars, and otherwise gone on with life based on the FEC notice that this matter was over and done with.

It occurs to me that the statute of limitations for this matter has long since passed. Although my acquaintance with these matters is only passing, I refer you to Federal Election Commission v. National Right to Work Committee, Inc., 916 F. Supp. 10 (D.D.C. 1996); Federal Election Commission v. National Republican Senatorial Committee, 877 F. Supp. 15

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(D.D.C. 1995); 3M (Minnesota Mining and Manufacturing) v. Browner, 17 F.3d 1453 (D.C.Cir. 1994).

I move the Commission to dismiss this proceeding as to the Montana Republican State Central Committee and Shirley Warehime on grounds and for the reasons discussed in the cited cases.

In the motion filed by the Montana Republican Party March 11, 1994, at pages 6-7, I requested copies of documents from the Commission which had been referred to in General Counsel's Brief and apparently relied upon in reaching the recommendations. Most of the documents I earlier requested are now moot. However, one of my earlier requests is still important in light of your recent second interrogatory. It is document Request #17: "Ken Knudsen response to FEC discovery requests, p. 30."

Please send me a copy of the Ken Knudsen response to the Commission's discovery request which was referred to in General Counsel's brief when you send me Exhibits A-J which were omitted from your subpoena.

To the extent it comports with your procedure, please consider this letter to be my motion to dismiss this entire matter as against the Montana Republican State Central Committee and Shirley Warehime, as treasurer, on the grounds of the statute of limitations. If it requires more, tell me what it takes to put the issue on the table.

Very truly yours,

Robert Edd Lee

REL/ajr

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 30, 1996

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

Re: MUR 3204
National Republican Senatorial Committee
and Stan Huckaby, as treasurer

Dear Mr. Baran;

In response to your request, received in our office on August 23, 1996, enclosed with this letter is "Exhibit 1" , as referenced in the Interrogatories and Request to Produce Documents in the above-referenced matter. We apologize for our oversight.

Please respond to the previously mailed subpoena within 15 days of your receipt of these materials. If you need additional assistance, please do not hesitate to call me on (800) 424-9530 or (202) 219-3690.

Sincerely,

Jeffrey D. Long
Paralegal Specialist

Encl.

9704382006886

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 30, 1996

Robert Edd Lee, Esquire
Hanson, Roybal, Lee & Todd, P.C.
Transwestern One
404 North 31st Street
P.O. Box 7207
Billings, Montana 59103-7207

Re: MUR 3204
Montana Republican State Central
Committee and Shirley Warehime,
as treasurer

Dear Mr. Lee;

In response to your request, received in our office on August 28, 1996, enclosed with this letter are "Exhibits A-J" , as referenced in the Interrogatories and Request to Produce Documents in the above-referenced matter. We apologize for our oversight. Also enclosed is the response to FEC interrogatories by Ken Knudson, as you requested.

With regard to your request to dismiss this matter on the grounds of the statute of limitations, at this time the Federal Election Commission is acting under order of the court as decided in Common Cause and Addy v. FEC, Nos. 94-2104 (NHJ) and 94-2112 (D.D.C. Mar. 29,1996).

Please respond to the previously mailed subpoena within 15 days of your receipt of these materials. If you need additional assistance, please do not hesitate to call me on (800) 424-9530 or (202) 219-3690.

Sincerely,

Jeffrey D. Long

Jeffrey D. Long
Paralegal Specialist

Encl.

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COMMISSION
OFFICE OF GENERAL
COUNSEL

SEP 6 4 14 PM '96

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

September 6, 1996

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

Attn: Stephen O. Kline, Esq.

Re: MUR 3204 (National Republican Senatorial Committee and Stan Huckaby, as Treasurer)

Dear Mr. Noble:

Pursuant to 11 C.F.R. § 111.15, please find three copies of a Motion to Quash and Supporting Memorandum filed on behalf of the National Republican Senatorial Committee and Stan Huckaby, as Treasurer in the above captioned matter.

Sincerely,

Jan Witold Baran

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COUNSEL
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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
National Republican Senatorial Committee and Stan Huckaby, as Treasurer	)	MUR 3204

MOTION TO QUASH SUBPOENA AND SUPPORTING MEMORANDUM

Respondent, National Republican Senatorial Committee and Stan Huckaby, as Treasurer ("NRSC"), moves to quash the subpoena issued on August 8, 1996.[1] The subpoena is irrelevant to the disposition of this matter because this case should be dismissed based on a statute of limitations.

INTRODUCTION

In January, 1994, the General Counsel's Office issued a General Counsel's Brief in the above captioned matter pursuant to 11 C.F.R. § 111.16 notifying the NRSC of its recommendations with respect to this matter. On August 2, 1994, the Commission, after failing to adopt the General Counsel's recommendations, determined to take no further action with respect to this matter and closed its file.

This matter now is again before the Commission as a direct result of the Order and Memorandum Opinion in Common Cause and Addy v. FEC, Nos. 94-2104(NHJ) and 94-2112 (D.C.C.

[1] As initially issued, the subpoena was missing Exhibit 1 referenced in the Interrogatories and Requests for Documents. This office notified the General Counsel's Office of the missing document which was then forwarded to us and received by this office on September 3, 1996. This Motion to Quash is based on that receipt date.

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Mar. 29, 1996). That case, to which our clients were not parties, was brought on the grounds that the Commission had been arbitrary and capricious in dismissing this case in 1994.

The Commission largely prevailed in defending its dismissal of the matter based on the Statements of Reasons provided by the Commissioners. However, with respect to one allegation pertaining to the NRSC, the court remanded the case to the Commission for further action consistent with the court's memorandum opinion. That memorandum opinion does not require that the matter be reopened. See Memorandum Opinion at 20. Rather, the memorandum opinion explicitly permits the Commission to provide a reasoned explanation for its dismissal of any remaining issue. That reasoned explanation, which requires that the subpoena be quashed as irrelevant to the disposition of this matter, is the federal civil statute of limitations, 28 U.S.C. § 2462.

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DISCUSSION

The Court Order

The August 9, 1996, letter accompanying the Commission's incomplete subpoena explains that this matter was remanded to the Commission and that pursuant to its investigation in this matter the Commission has issued the attached Interrogatories and Request for Production of Documents. There is no explanation in the letter why the Commission has reopened its investigation in light of the statute of limitations which

would provide the FEC and the court with a reasoned explanation for the dismissal of this matter.

Specifically, the court order states that "defendant's (FEC's) motion relating to: . . . (4) 'direction and control' of 'earmarked' solicitations be, and hereby is, granted." Order at 1. Thus, the Commission's determination to dismiss any allegation that the NRSC had exercised "direction or control" over "earmarked" contributions to Conrad Burns was permanently resolved and dismissed by the Court.

On the other hand, the court did grant "plaintiffs' motion relating to: . . . (2) an alleged violation by the National Republican Senatorial Committee with respect to unreimbursed solicitation costs," and "remanded to the Commission for action consistent with [its] memorandum opinion." Order at 2. That memorandum opinion addressed the solicitation costs specifically. The court recited that:

> The NRSC reported the solicitation costs as exempt general and administrative expenses. The Commissioners agreed unanimously that, under the Commission precedent, the NRSC should have reported unreimbursed solicitation costs as a contribution to the Burns campaign, see 11 C.F.R. § 106.1(c)(1). The Commission did not, however, reach agreement on a probable cause finding. . . .
>
> As the plurality controlled the decision to dismiss the solicitation costs issue, the Court must look to the "Statement of Reasons" prepared by Commissioners McDonald, McGarry and Thomas for the Commission's reasons for acting as it did. . . . The plurality rejected the second motion because it

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> "impliedly rejected the direction or control analysis" contained in the first motion and because "the word 'revise' could be interpreted as 'rejecting' the General Counsel's original recommendation" relating to direction or control. A.R.. at 2790.
>
> The Court finds that the plurality's rationale on this second issue, when all five Commissioners agreed on both the nature and scope of the solicitation costs violations, is arbitrary and capricious. . . . As the Court finds that the dismissal of the complaint as it relates to the NRSC reporting of solicitation costs was plainly erroneous and inconsistent with Commission precedent, the Court will remand this charge to the agency for action consistent with this opinion.

Memorandum Opinion at 18-20. The Memorandum Opinion concluded with the following:

> The Court concludes that the motions should be granted in part, and denied in part, and that one limited issue must be remanded for reconsideration or a reasoned explanation.

Thus, the court order demands nothing more than a reasoned explanation for dismissing this case. That explanation is the Statute of Limitations.

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The Statute of Limitations -- 28 U.S.C. § 2462

As can be seen, the court order and opinion made no mention of the Statute of Limitations, perhaps because the Commission did not initially dismiss the matter based on these grounds. However, since the Commission's 1994 dismissal of this matter, the statute of limitations, found in 28 U.S.C. § 2462, has been applied specifically to the FEC

and the Commission has recognized this fact by dismissing matters which arose more than five years prior to Commission consideration. See FEC v. National Republican Senatorial Committee, 877 F. Supp. 15 (D.D.C. 1995), FEC v. National Right to Work Committee, 916 F. Supp 10 (D.D.C. 1996).

The Statute of Limitations reads:

> Except as otherwise provided by Act of Congress, an action, suit or proceeding for the enforcement of any civil fine, penalty, or forfeiture, pecuniary or otherwise, shall not be entertained unless commenced within five years from the date when the claim first accrued.

28 U.S.C. § 2462. The letter supplied by the Commission as Exhibit 1 to the subpoena is dated October 5, 1988, and the subpoena itself seeks information regarding 1988 activity. Thus, on its face the subpoena addresses only matters that accrued more than five years ago. As such, the subpoena is irrelevant because the statute of limitations ran in 1993, the year before the Commission initially dismissed the matter. Moreover, there can be no argument that the statute was tolled by the intervening lawsuit. Rather, by the time the Commission first dealt with the matter in 1994, the statute had run and this would have been an appropriate basis upon which to dismiss the matter.

Certainly the court's order does not preclude the Commission from now dismissing the case on the basis of the statute of limitation since this ground was never considered by the court. Indeed, the Commission would be precluded from

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obtaining any civil or injunctive relief against the NRSC in this matter, even if the Commission were correct with respect to its theory on solicitation costs, which it is not. Thus, it is now incumbent upon the Commission to quash the subpoena as irrelevant and dismiss this matter again. To do so would not be in contravention of the court's order. Rather, it would be a prudent recognition that this case has extended beyond the statute of limitations and must be dismissed, and would provide the reasoned explanation that the court was seeking.

CONCLUSION

For the foregoing reasons the Commission should quash the subpoena and dismiss the matter.

Respectfully submitted,

Jan Witold Baran
Carol A. Laham

Counsel for National Republican Senatorial Committee and Stan Huckaby, as Treasurer

September 6, 1996

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HANSON, ROYBAL, LEE & TODD, P.C.
ATTORNEYS AT LAW
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P.O. BOX 7207
BILLINGS, MONTANA 59103-7207

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ROBERT EDD LEE
GREGORY R. TODD

TELEPHONE
(406) 255-7152
FAX
(406) 255-8652

September 5, 1996

Stephan O. Kline
Attorney
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: Subpoena and Order dated
August 8, 1996

Dear Mr. Kline:

Enclosed is an original and three copies of the Montana Republican Party Motion to Quash Subpoena.

Very truly yours,

Robert Edd Lee

Robert Edd Lee

REL/ajr

encl: Motion to Quash

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 3204
Montana Republican State Central Committee and Shirley J. Warehime, as Treasurer	)	

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MONTANA REPUBLICAN PARTY
MOTION TO QUASH SUBPOENA

On August 8, 1996, the Commission issued its Subpoena to Produce Documents and Order to Submit Written Answers to the Montana Republican State Central Committee (MRP) and Shirley Warehime, as Treasurer. The subpoena was defective by the omission of certain Exhibits A-J which were referred to in the subpoena. On August 23, 1996, the MRP, by letter to Attorney Stephan O. Kline, requested Exhibits A-J, and also a copy of certain interrogatories and interrogatory responses with respect to Ken Knudson which had been originally requested in March 1994, but never delivered. On September 3, 1996, the MRP received Exhibits A-J which supplemented and perfected the subpoena and order originally issued August 8, 1996. This motion to quash is made pursuant to 11 C.F.R. § 111.15 and is submitted with an original and three copies.

MOTION

The Montana Republican State Central Committee and Shirley Warehime, as Treasurer, move the Commission to quash the subpoena and order issued August 8, 1996, and perfected by receipt of Exhibits A-J on September 3, 1996, on the grounds and for the reasons that the information and documents requested can no

longer be relevant to any legitimate inquiry or investigation by the Commission because any action contemplated by, or in response to, the Commission's investigation on the complaint in this proceeding is beyond the applicable statute of limitations, 28 U.S.C. § 2462.

DISCUSSION

The Commission is purporting to act under Order of the Court as decided in Common Cause and Addy v. FEC, Nos. 94-2104 (NHJ) and 94-2112 (D.D.C., March 29, 1996).

Two issues pertaining the MRP were remanded by Judge Holloway Johnson to the Commission.

First, Judge Johnson remanded the issue of volunteer involvement with certain mailings after concluding that the position of Commissioners Aikens and Elliot on an alleged violation with respect to direct mail paid for and distributed through the MRP from Foster and Associates "is premised on an apparently unsupported assumption that the MRP used volunteers in this activity, [and] the Court cannot find that the Commission's determination was the product of reasoned decision making. Memorandum Opinion at 10. Judge Johnson recognized, however, that "the use of volunteers to mail the Foster and Associates materials is the very basis of the exemption claimed by the MRP." Memorandum Opinion at 9. The volunteer issue was remanded to the Commission "for reconsideration or reasoned explanation of the

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Commission's factual determination that direct mail materials produced by Foster and Associates were used in connection with volunteer activities." Order at 2.

Second, Judge Johnson remanded the issue of Ken Knudson's salary, earned while he was an employee of the MRP for three months during 1988, because she concluded that the claim that Knudson's salary was an expenditure made on behalf of a clearly identified candidate was dismissed by the Commission arbitrarily and capriciously. Memorandum Opinion at 10-12. The salary issue was remanded to the Commission "for action consistent with [the Court's] Memorandum Opinion." Order at 2.

Nothing in Judge Johnson's Memorandum Opinion or Order indicates that the statute of limitations was raised before her, or otherwise considered by her, in reaching her decision to remand certain issues to the Commission. In fact, the opposite is true. Judge Johnson's meticulous citation of authority and Commission precedent would suggest that she did not consider the effect of the statute of limitations as a justification for the Commission's decision. It is unlikely that Judge Johnson intended that her order alone would constitute a justification for the Commission to ignore the controlling statute of limitations by proceeding with an investigation or initiating an enforcement action which is beyond the statute of limitations.

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Yet that is the current posture taken by Commission counsel in his August 30, 1996 letter to the MRP.

At FEC v. NRSC, 877 F. Supp. 15 (D.D.C. 1995), Judge Pratt applied 28 U.S.C. § 2462 to the Commission and proceedings before it under the FECA. Judge Pratt addressed, but did not reach, "dismissal cases" in which a party appeals from an FEC dismissal of a complaint to the district court. Judge Pratt noted the Commission's argument that such cases often take years to wind their way through the courts. Although Judge Pratt did not have to reach that question in the case before him, the tenor of his ruling and the tone of his opinion is a strong indication that a court would find that this matter has been dragged on long past the applicable statute of limitations, without regard to the appeal of the dismissal, which itself occurred after the statute had run.

At Federal Election Com'n v. Nat Right to Work Comm., 916 F. Supp. 10 (D.D.C. 1996), Judge Jackson agreed with Judge Pratt that complex administrative prerequisites to litigation in the FECA should be no justification for ignoring the five-year omnibus federal statute of limitations in 28 U.S.C. § 2462.

Both district court judges who have considered the question relied on the rationale of 3M Co. v. Browner, 17 F.3d 1453 (D.C. Cir. 1994), which dealt with civil penalties sought to be imposed by the Environmental Protection Agency.

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The alleged offenses against the Montana Republican Party in this case, if they occurred at all, occurred in 1988. Two years passed before Common Cause filed its complaint with the Commission in MUR 3204. Four more years of investigation proceeded. On August 18, 1994, the Montana Republican Party was informed by the Commission that it had taken no further action in MUR 3204 and closed its file. That dismissal was more than five years after the alleged violations could have occurred, if they indeed occurred at all. Under the rationale of FEC v. NRSC, 877 F. Supp. at 20, and 3M Co. v. Browner, 17 F.3d at 1460, the wrong was committed, if at all, and substantial harm matured, if at all, prior to the election in 1988.

Nothing in Judge Johnson's opinion suggests that the Commission should be precluded from applying the statute of limitations as a grounds for closing this case now.

Judge Johnson was doing her job by considering the arguments of the parties on the merits of the dismissal, based on the filings of the Commissioners and Commission counsel. However, the Commission did not present to the Court the omnibus statute of limitations as a justification for dismissing the complaints. Judge Johnson did not consider the statute of limitations. Her opinion is not inconsistent with the statute of limitations. She simply leaves it to the Commission to apply the statute of limitations.

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In their Revised Statement of Reasons dated September 14, 1994, Commissioners Aikens and Elliot gave thorough consideration to the role of the Mericas as accusers in this case, and the taint of collusion between the Mericas and the complainants in these consolidated proceedings. At page 11 of their Revised Statement, the Commissioners pointed out the late-breaking affidavits of the Mericas inserted into the record to bolster their otherwise dubious claims. The timing is important, because staff investigators always seemed to have the opportunity and inclination to find additional points to bolster the story of Mericas, but they never seemed to have the inclination or time to pursue the leads provided to them, and interview the persons with first-hand knowledge, to support of volunteer activity involved with the mailings obtained by the MRP from Foster and Associates.

In the MRP response filed March 11, 1994, the Commission's investigators were pointed to the volunteer activity discussed by Ward Shanahan in his deposition at pages 84-85 and 204-06. MRP Response at 12. But they did not really need that guidance. Amazingly enough, Ken Knudson's own responses to Commission interrogatories dated July 3, 1991, which were only recently provided to the MRP, delineate in some detail the many volunteer activities which were associated with the distribution of printed materials through party activities in the Great Falls party office.

Judge Johnson selectively quoted excerpts from the Knudson responses at pages 10 and 11 of her Memorandum Opinion, her point being that Knudson's activities must have been party expenditures on behalf of Conrad Burns. However, in their Revised Statement, Commissioners Aikens and Elliot had already ably pointed out the defects with the process by which Knudson's responses were obtained and the leading and focused nature of the interrogatories to him on the Burns issue. It is hardly surprising that Knudson, an unsophisticated campaign enthusiast, would attempt to take credit for his efforts in support of party's most successful candidate in 1988, but a fair reading of Knudson's affidavit as a whole make it clear that he was not hired with a special focus on the senatorial race. He only performed incidental liaison activities concerning the senatorial candidate, was separately reimbursed by the senatorial campaign, and simply coordinated campaign visits and meetings through his point of contact. Most of his time was supervising the very volunteer activities involved with the distribution of printed materials. Knudson's own responses, when properly read, are the so-called missing evidence of volunteer activity.

What is interesting about Judge Johnson's reliance on the Knudson memorandum in support of one set of conclusions about party support for Burns is the total absence of any reliance in her opinion on the Knudson responses in support of conclusions

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concerning volunteer activity in the distribution of printed material.

At pages 9 and 10 of her Memorandum Opinion, Judge Johnson finds fault that the Montana Republican Party could not provide any documentation that volunteers stuffed, addressed, stamped, sorted or worked on the mass mailing in any manner. Memorandum Opinion at 9-10. Yet the Ken Knudson responses alone point to the network of volunteer activities associated with the dissemination of such printed materials. Knudson only described the volunteer activities of a three-month temporary staffer in Great Falls. No efforts were made by Commission investigators to elaborate the party volunteer activities in Billings and other hubs which were referred to in the MRP response filed March 11, 1994 at pages 12, 23-25.

This case is now, after remand, still where it was in September 1994. It is past the statute of limitations. It rests on the accusations of Terry and Neida Merica, whose credibility is zero. It finds what it wants from the unconsidered and hastily prepared responses by unsophisticated campaign enthusiasts, while ignoring the rest of the response which contradict the accusations. It ignores long-time volunteers who are not hard to locate, while bemoaning the absence of any documentation of volunteer involvement. It ignores the crucial fact that all

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of the party records and documentation was in the exclusive control of the Mericas before they selectively fed it to state and federal investigators in a manner intended only to bolster their accusations. Obviously, the Mericas did not pass on the sign-up sheets, records, and documents which established volunteer activity. If the MRP still had those, it would have been a simple matter to dispose of the issue long ago.

Time, expense, and burden are always worthwhile when there is a legitimate end to be achieved. However, when the end is no longer any legitimate end achievable, common sense and economic realism ought to take hold and bring even the most protracted proceeding to a repose.

CONCLUSION

This proceeding should be brought to an end by the Commission.

The subpoena against the Montana Republican Party should be quashed.

DATED this 5th day of September, 1996.

ROBERT EDD LEE

Attorney at Law
404 North 31st Street,
Suite 200
P.O. Box 7015
Billings, Montana 59103-7015
Attorney for Montana Respondents

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 10, 1996

Richard E. Messick, Esq.
Suite 700 North Building
601 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

RE: MUR 3204
Conrad Burns/U.S. Senate and
Jim Swain, as treasurer

Dear Mr. Messick:

On August 9, 1996, the Federal Election Commission mailed to you a Subpoena to Produce Documents and an Order to Submit Written Answers to be answered by your clients, Conrad Burns/U.S. Senate and Jim Swain, as treasurer, by August 28, 1996. As of today's date, this Office has received no response from you or from your clients.

Absent full compliance, the Commission may seek enforcement of its Subpoena and Order in U. S. District Court. In an effort to avoid litigation, this Office is willing to provide you with an additional opportunity to respond to these discovery requests prior to the Commission taking further action.

I am enclosing a copy of Exhibits A-K which were referenced in the interrogatories. Due to an oversight, you previously may not have received these documents from the Commission. Upon receipt of this letter, please contact me at (202) 219-3690 to discuss when the Burns Committee will respond to the Subpoena and Order.

Sincerely,

Stephan O. Kline
Attorney

Enclosure

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SECRETARIAT

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	Sep 26 11 01 AM '96
	)	**SENSITIVE**
National Republican Senatorial Committee and Stan Huckaby, as treasurer	)	**MUR 3204**
Montana Republican State Central Committee and Shirley J. Warehime, as treasurer	)	OCT 2 2 1996
Conrad Burns/US Senate and Jim Swain, as treasurer	)	**EXECUTIVE SESSION**

GENERAL COUNSEL'S REPORT

I. BACKGROUND

This matter was initially generated by complaints filed in 1990 by Kelly Addy, Speaker Pro Tempore of the Montana House of Representatives, and by Common Cause. On July 6, 1994, this Office recommended that the Commission find probable cause to believe that the National Republican Senatorial Committee and Stan Huckaby, as treasurer, ("NRSC"); the Montana Republican State Central Committee and Shirley J. Warehime, as treasurer, ("MRP"); Conrad Burns/US Senate and Jim Swain, as treasurer, ("Burns Committee"); and the Republican National Committee and William J. McManus, as treasurer, ("RNC") violated various provisions of the Federal Election Campaign Act of 1971, as amended, ("Act" or "FECA") in 1988. On August 2, 1994, the Commission voted 3-2 or 2-3 on a series of motions in favor of finding probable cause on each of the proposed findings, all of which failed, and then voted 5-0 to dismiss the complaints and close the matter.

Subsequently, the complainants filed suit against the Commission, and the United States District Court for the District of Columbia remanded to the Commission for reconsideration or a reasoned explanation the Commission's factual determination that direct mail materials produced by Foster and Associates were used in connection with volunteer activities. The court also remanded to the Commission the issue of the payment of Ken Knudson's salary by the MRP and

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the issue of the NRSC's payment of unreimbursed solicitation costs. Common Cause and John K. Addy v. FEC, No. 94-02104 and No. 94-02112 (D.D.C., March 29, 1996).

In light of the Supreme Court's recent decision in Colorado Republican Federal Campaign Committee v. FEC, 116 S. Ct. 2309 (1996) ("Colorado Republican"), the Commission approved Subpoenas to Produce Documents and Orders to Submit Written Answers which were directed to the NRSC, the MRP, and the Burns Committee (collectively, "Respondents") on August 6, 1996. Those subpoenas and orders sought information from Respondents on whether the activities which are the subject the court's remand order were independent or had been coordinated with the Burns Committee.

On September 6 and September 9, 1996, the NRSC and the MRP respectively filed motions to quash the subpoenas. Attachments 1 and 2. The Burns Committee has failed to respond to its subpoena and order. On September 10, 1996, this Office corresponded with the Burns Committee, informing the Burns Committee that, absent full compliance with the subpoena and order, this Office may seek subpoena enforcement. Attachment 3. For the reasons given below, this Office recommends that the Commission deny the motions to quash. This Office also recommends that the Commission authorize it to file civil suits against all Respondents to enforce its subpoenas, contingent upon Respondents failure to comply with those subpoenas.

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II. ANALYSIS

Claiming that the subpoena directed to it is irrelevant to the disposition of this matter, the NRSC moved to quash the subpoena based on a statute of limitations. The NRSC reviewed the district court's order in Common Cause and John K. Addy v. FEC and summarized it by stating

that "the court order demands nothing more than a reasoned explanation for dismissing this case. That explanation is the Statute of Limitations." Attachment 1 at 4. The NRSC insists that the statute of limitations found at 28 U.S.C. § 2462 applies to the FEC and that the Commission has recognized this by dismissing matters which arose more than five years prior to Commission consideration. The NRSC relies on two cases to show that the statute of limitations applies to FECA, FEC v. NRSC, 877 F. Supp. 15 (D.D.C. 1995) ("NRSC") and FEC v. National Right To Work Committee, 916 F. Supp. 10 (D.D.C. 1996) ("NRWC"). The NRSC notes that a letter attached to its subpoena was dated October 5, 1988, and that the subpoena seeks information regarding 1988 activity. According to the NRSC, the statute of limitations expired in 1993, before the Commission initially dismissed the matter and before the lawsuit was filed by Mr. Addy and Common Cause.

The MRP's motion to quash similarly argues that the statute of limitations acts as a bar to further action by the Commission. The MRP argues that the district court failed to consider the statute of limitations issue, and that "it is unlikely that Judge Johnson intended that her order alone would constitute a justification for the Commission to ignore the controlling statute of limitations by proceeding with an investigation or initiating an enforcement action which is beyond the statute of limitations." Attachment 2 at 3. The MRP also relies on NRSC and NRWC to show that the statute of limitations applies to the Act. Claiming that the applicable statute of limitations is five years, the MRP argues that the Commission's 1994 dismissal of this action "was more than five years after the alleged violations could have occurred, if they indeed occurred at all . . . . [and] the wrong was committed, if at all, and substantial harm matured, if at all, prior to the election in 1988." Id. at 5. The MRP argues that the district court's opinion is

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not inconsistent with the statute of limitation but "simply leaves it to the Commission to apply the statute of limitations."[1] Id.

The District of Columbia district court cases cited by the NRSC and the MRP are the only court decisions which have held that the general statute of limitations at 28 U.S.C. § 2462[2] applies to the FECA. District courts in other circuits have reached the opposite decision. See FEC v. Williams, No. CV-93-6231-ER (C.D. Cal. January 31, 1995), appeal filed No. 95-55320 (9th Cir. February 24, 1995), and FEC v. California Democratic Voter Checklist, No. C-96-1712 DLJ (N.D. Cal. August 30, 1996). While both this Office and the Commission consider the possible applicability of the statute of limitations in making decisions in the enforcement context, the questions as to its applicability to the FECA remain open.

However, even if the statute of limitations did apply, the present proceedings in the instant matter would not be halted. By its very terms, the statute of limitations does not bar investigations. Moreover, after having been dismissed by the Commission in 1994, MUR 3204 was reactivated following a 2 U.S.C. § 437g(a)(8) suit and the remand decision by the district court. The Commission's additional discovery in this matter is undertaken pursuant to a court order. The question as to the applicability of the statute of limitations never arose in court. At this time, the questions asked in the subpoenas and orders are procedural in nature, designed to

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[1] The MRP also addresses some of the substantive issues which were remanded by the court. The MRP attacks the veracity of the Mericas and impugns this Office's handling of the investigation. The MRP asserts that volunteers were used to assist with the Foster mailings; that Ken Knudson was hired not with a special focus on the Montana Senate race; and that party records are still held by the Mericas, and that the records are not in the possession of the state party.

[2] The statute of limitation provision at 28 U.S.C. § 2462 states: "Except as otherwise provided by Act of Congress, an action, suit or proceeding for the enforcement of any civil fine, penalty, or forfeiture, pecuniary or otherwise, shall not be entertained unless commenced within five years from the date when the claim first accrued. . . ."

address concerns raised by Colorado Republican on whether the expenditures at issue in this matter were coordinated between the party committees and the Burns Committee or were independent. Responses to these questions are critical in determining how to respond to the issues raised by the district court.

Accordingly, based on the foregoing, this Office recommends that the Commission deny the motions to quash filed on behalf of the Montana Republican State Central Committee and Shirley Warehime, as treasurer, and the National Republican Senatorial Committee and Stan Huckaby, as treasurer. In the interest of avoiding any further delay in this matter, we also recommend that the Commission authorize this Office to file a civil suit against Respondents to enforce the Commission's subpoenas and orders, contingent upon the Respondents' failure to comply fully with the subpoenas and orders within thirty days.[3]

III. RECOMMENDATIONS

1. Deny the Motions to Quash filed on behalf of the Montana Republican State Central Committee and Shirley Warehime, as treasurer, and the National Republican Senatorial Committee and Stan Huckaby, as treasurer.

2. Authorize the Office of the General Counsel to file a civil suit for enforcement of Subpoenas to Produce Documents and Orders to Submit Written Answers, directed to the Montana Republican State Central Committee and Shirley Warehime, as treasurer, the National Republican Senatorial Committee and Stan Huckaby, as treasurer, and Conrad Burns/US Senate and Jim Swain, as treasurer, which were approved by the Commission on August 6, 1996, in United States District Court, contingent upon Respondents' failure to fully comply with the subpoenas and orders within 30 days.

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[3] Recognizing that a thirty day time period elapses close to the General Election, this Office would grant a reasonable extension of time if Respondents stated that they intended to comply with the subpoenas and orders.

3. Approve the appropriate letters.

9/25/96
Date

Lawrence M. Noble
General Counsel

Attachments

1. NRSC Motion to Quash
2. MRP Motion to Quash
3. Letter to Burns Committee

Attorney assigned: Stephan O. Kline

97043820711

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 3204
National Republican Senatorial Committee and Stan Huckaby, as treasurer;	)	
Montana Republican State Central Committee and Shirley J. Warehime, as treasurer;	)	
Conrad Burns/US Senate and Jim Swain, as treasurer	)	

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on October 22, 1996, do hereby certify that the Commission decided by a vote of 5-0 to direct the Office of General Counsel to inquire of the Respondents if they are willing to negotiate with the Commission along the lines discussed at the Commission meeting of October 22, 1996.

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

Attest:

10-24-96
Date

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

97043820712

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Via Facsimile

November 7, 1996

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

RE: MUR 3204
National Republican Senatorial Committee
and Stan Huckaby, as treasurer

Dear Ms. Leham:

Pursuant to our conversation earlier today, I am reducing the Commission's inquiry in the instant matter to writing. The Commission has charged the Office of the General Counsel to explore the possibility of negotiating a settlement with the NRSC on the issues remanded to the Commission by the U.S. District Court in Common Cause and John K. Addy v. FEC, NO. 94-02104 and No. 94-02112 (D.D.C., March 29, 1996). The purposes for the settlement inquiry are to explore the possibility of preserving resources for all parties and reaching an expeditious resolution to the underlying matter; however, unless settlement negotiations are entered into promptly, the Commission may seek enforcement of its Subpoena and Order in U. S. District Court.

The Commission has not approved a proposed conciliation agreement but has asked this Office to explore whether it is worth trying to develop one.

Please inform me within one week whether the NRSC is interested in the possibility of settling this matter with a conciliation agreement which would include the basic items outlined above. If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Stephan O. Kline
Attorney

97043820713

FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

WILEY, REIN & FIELDING

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

Nov 22 10 07 AM '96

CAROL A. LAHAM
(202) 429-7301

November 20, 1996

FACSIMILE
(202) 429-7049

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

Re: MUR 3204 (National Republican Senatorial Committee and Stan Huckaby, as Treasurer)

Dear Mr. Kline:

I am in receipt of your letter dated November 7, 1996 inquiring into whether the National Republican Senatorial Committee and Stan Huckaby, as Treasurer ("NRSC") is prepared to enter into settlement discussions with the Federal Election Commission ("FEC") with respect to the above captioned matter. This letter will confirm our conversation today.

The NRSC is interested in entering into settlement discussions

It is our understanding that the FEC will now produce a proposed conciliation agreement for the NRSC's review.

Sincerely,

Carol A. Laham

Carol A. Laham

97043820714

HANSON, ROYBAL, LEE & TODD, P.C.
ATTORNEYS AT LAW
TRANSWESTERN ONE • 404 NORTH 31ST STREET
P.O. BOX 7207
BILLINGS, MONTANA 59103-7207

FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

DEC 6 10 05 AM '96

EARL J. HANSON
J. DWAINE ROYBAL
ROBERT EDD LEE
GREGORY R. TODD

TELEPHONE
(406) 255-7152
FAX
(406) 255-8652

November 29, 1996

Stephan O. Kline
Attorney
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 3204
Montana Republican State Central Committee and Shirley Warehime, as treasurer
Subpoena and Order dated August 8, 1996

Dear Mr. Kline:

In early November we discussed by telephone whether the Montana Republican Party would be in a position to resolve this proceeding by agreement.

At that time I requested that you send a letter outlining your proposal so I could circulate it to party representatives without inadvertently garbling your message. I have not received any response from you, but I believe the party would be interested in considering such a proposal.

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I trust you had a pleasant Thanksgiving holiday.

Very truly yours,

Robert Edd Lee

REL/ajr

cc: Jack Light

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RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT
JAN 3 2 25 PM '97

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
National Republican Senatorial Committee and	)	
Stan Huckaby, as treasurer	)	**MUR 3204**
Montana Republican State Central Committee and	)	
Shirley J. Warehime, as treasurer	)	**SENSITIVE**

GENERAL COUNSEL'S REPORT

I. BACKGROUND

This matter was initially generated by complaints filed in 1990 by Kelly Addy, Speaker Pro Tempore of the Montana House of Representatives, and by Common Cause. On July 6, 1994, this Office recommended that the Commission find probable cause to believe that the National Republican Senatorial Committee and Stan Huckaby, as treasurer, ("NRSC"); the Montana Republican State Central Committee and Shirley J. Warehime, as treasurer, ("MRP"); Conrad Burns/US Senate and Jim Swain, as treasurer, ("Burns Committee"); and the Republican National Committee and William J. McManus, as treasurer, ("RNC") violated various provisions of the Federal Election Campaign Act of 1971, as amended, ("Act" or "FECA") in 1988. On August 2, 1994, the Commission voted 3-2 or 2-3 on a series of motions in favor of finding probable cause on each of the proposed findings, all of which failed, and then voted 5-0 to dismiss the complaints and close the matter.

Subsequently, the complainants filed suit against the Commission, and the United States District Court for the District of Columbia remanded to the Commission for reconsideration or a reasoned explanation the Commission's factual determination that direct mail materials produced by Foster and Associates were used in connection with volunteer activities. The court also remanded to the Commission the issue of the payment of Ken Knudson's salary by the MRP and

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the issue of the NRSC's payment of unreimbursed solicitation costs. Common Cause and John K. Addy v. FEC, No. 94-02104 and No. 94-02112 (D.D.C., March 29, 1996).

In light of the Supreme Court's recent decision in Colorado Republican Federal Campaign Committee v. FEC, 116 S. Ct. 2309 (1996), the Commission approved Subpoenas to Produce Documents and Orders to Submit Written Answers which were directed to the NRSC, the MRP, and the Burns Committee on August 6, 1996. Those subpoenas and orders sought information on whether the activities which are the subject the court's remand order were independent or had been coordinated with the Burns Committee.

On September 6 and September 9, 1996, the NRSC and the MRP respectively filed motions to quash the subpoenas. The Burns Committee has failed to respond to its subpoena and order. On October 22, 1996, the Commission directed this Office to explore the possibility of negotiating a settlement with the NRSC and the MRP.

II. CONCILIATION

Pursuant to the Commission's directive, this Office conversed with counsel for the NRSC and the MRP to explore whether they were interested in settlement in the interests of preserving resources for all parties and reaching an expeditious resolution to the underlying matter.

On December 6, 1996, counsel for the MRP informed

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this Office that he believed the MRP was also interested in settling this matter

Having ascertained that both parties are interested in entering into settlement negotiations, this Office has drafted proposed conciliation agreements for both the NRSC and the MRP. Attachments 2 and 3.

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Accordingly, this Office recommends that the Commission offer to enter into conciliation with the National Republican Senatorial Committee

and Stan Huckaby, as treasurer, and with the Montana Republican State Central Committee and Shirley J. Warehime, as treasurer.

III. RECOMMENDATIONS

1. Enter into conciliation with the National Republican Senatorial Committee and Stan Huckaby, as treasurer, and with the Montana Republican State Central Committee and Shirley J. Warehime, as treasurer.

2. Approve the attached proposed conciliation agreements and the appropriate letters.

1/3/98
Date

Lawrence M. Noble
General Counsel

Attachments

1. NRSC and MRP settlement negotiation letters
2. Proposed conciliation agreement for the NRSC
3. Proposed conciliation agreement for the MRP

Attorney assigned: Stephan O. Kline

97043820722C

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
National Republican Senatorial Committee and Stan Huckaby, as treasurer;	)	MUR 3204
Montana Republican State Central Committee and Shirley J. Warehime, as treasurer.	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on January 9, 1997, the Commission decided by a vote of 5-0 to take the following actions in MUR 3204:

1. Enter into conciliation with the National Republican Senatorial Committee and Stan Huckaby, as treasurer, and with the Montana Republican State Central Committee and Shirley J. Warehime, as treasurer.

2. Approve the proposed conciliation agreements and the appropriate letters, as recommended in the General Counsel's Report dated January 3, 1997.

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

Attest:

1-10-97
Date

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

Received in the Secretariat: Fri., Jan. 3, 1997 2:25 p.m.
Circulated to the Commission: Mon., Jan. 6, 1997 11:00 a.m.
Deadline for vote: Thurs., Jan. 9, 1997 4:00 p.m.

mwd

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 16, 1997

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

RE: MUR 3204
National Republican Senatorial Committee
and Stan Huckaby, as treasurer

Dear Ms. Leham:

Pursuant to conversations we had in November, I am enclosing a conciliation agreement which has been approved by the Federal Election Commission in the instant matter. This conciliation agreement would resolve those issues remanded to the Commission by the U.S. District Court in Common Cause and John K. Addy v. FEC, No. 94-02104 and No. 94-02112 (D.D.C., March 29, 1996) that implicate the National Republican Senatorial Committee and Stan Huckaby, as treasurer.

Please respond to this conciliation offer within two weeks of your receipt of it. If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Stephan O. Kline

Stephan O. Kline
Attorney

Enclosure
Conciliation Agreement

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 16, 1997

Robert Edd Lee, Esq.
404 North 31st Street
P.O. Box 7207
Billings, MT 59103-7207

RE: MUR 3204
Montana Republican State Central Committee and Shirley Warehime, as treasurer

Dear Mr. Lee:

Pursuant to your letter dated November 29, 1996, I am enclosing a conciliation agreement which has been approved by the Federal Election Commission in the instant matter. This conciliation agreement would resolve those issues remanded to the Commission by the U.S. District Court in Common Cause and John K. Addy v. FEC, No. 94-02104 and No. 94-02112 (D.D.C., March 29, 1996) that implicate the Montana Republican State Central Committee and Shirley Warehime, as treasurer.

Please respond to this conciliation offer within two weeks of your receipt of it. If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Stephan O. Kline

Stephan O. Kline
Attorney

Enclosure
Conciliation Agreement

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RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT
APR 17 1 30 PM '97

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
National Republican Senatorial Committee and	)	
Stan Huckaby, as treasurer	)	**MUR 3204R**
Montana Republican State Central Committee and	)	
Shirley J. Warehime, as treasurer	)	**SENSITIVE**
Conrad Burns/US Senate and Jim Swain, as treasurer	)	

GENERAL COUNSEL'S REPORT

I. BACKGROUND

This matter was initially generated by complaints filed in 1990 by Kelly Addy, Speaker Pro Tempore of the Montana House of Representatives, and by Common Cause ('complainants"). On July 6, 1994, this Office recommended that the Commission find probable cause to believe that the National Republican Senatorial Committee and Stan Huckaby, as treasurer, ("NRSC"); the Montana Republican State Central Committee and Shirley J. Warehime, as treasurer, ("MRP"); Conrad Burns/US Senate and Jim Swain, as treasurer, ("Burns Committee"); and the Republican National Committee and William J. McManus, as treasurer, ("RNC") violated various provisions of the Federal Election Campaign Act of 1971, as amended, ("Act" or "FECA") in 1988. On August 2, 1994, the Commission voted 3-2 and 2-3 on a series of motions in favor of finding probable cause on each of the proposed findings, all of which failed, and then voted 5-0 to dismiss the complaints and close the matter.

Subsequently, the complainants filed suit against the Commission, and the United States District Court for the District of Columbia remanded to the Commission for reconsideration or a reasoned explanation for the Commission's factual determination whether direct mail materials produced by Foster and Associates were used in connection with volunteer activities. The court

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also remanded to the Commission the issue of the payment of Ken Knudson's salary by the MRP and the issue of the NRSC's payment of unreimbursed solicitation costs. Common Cause and John K. Addy v. FEC, No. 94-02104 and No. 94-02112 (D.D.C., March 29, 1996). Common Cause appealed those issues which were not remanded to the Commission. The United States Court of Appeals for the District of Columbia Circuit dismissed the appeal, holding that Common Cause lacked Article III standing. Common Cause v. FEC, No. 96-5160 (D.C. Cir., March 21, 1997).

In light of the Supreme Court's decision in Colorado Republican Federal Campaign Committee v. FEC, 116 S. Ct. 2309 (1996) ("Colorado Republican") on June 26, 1996, the Commission approved Subpoenas to Produce Documents and Orders to Submit Written Answers which were directed to the NRSC, the MRP, and the Burns Committee (collectively, "Respondents") on August 6, 1996. Those subpoenas and orders sought information from Respondents on whether the activities in connection with all three issues remanded by the district court were independent or had been coordinated with the Burns Committee.

On September 6 and September 9, 1996, the NRSC and the MRP respectively filed motions to quash the subpoenas. The Burns Committee failed to respond to its subpoena and order. On September 10, 1996, this Office corresponded with the Burns Committee, informing the Burns Committee that, absent full compliance with the subpoena and order, this Office may seek subpoena enforcement. In a report dated September 25, 1996, the General Counsel's Office recommended that the Commission deny the motions to quash and authorize this Office to file a suit for civil enforcement of the subpoenas. The Commission failed to act on the recommendations, and on October 22, 1996, the Commission directed this Office to determine

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whether the NRSC and the MRP were willing to enter into conciliation negotiations. Having determined that the NRSC and MRP were interested in entering into conciliation, the Commission approved separate conciliation agreements with each respondent on January 9, 1997

For the reasons given below, this Office recommends that the Commission take no further action in this matter, and close the file.

II. ANALYSIS

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The NRSC responded to the Commission's conciliation offer on February 24, 1997, Attachment 2, by stating that conciliation is inappropriate at this time for several reasons. First, Common Cause appealed those issues not remanded to the Commission by the district court in Common Cause and John K. Addy v. FEC, and the United States Court of Appeals for the District of Columbia Circuit heard the appeal on January 22, 1997. Because the appellate court could remand additional issues to the Commission for further action, the NRSC views settlement on the one issue pertaining to the NRSC as premature, and the NRSC will not entertain the possibility of later having to enter into multiple conciliation agreements. The NRSC also raised the possibility that the appellate court could vacate the district court's opinion and reinstate the Commission's administrative dismissal of the matter on the grounds that Common Cause had no standing to bring the suit. Finally, the NRSC asserts that the appellate decision in Williams v.

FEC, 104 F.3d 237 (9th Cir. 1996), applying the statute of limitations found at 28 U.S.C. § 2462 to the FEC, supports dismissing the instant matter on statute of limitations grounds. Accordingly, the NRSC has renewed its Motion to Dismiss or, alternatively, has asked the Commission to stay further proceedings pending an appellate decision in Common Cause v. FEC.

Since the NRSC filed its renewed motion, the D.C. Circuit issued an opinion in Common Cause v. FEC, No. 96-5160 (D.C. Cir., March 21, 1997). Without substantively analyzing the issues on appeal, the court of appeals ruled that Common Cause lacked standing to bring the 2 U.S.C. § 437g(a)(8) suit, thus dismissing the case without remanding any issues to the Commission. Despite the outcome of this appeal, the Commission remains subject to the district court's order to take three actions to remedy its original dismissal of this matter, since those three issues were not appealed.[1]

In its February 24 letter, the NRSC also stated that its statute of limitations argument for MUR 3204 was strengthened in light of the recent decision in Williams v. FEC, 104 F.3d 237 (9th Cir. 1996), and it is grounds for dismissing these proceedings. Pursuant to the General Counsel's Report dated March 4, 1997, on statute of limitations issues following Williams, the Commission approved this Office's recommendation to proceed with MUR 3204R on March 11, 1997. Even if the statute of limitations did apply to this matter, the present proceedings would

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[1] Although the appellate court determined that Common Cause had no standing based in part on Akins v. FEC, 1996 WL 695208 (D.C. Cir. December 9, 1996) (en banc), the underlying suit brought under 2 U.S.C. § 437g(a)(8) was brought by two plaintiffs, Common Cause and John K. Addy, an office-holder and voter in Montana. In its decision, the D.C. Circuit specifically notes that "[w]hile Addy may be a political competitor of NRSC and MRP, he has not appealed the decision of the district court. We therefore decline to address the 'political competitor' standing issue." Common Cause v. FEC at 10, footnote 1. The appellate court's decision does not disturb the district court's decision on the merits.

probably not be halted, contrary to the NRSC's assertion. By its very terms, the statute of limitations does not appear to bar investigations, and the Commission's additional discovery in this matter is undertaken pursuant to a court order.

Despite these arguments on why the Commission is probably allowed to conduct a new investigation in MUR 3204R, this Office does not now recommend this course. Since the original district court decision was remanded, two significant legal decisions have been handed down which impact on this matter. Because of the Colorado Republican decision, which was decided on June 26, 1996, the Commission was required to issue subpoenas to determine Respondents' positions on whether the expenditures in this matter were coordinated between the party committees and the Burns Committee or were independent. As Respondents did not comply with the subpoenas, and there is little prospect that they will ever voluntarily comply, this matter would require litigation to obtain subpoena enforcement on the factual threshold. Moreover, since the facts in this case are now about nine years old, there is some doubt as to whether reliable evidence could be obtained to resolve these issues even after subpoena enforcement. In addition, while the Williams case and the other statute of limitations decisions may not bar proceedings in this case, particularily because there are unresolved issues about the application of 28 U.S.C. § 2462 to a case that is remanded to the Commission pursuant to 2 U.S.C. § 437g(a)(8), this matter is not a good vehicle to flesh out this applicability. The activity was more than five years old, even before the judicial review suit was filed, and it is now almost nine years old.

This Office does not lightly recommend the dismissal of a case where a Federal court has ordered the Commission to take further action in connection with two alleged violations and to

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reconsider or provide a reasoned explanation in connection with a third issue. In fact, if the Commission does dismiss this case, it may well have to defend its action before the District Court. Nonetheless, highly unusual circumstances are present in the instant matter. Two significant judge-made changes in the law directly impact on MUR 3204R, requiring additional layers of investigation and raising new procedural obstacles to a successful completion of this matter, which is already nine years old and probably not near completion. The diversion of the agency resources that would be required to investigate this case adequately in light of the circumstances discussed above would detract from the Commission's ability to deal with more current and pressing matters, a result that would be contrary to the public interest in the effective administration of the Act.[2] Therefore, this Office recommends that the Commission exercise its prosecutorial discretion to take no further action against all respondents, and close the file.

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[2] This Office's recommendations encompass all three issues remanded by the district court, including the one remanded for a possible explanation. In its March 29, 1996 order, the district court had "remanded to the Commission for reconsideration or a reasoned explanation . . . the Commission's factual determination that direct mail materials produced by Foster and Associates were used in connection with volunteer activities." As discussed in the General Counsel's Report dated July 22, 1996 and supra, page 2, the volunteer issue was included in the proposed investigation, requiring an initial inquiry to determine whether it was coordinated activity or independent pursuant to the Colorado Republican decision, and in the subsequent attempts at conciliation. This Office believes that these further proceedings served as reconsideration of the volunteer issue, and Commissioners are thus not required to issue any additional statement regarding this issue.

III. RECOMMENDATIONS

1. Take no further action in this matter.

2. Approve the appropriate letters.

3. Close the file.

4/16/97
Date

Lawrence M. Noble
General Counsel

Attachments

1. MRP Response to Conciliation Offer
2. NRSC Response to Conciliation Offer

Attorney assigned: Stephan O. Kline

97043820731

FEDERAL ELECTION COMMISSION
Washington, DC 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/LISA DAVIS
COMMISSION SECRETARY

DATE: APRIL 23, 1997

SUBJECT: MUR 3204R - General Counsel's Report dated April 16, 1997.

The above-captioned document was circulated to the Commission on **Thursday, April 17, 1997**.

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

Commissioner Aikens	_
Commissioner Elliott	_
Commissioner McDonald	XXX
Commissioner McGarry	XXX
Commissioner Thomas	XXX

This matter will be placed on the meeting agenda for **Tuesday, May 06, 1997**.

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

9704382007732

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 3204R
National Republican Senatorial Committee and Stan Huckaby, as treasurer;	)	
Montana Republican State Central Committee and Shirley J. Warehime, as treasurer;	)	
Conrad Burns/US Senate and Jim Swain, as treasurer	)	

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on May 6, 1997, do hereby certify that the Commission decided by a vote of 5-0 to take the following actions in MUR 3204R:

1. Take no further action in this matter.
2. Approve the appropriate letters as recommended in the General Counsel's April 16, 1997 report.
3. Close the file.

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

Attest:

5-7-97
Date

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

97043820733

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 12, 1997

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Kelly Addy
225 Petroleum Building
2812 First Avenue, North
Billings, Montana 59101

RE: MUR 3204

Dear Mr. Addy:

Pursuant to a remand decision from the United States District Court for the District of Columbia, the Federal Election Commission reopened its investigation into MUR 3204 on August 6, 1996. After considering the circumstances of the matter, the Commission determined on May 7, 1997, to take no further action in this matter, and closed its file. The General Counsel's Report, which formed a basis for the Commission's actions, is attached for your information.

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).

Sincerely,

Stephan O. Kline
Attorney

Enclosure
General Counsel's Report

9704382073 4

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 12, 1997

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Roger Witten, Esq.
Wilmer, Cutler & Pickering
2445 M Street, N.W.
Washington, D.C. 20037-1420

RE: MUR 3204

Dear Mr. Witten:

Pursuant to a remand decision from the United States District Court for the District of Columbia, the Federal Election Commission reopened its investigation into MUR 3204 on August 6, 1996. After considering the circumstances of the matter, the Commission determined on May 7, 1997, to take no further action in this matter, and closed its file. The General Counsel's Report, which formed a basis for the Commission's actions, is attached for your information.

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).

Sincerely,

Stephan O. Kline
Attorney

Enclosure
General Counsel's Report

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Robert Edd Lee, Esq.
404 North 31st Street
P.O. Box 7207
Billings, MT 59103-7207

May 12, 1997

RE: MUR 3204
Montana Republican State Central Committee and Shirley Warehime, as treasurer

Dear Mr. Lee:

On August 9, 1996, you were informed that pursuant to a remand decision from the United States District Court for the District of Columbia the Federal Election Commission had reopened its investigation into MUR 3204. After considering the circumstances of the matter, the Commission determined on May 7, 1997, to take no further action against the Montana Republican State Central Committee and Shirley Warehime, as treasurer, and closed the file in this matter. The General Counsel's Report, which formed a basis for the Commission's actions, is attached for your information.

The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Stephan O. Kline
Attorney

Enclosure
General Counsel's Report

Celebrating the Commission's 20th Anniversary
YESTERDAY, TODAY AND TOMORROW
DEDICATED TO KEEPING THE PUBLIC INFORMED

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 12, 1997

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

RE: MUR 3204
National Republican Senatorial Committee
and Stan Huckaby, as treasurer,

Dear Mr. Baran:

On August 9, 1996, you were informed that pursuant to a remand decision from the United States District Court for the District of Columbia the Federal Election Commission had reopened its investigation into MUR 3204. After considering the circumstances of the matter, the Commission determined on May 7, 1997, to take no further action against the National Republican Senatorial Committee and Stan Huckaby, as treasurer, and closed the file in this matter. The General Counsel's Report, which formed a basis for the Commission's actions, is attached for your information.

The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Stephan O. Kline

Stephan O. Kline
Attorney

Enclosure
General Counsel's Report

Celebrating the Commission's 20th Anniversary
YESTERDAY, TODAY AND TOMORROW
DEDICATED TO KEEPING THE PUBLIC INFORMED

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